



Our ref.: Council/BLA/JL/NK/20250217

17 February 2025

Ms. HO Wing Yin, Winnie, JP
Secretary for Housing's Office
19/F, West Wing, Central Government Offices,
2 Tim Mei Avenue,
Tamar, Hong Kong

By Post and Email
shoffice@hb.gov.hk

Dear Ms. HO,

Re: HKIA Comments to the Regulatory Regime on Basic Housing Units (BHUs)

In connection with the public Consultation Document of the above proposal published by your Bureau on December 2024 as well as a recent updated discussion paper circulated by your Bureau in late January, The Hong Kong Institute of Architects (HKIA) would like to furnish further comments on this proposed regulation, further to our news release on 3 December 2024.

We support the idea to legislate control over the proposed BHU by introducing a certification system or maybe a licence & temporary licence system. (borrowing the idea from F&B Licencing). The technical standards of such BHU can also be laid down via PNAPs as well. We consider this a noble act, however, we should be mindful not to legislate something that maybe substandard to the current minimum standard of the long established Building Ordinance (BO) and its subsidiary regulations, which had accumulated decades of wisdom in refining such regulations to safeguard the "Health" & "Safety" provisions laid down in these laws and also written in the practice notes (PNAPs).



A. Partitions Between Subdivided Units & Fire/ Smoke Sealed Doors

1. Different occupants would call for the appropriate fire rated partitions. (Note that currently for non-domestic commercial use premises, fire rated walls are required between shops, even though such non-domestic premises usually have sprinklers provision (except under a certain smaller size), and with no sleeping accommodation.) In the context of BHUs, often there are no sprinklers. As BHUs are different occupants of domestic use, the risk is higher, and hence, the safety standard should be higher due to the sleeping accommodation, because BHUs are habitable space. Hence we are of the opinion that the partitions between subdivided units should be fire rated.
2. Note that even mini-store requires sprinklers and detectors to protect life and property, it's only rational to require subdivided units partitioned walls to be fire rated between units to protect life and property as well. This is a reasonable and rational provision to compensate for the fact that no sprinklers are provided. We trust that HUMAN Lives are more precious than properties inside the mini-storage premises; and we hope that we share the same value.
3. Take another example, if an overheated power bank caught fire at night, fire can spread easily to the next unit, if even shop space which does not have sleeping accommodation requires fire rated partitioned wall, habitable space should not have a lower standard. To follow the same logic, not compromising the minimum safety standard already laid down, each subdivided unit should have its own fire rated door.
4. For newly BHUs, this standard should not be compromised.
5. For existing SDUs, adding on fire rated walls (using gypsum or promat board) should be doable; adding enough width to erect an architrave good enough to fix a fire rated smoke sealed door is not an impossible task either, which are measures to protect life and property.
6. We can take reference from how applicants obtain "F&B Licence"/ "Temporary Licence"; i.e. when an applicant applies for a licence; if it shows that the applicant had a proposed plan to commence works and did so, but not yet satisfied all conditions, a temporary licence can be granted; until all the necessary requirements are fulfilled, the applicant will be granted a full licence.

B. Waterproofing (w/p) Works

1. For existing SDUs, we must point out, e.g. a hidden item like waterproofing (w/p), the professional cannot certify the w/p works are done in accordance with the requirements unless he/she requests the walls to be opened up for inspection.



2. For new BHUs, unless the works are done by the same professional, or under his direction/ supervision, or there is evidence that shows that the w/p works are done in accordance with the requirements, only then can the professional certify as such.
3. A professional cannot sign on a certificate assuming the w/p is done, or qualify this unknown statement on the certificate, nor commit that this will be done in the future, as it involves professional liability.
4. We are not sure whether one can issue a temporary certificate, or an interim certificate?
5. Other than w/p which would be difficult to certify (without opening up for inspection), there may be other irregularities.

C. Min Internal Corridor Width & ROBOT for Fire-fighting

1. We are fine with the proposed 1.05m min width as it is the same current min width for "Means of Escape"(MOE). We do not support it to be lower to 900mm because occupants may clutter the corridor with things like shoe rack and may obstruct firefighting and even cause human/ firemen's lives.
2. For new BHUs, we do not see the rationale to lower the min standard.
3. For existing SDUs premises which only have 900mm, this can only be tolerated until the owner/ occupier fixes the issue and comply with 1.05m.
4. We suggest to consider Fire Services Department to have more resources to use ROBOTs to assist firefighting when entering such cluttered subdivided units.

D. Toleration of Substandard Design & Compliance of Regulations/ Practice Notes

1. At this juncture, we would like to talk about how "toleration" works or how it had been working as a mechanism to exercise control and enable government / licencing office to manage applicant expectations and let applicants know what they need to comply with to safeguard "health" and "safety".
2. Take for example in the case of application of restaurant licence – if the applicant has the intention of applying, as long as the applicant does act on fulfilling some requirements, the applicant may be granted a temporary licence, when all requirements are fulfilled, then the applicant will be granted a full licence. Similar with Columbaria licence?!



E. Window Issue

1. Now onto the “Window” provision issue. Similarly for “HEALTH” reasons, window provision & lighting requirement had been a MUST for domestic use/ habitable space for decades – the minimum standard for domestic use premises. This is not only because of the lighting & ventilation needed, but also it is UNHEALTHY to the occupant(s) when there is no window to ventilate. Window type air conditioning has no fresh air supply and hence cannot replace the function of a window, and is not the same as “mechanical ventilation” used to compensate for the natural ventilation required for hotel use. It is also not appropriate to compare these BHUs with hotel and guesthouse direct, as these are normally & largely shorter stay premises, they are centrally managed, and as a whole, the environment is also better managed. If we accept a standard below the current building regulations, then we are contradicting Hong Kong building laws.
2. For new BHUs, we do not see the rationale of lowering this minimum window standard for domestic use for “Health” reasons.
3. For existing SDUs, the substandard provision of “no window” or “substandard window” provision may be tolerated for a certain period of time (this can be considered to match your public housing program availability), until the prescribed window is provided for, or until the tenant move into a proper habitable space, be it public housing or whatever it may be called then.

F. Certain types of Subdivided Units occupants serving Hotels

1. We understand that certain types of occupants are workforce that serves the hotel industry, and often they rent such poor subdivided units as a resting place. Perhaps we should consider instead to allow Hotel “Back of House” (BOH) to adopt a larger area (higher percentage of BOH) to provide such accommodation rather than encouraging workers to rent these substandard accommodation which is unhealthy. We should improve our society by providing more humane living conditions for our hotel workforce, having learnt that such phenomena exists in the hotel industry. Black box living accommodation is simply not an acceptable option.

G. Certification/ Temporary Licence/ Full Licence? - attached with Inspection Report?

1. In both professional and practical terms, professionals can only sign on certifications based on FACTS, not guesses, nor assumptions, nor assuming the applicant will in future put things right. This is fundamental in order to avoid future dispute with regard to professional liability.



2. We may need to re-think whether this “Certification” would allow for qualifications? Is this proper? or does an “Interim Certification” make sense?
3. Can the “Certificate/ Interim Certificate?/ Licence/ Temporary Licence” be attached with an “inspection report” so that the qualifications can be recorded.
4. The existing renamed BHUs may have other irregularities which need to be recorded at the “inspection report”; if it is just a checklist, then anyone can do this certification, it does not need to be a professional.
5. We would also like to reiterate that only qualified professionals (who understands the laws and the PNAPs around “Health” & “Safety” laid down by Chapter 123) should be granted the authority to prepare and sign such certifications/ interim certificates /licence/ temporary licence/ inspection reports or alike.

H. Open Transparent System for Rectification

1. We welcome open transparency system for owners/ occupiers to fix defects and to comply with the requirements, however, please clarify who will exercise/ conduct this control?

We highly commend your Bureau determination and commitment to eventually fade out/ eliminate all poor quality subdivided units. In reality, we may have to tolerate some substandard ones for some time. Once again, we cannot legitimize standards that are below the current minimum standards of the building laws laid down in Chapter 123 and its subsidiary legislations. Via legislating “certification” / “licencing” system with necessary “Inspection Reports”, and together using the PNAPs to lay down technical requirements may be a practical way out.

We look forward to working with you closely to improve the built environment of the society.

Yours Sincerely,

Ar. LAU Man Kwan Julia, *FHKIA, JP*
President
The Hong Kong Institute of Architects

Encl.

香港建築師學會就房屋局「簡樸房」規管制度條例草案的意見 dated 3 Dec 2024

<https://www.hkia.net/zh-HK/whats-on/7/press-release/detail/340>