



Combating building illegality in Hong Kong: A policy Delphi study



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ABSTRACT

Building illegality, which usually takes the form of unauthorised building works (UBWs), has posed serious threats to the safety of the community in many cities. In spite of the plentiful literature on this topic, studies related to the development of policy combating UBWs are relatively rare. To straddle this research gap, a policy Delphi study is carried out with an expert panel to identify and prioritise policy options for combating UBWs in Hong Kong. The policy Delphi method, being a multistage process, is adopted because it allows a systematic approach to obtain, exchange and develop informed options on a particular policy issue. Hong Kong is a good laboratory for the study of UBW-related policy, because there are over one million UBWs of different types throughout the territory. More importantly, the issues of UBW have triggered various political crises and sagas in Hong Kong. The results of a three-round policy Delphi survey suggest that imposing heavier punishments against non-conforming owners is the top priority option. Options like simplification of the building approval process and expedited implementation of mandatory building inspections are poorly received. These findings have far-reaching implications for the formulation of government policies regarding building safety in Hong Kong.

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1. Introduction

To serve as a shelter, a building should not only be weatherproof and comfortable, but also safe. Unfortunately, the safety of the built environment is often jeopardised by a number of human factors. Poor design and workmanship is the most cited (e.g. Al-Homoud & Khan, 2004; Pearson & Delatte, 2005). The misuse of buildings, leading to overcrowding or overloading, is another important factor (e.g. Lo, 1998; Wong & Lau, 2007). However, building illegality, such as unlawful additions, alterations or removals, which also plays an important role in the determination of building safety, has not attracted much academic attention. In fact, in spite of the growing volume of literature on building control, the main focus of previous research tends to be one-sided. Building control for new developments has predominated the literature (e.g. Baiche, Walliman, & Ogden, 2006; Imrie, 2007; Meijer & Visscher, 2006), while minimal work has been dedicated to the control of existing buildings. Given that vigilant governance of the existing building stock is one of the key determinants of an urban city's sustainable

development (Ho, Chau, & Yau, 2008), there is no point in upholding such an imbalance in the research focus between new and existing buildings. In this regard, this article on combating building illegality in existing buildings can contribute to the body of knowledge by breaking through the imbalance.

This article presents a study which aims to identify and prioritise the policy options for cracking down on the problem of unauthorised building works (UBWs) in urban areas of Hong Kong. Hong Kong is a good laboratory for the study of UBW-related policy, because there are over one million UBWs in some 39,000 private buildings throughout the territory. In light of the highly compact development pattern in Hong Kong, the safety and health threats posed by UBWs are extremely significant. More importantly, public concern over UBW problems has been further amplified by scandals involving political figures in recent years. Top government officials, legislative councillors and even candidates running for the position of Chief Executive were found to have UBWs among their properties (Lai, 2012; South China Morning Post, 2012). The issue of UBW has triggered various political crises and sagas in the city. Although a handful of papers address UBWs in Hong Kong (e.g. Davison, 1990; Ho et al., 2008; Lai, 2003; Lai & Ho, 2001; Leung & Yiu, 2004; Yiu, 2005; Yiu, Kitipornchai, & Sing, 2004; Yiu & Yau, 2005), no previous attempt has been made to explore workable solutions to the UBW problem in the city. To fill the research gap,

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we aim to look for some policy options to solve the UBW problem in the city through the application of the policy Delphi method.

This article is organised as follows. First, the problem of building illegality and the regulatory control of existing buildings in Hong Kong will be overviewed. Afterwards, measures to deal with the UBW problem in other jurisdictions will be reviewed. Then, the methodology of policy Delphi will be detailed, followed by the key findings of the research. The implications of the research findings will be discussed before the empirical study is concluded.

2. Building illegality in Hong Kong

In a broad sense, building illegality can be classified into two categories. The first category is the erection of structures on government land with no legal title obtained from the government. Examples of this type of building illegality include the informal housing settlements or squatter structures which are proliferating in the third world's cities (Few et al., 2004; Winayanti & Lang, 2004). The second category concerns unlawful additions, alterations, erections or demolitions carried out on leased land. This article will focus on the second category of building illegality, because squatter settlements are no longer a major issue in Hong Kong (Smart, 2002).

From the legal viewpoint, all building works in Hong Kong are subject to statutory control under the *Buildings Ordinance* (Chapter 123 of *the Laws of Hong Kong*) and its subsidiary legislations. The Buildings Department executes and enforces this legislation. The term "building works" is very broadly defined under the *Buildings Ordinance* (Davison, 1990). It covers the construction of new buildings, demolition works and additions and alterations to existing buildings. To ensure that the design and carrying out of a building work meet the minimum acceptable standards, approval and consent must be obtained from the Building Authority (i.e. the Director of the Buildings Department) before the building work can commence, unless the work is exempted from this requirement by the ordinance (Chan & Chan, 2003; Yiu & Yau, 2005). Building works that contravene this stipulation are generally regarded as UBWs (Yiu et al., 2004).

2.1. Extent and consequences of the problem

Apart from unauthorised advertisement signs, the UBWs frequently mentioned can also be found in the form of flower racks,

drying racks, supporting frames for air conditioners, metal cages, cocklofts, illegal roof-top structures, and unauthorised alterations to exit routes. In the past few decades, the proliferation of UBWs has led to many casualties in Hong Kong. For instance, at least 21 people were killed and 135 were injured in building-related accidents involving UBWs during the period between 1990 and 2002 (Leung & Yiu, 2004). As illustrated in Fig. 1, the number of reports of UBWs received by the Buildings Department rose from 12,427 in 1997 to 41,403 in 2014. Yet these figures may not truly reflect the extent of the UBW problem in Hong Kong. The former *Planning and Lands Bureau* (2001) estimated that there were about 1.02 million UBWs of different types in Hong Kong in 2001. The *Buildings Department* (2003) claimed that the number of UBWs decreased to about 0.75 million in 2003. Nonetheless, the government may have underestimated the number of UBWs in the city, because some types of UBWs, such as illegal basements and subdivisions, are proliferating in the city, but they are not easily identified by government officials unless thorough in-flat inspections are carried out. For example, *Policy 21 Limited* (2013) estimated the number of subdivided units in the territory to be 66,900, while the proportion of them that are illegal is unknown.

The proliferation of UBWs creates different safety and health hazards to the community. Since UBWs are undertaken without the scrutiny and approval of the public authority, their safety standards are not guaranteed. This explains why quite a number of the UBW-related building accidents previously discussed were associated with the collapse of the unlawful structures, which eventually fell onto the street due to their poor construction and stability. In addition to their uncertain structural soundness, UBWs may impose excessive loads on the buildings in which they are erected, thereby jeopardising the latter's structural stability (Yiu & Yau, 2005). In addition, UBWs endanger the fire safety of a building in many different ways. Unauthorised structures protruding from the external walls of buildings may also adversely affect the natural lighting and ventilation for the buildings' occupants. Moreover, UBWs could hinder the carrying out of repairs and maintenance for the buildings (Chan, 2000). This will increase the risk of building dilapidation, aggravating the problem of urban decay in Hong Kong in the medium to long run. From the economic viewpoint, the presence of UBWs suppresses the property value (Yau, 2015). Additionally, building failures associated with UBWs can result in considerable compensation or damages for casualties and property losses (Yau, 2010b).

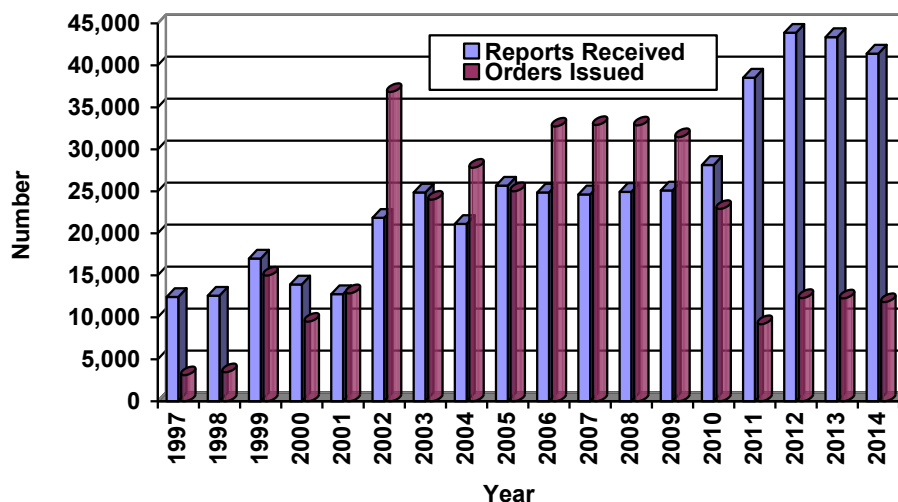


Fig. 1. Number of reports on UBWs received and removal orders issued by the Buildings Department (Buildings Department, 2001, 2004, 2008, 2011a, 2014).

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