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REAL ESTATE RISK · HONG KONG · 2026

Beyond the Building Plans

Managing structural, legal and financial risks in real estate investments

Prevention · Detection · Remedy

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Live NDT Demonstration

Tuesday, 24 November 2026 | 18:00–20:00

Venue provided by eBRAM · Room 205–207, 2/F West Wing, Justice Place, 11 Ice House Street, Central



From technical findings to legal protection

How buyers can protect themselves when building defects become legal issues



Polly Chu

Head of Real Estate, Hugill & Ip, Solicitors

MODERATOR & LEGAL SPEAKER

Tonight moves from what is found on site to what a buyer can actually do about it — before signing, before completion, and after handover.

Prevention — documents and inspection rights, fixed before you sign.
Detection — testing and records, while you still have access.
Remedy — notice, evidence and a route to resolution.

Beyond the Building Plans — 2026

CONTEXT

Why this matters

Recent news has raised a question at the heart of every purchase: is the completed building the same as the approved plans?

01 **No project is named**
Investigations are ongoing, and it would not be fair to prejudge them.

02 **The real question is practical**
Not political: how does a technical issue become a legal issue?

03 **Three things decide it**
The approved plans, what was disclosed, and who pays to fix it.



Technical issue → legal issue: 3 questions

Every defect claim turns on the same three questions.

01

Is it different from the approved plans?

Compare what was built with what was approved — and who certified it.

02

Who knew what, when — and was it disclosed?

Records, reports and correspondence show what was known, and when.

03

Who pays to fix it — and how fast?

Rectification, security and time limits decide the real outcome.

Ask them in this order: each answer changes the next.

WHERE YOU STAND

Buyers are in 3 very different positions

Same facts. Different legal tools.

A

MOST POWER

About to sign

Inspect, negotiate and add protections before you commit. This is where a side deed is still possible.

B

HARDEST POSITION

Signed, not completed

Do not refuse to complete on worry alone. Serve requisitions, ask for inspection and reserve your rights.

C

TIME-LIMITED

Completed or in possession

Act within the defects liability period, and preserve evidence before any repair begins.

The same defect can be a negotiation, a requisition or a claim.

Hong Kong reality: you cannot just “add a clause”

The route to protection depends on what you are buying.

Second-hand & commercial

YES — NEGOTIATE THE SPA

- You can negotiate the sale and purchase agreement.
- Inspection right, condition precedent, escrow retention.
- Agree the protections before exchange.

First-hand residential

NO — THE FORM IS PRESCRIBED

- Mandatory provisions must be incorporated in the agreement.
- Some uncompleted projects also use Lands Department consent-scheme forms.
- Extra protection needs the developer’s agreement: ask for a side deed.

> Do not amend the prescribed form — ask for a separate side deed, in writing.

Sources: Sales of First-hand Residential Properties Authority (mandatory provisions); Lands Department consent scheme.

Side deed / supplemental agreement / deed of warranty

Six points to request before you sign the SPA.



01 **Access** — the buyer's AP or RSE may carry out Stage 1 non-destructive testing before completion or handover.

02 **Two-stage trigger** — if Stage 1 shows red flags, Stage 2 invasive testing follows; the developer pays if a defect is confirmed.

03 **Rectification** — rectify to the approved plans, to the satisfaction of the buyer's independent RSE.

04 **Security** — retention sum, bank guarantee or extended warranty, not escrow of the purchase price.

05 **Disclosure** — reinforcement photo or video records and laboratory results, certified by the RSE.

06 **Dispute** — eBRAM ODR: mediation first, then arbitration, as agreed.

A side deed is a matter of agreement with the developer, and its terms must be reviewed against the SPA, the consent scheme and the DMC.

If you have already signed or completed

The options narrow — but they do not disappear.

Signed, not yet completed

PROTECT YOUR POSITION

— Do not refuse to complete on worry alone — you may lose your deposit.
— Serve written requisitions and ask for an extension.
— Ask for a joint independent inspection.
— Reserve your rights in writing.

Completed or in possession

ACT BEFORE YOU REPAIR

— Notify in writing within the defects liability period.
— Preserve evidence before any repair.
— Ask for a joint independent expert.
— Do not sign a waiver in exchange for a maintenance promise.

In both cases: put it in writing, and keep the record.

For first-hand residential sales, six months is the usual defects liability period — a notice deadline, not the end of every right or remedy.

What is improving — a positive picture

Regulation is tightening, and the direction is right.

BD 2025

Targeted reinforcement audits doubled

Random checks doubled on the Anderson Road contractor's other projects; pre-casting steel audits rise from at least 12% to 25% of projects a year.

JAN 2027

Records before concreting, tests after

Photo or video records verified by the RSE, plus accredited laboratory audit checks of reinforcement — planned for implementation in or before January 2027.

PUBLIC WORKS

Closer supervision on site

Digital Works Supervision System, and body-worn cameras for site supervisory and frontline management staff during inspections since June 2026.

PROPOSED

Heavier penalties, faster discipline

Maximum fine for defective materials or material deviation from approved plans to rise from HK$1m to HK$3m; disciplinary fines from HK$250,000 to HK$1.5m.

Sources: Buildings Department (21 May 2025); Development Bureau, LegCo reply (11 November 2026); LegCo Panel on Development paper (24 November 2026).

What more can we do?

Three audiences, one chain of protection.

Industry	Share supervision records earlier, run joint inspections, and standardise warranties.
Government	Publish clear guidance, and consider a suspension right for material non-compliance.
Buyers	Ask early, keep everything in writing, and treat ODR as the first route to remedy.

Prevention + Detection + Remedy

TAKEAWAY

Three questions to ask

01 Who knew what, when?

02 What do the documents say — SPA, side deed, DMC?

03 Who pays to fix it, and how fast?

Good documents + good inspection = confidence.

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