

CONTROLLING OFFICER'S REPLY**DEVB(PL)364****(Question Serial No. 5807)**

Head: (91) Lands Department

Subhead (No. & title): (-) Not Specified

Programme: (1) Land Administration

Controlling Officer: Director of Lands (Ms. Bernadette LINN)

Director of Bureau: Secretary for Development

Question (Member Question No. 358):

Regarding small houses in the New Territories:

1. How many applications for land grant and building licence have been received by the Lands Department (Lands D) in each of the past three years (i.e. 2011, 2012 and 2013) and how many of them have been approved?
2. What is the number of backlog cases of applications for land grant or building licence? What is the estimated time required for clearing all the backlog cases?
3. Will the Government provide a detailed list, broken down by year, of the lease enforcement actions taken by Lands D against unauthorised building works (UBW) of small houses in the past three years (i.e. 2011, 2012 and 2013), including the number of inspections conducted, the number of UBW cases identified, the number of advisory letters or warnings issued, the total amount of fines imposed and the number of cases involving re-entry of land?
4. How many cases of UBWs have led to cancellation of rates exemption?

Asked by: Hon. CHAN Ka-lok, Kenneth

Reply:

1. The numbers of small house applications received and approved by the Lands Department (Lands D) in the past three calendar years (2011 to 2013) are set out below:

	2011	2012	2013
Number of small house applications received	2 374	2 690	2 566
Number of small house applications approved	1 041	1 121	1 011

2. As at end of February 2014, the number of small house applications being processed was 7 842 and the number of applications pending processing was 4 068. In general, Lands D starts to process an application within 12 months after it is received. For

straightforward applications, the processing may be completed within 24 weeks from the date of interview with the applicant. For non-straightforward applications, depending on the nature and complexity of the issues encountered such as those associated with local objections, land title or boundary problems or requirements imposed by relevant regulatory authorities which will need to be satisfied first, the processing time may exceed this period.

Although Lands D remains committed to its performance pledge of completing the processing of not less than 2 300 small house applications in a year, we have difficulty in giving a meaningful indication of the time required for clearing all the backlog cases. It is because the time required for completing the processing of an application varies significantly according to the complexity of each case and there are new applications coming in each year. Lands D will continue reviewing the situation from time to time, having due regard to the service need of the Department.

3. If Lands D identifies unauthorised building works (UBWs) in New Territories Exempted Houses (NTEHs) (including small houses) which are in contravention of the Buildings Ordinance (Cap. 123), it will refer the cases to the Buildings Department (BD) for action. Where the UBWs also constitute a breach of the lease conditions (normally a breach of the development conditions, e.g. number of storeys and building height), Lands D would take appropriate lease enforcement action having regard to the enforcement action taken or to be taken by BD according to the law. Such lease enforcement actions may include issuing advisory/warning letters to the lessees, and registering such letters at the Land Registry, commonly known as “imposing an encumbrance”. As Lands D acts in the landlord capacity in enforcing the lease provisions, imposition of a fine is not applicable.

Insofar as NTEHs (including small houses) are concerned, the number of site inspections, confirmed cases involving breach of development conditions under the lease, and advisory/warning letters issued in the past three calendar years are provided in the following table:

	2011	2012	2013
Number of site inspections	2 219	1 060	731
Number of cases confirmed during the year to involve breach of development conditions under the lease ^(Note 1)	1 383	510	415
Number of advisory/warning letters issued ^(Note 1)	468	66	0 ^(Note 2)
Number of re-entry cases	0	0	0

Note 1: As case processing work may straddle different years, the number of advisory/warning letters issued in a year may not necessarily correspond to the cases confirmed to involve lease breaches during the same year.

Note 2: BD started implementing the enhanced enforcement strategy against UBWs in NTEHs in April 2012. Since then, specified green and amenity facilities are permitted to be retained or installed in existing and new NTEHs, and would not be regarded as lease breaches. Lands D would

also withhold lease enforcement action against those UBWs under the reporting scheme for UBWs in NTEHs.

4. According to the records of the Home Affairs Department (HAD), a total of 293 rates exemptions cases were cancelled by HAD from 2011 to 2013 based on Lands D's reports on breaches of lease conditions or unauthorised extensions.