

CONTROLLING OFFICER'S REPLY

DEVB(PL)359

(Question Serial No. 3542)

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:

- (1) How many applications for land grant and building licence for small houses in the New Territories were received by the Lands Department (Lands D) in 2014 and 2015? How many of them were approved? How many of them involved proposed small house sites not within the villages of the applicants and how many involved sites not within the "Village Type Development" zone on statutory plans?
- (2) What is the number of backlog cases of applications for land grant or building licence for small houses in the New Territories? What is the estimated time required for clearing all the backlog cases?
- (3) What were the details of the lease enforcement actions taken by Lands D against breaches of lease conditions of small houses in the New Territories in 2014 and 2015, including the number of inspections conducted, the number of breaches identified, the number of advisory or warning letters issued and the number of cases involving re-entry of land in each of the two years?
- (4) How many cases of breaches have led to cancellation of rates exemption for small houses in the New Territories?
- (5) How many complaints about suspected unauthorised alienation or sale of small houses in the New Territories were received last year? How many of these complaints were substantiated and what follow-up actions have been taken by Lands D?

Asked by: Dr Hon Kenneth CHAN Ka-lok (Member Question No. 273)

Reply:

- (1) The number of small house applications received and approved by the Lands Department (Lands D) in the past two years (2014 and 2015) is set out below:

	2014	2015
Number of small house applications received	2 522	2 547
Number of small house applications approved	1 114	989

Note: The applications approved in one year may not correspond to the applications received in that year.

Lands D has no readily available information on the breakdown of the applications by reference to whether the cases involve cross-village applications or by reference to land use zoning.

- (2) As at end of December 2015, the number of small house applications being processed was 8 800 and the number of applications pending processing was 3 934. 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. This is because the time required for completing the processing of an application varies significantly according to the complexity of each case and new applications are received each year.

- (3) In general, if a breach of lease conditions is confirmed, Lands D will take appropriate lease enforcement actions, including issuing advisory/warning letters to the lessees, and registering such letters in the Land Registry (LR), commonly known as “imposing an encumbrance”. 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 actions having regard to the statutory enforcement action taken or to be taken by BD.

Insofar as NTEHs (including small houses) are concerned, the number of site inspections, confirmed cases involving breach of lease conditions (not confined to breaches involving UBWs), advisory/warning letters issued and re-entry cases in the past two years is set out below:

	2014	2015
Number of site inspections	628	758
Number of cases confirmed during the year to involve breach of lease conditions ^(Note 1)	382	210
Number of advisory/warning letters issued ^(Notes 1&2)	12 ^(Note 3)	9 ^(Note 3)
Number of re-entry cases	5 ^(Note 4)	9 ^(Note 4)

Note:

1. As case processing work may straddle different years, the number of warning letters issued and those registered in LR may not necessarily correspond to the number of cases with breaches confirmed in the same year.
 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.
 3. Lands D took lease enforcement actions against 12 cases in 2014 (including eight UBW cases and four cases of other lease breaches, such as sewage disposal and unauthorised partitions) and nine cases in 2015 (including five UBW cases and four cases of other breaches, such as sewage disposal and unauthorised openings). For the UBW cases, as the built-over area of the concerned NTEHs had not exceeded the exemption criteria under Cap. 121, these UBWs did not fall within BD's reporting scheme. Among these 21 cases (12 cases in 2014 plus nine cases in 2015), warning letters were registered in LR in 19 cases as the breaches were not purged upon expiry of the warning period. The lease breach in one case was purged. The enforcement action of the remaining case is on-going.
 4. Lands D took re-entry actions against five cases in 2014 and nine cases in 2015 for breach of lease conditions other than UBWs.
- (4) According to the records of the Home Affairs Department (HAD), a total of 273 rates exemptions cases were cancelled by HAD in the past two years (2014 and 2015) based on Lands D's reports on breaches of lease conditions or unauthorised extensions.
- (5) In 2015, Lands D did not receive any complaints about suspected breaches of the restriction on alienation of small houses.

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