

CONTROLLING OFFICER'S REPLY

DEVB(PL)309

(Question Serial No. 6819)

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 2015 and 2016? 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 2015 and 2016, 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: Hon CHAN Tanya (Member Question No. 137)

Reply:

- (1) The number of small house applications received and approved by the Lands Department (Lands D) in the past two years (2015 to 2016) is set out below:

	2015	2016
Number of small house applications received	2 547	1 297
Number of small house applications approved	989	858

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

Lands D has no readily available statistics 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 2016, the number of small house applications being processed was 9 145 and the number of applications pending processing was 2 988.

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, 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:

	2015	2016
Number of site inspections	758	350
Number of cases confirmed during the year to involve breach of lease conditions ^(Note 1)	210	87
Number of advisory/warning letters issued ^(Notes 1&2)	9 ^(Note 3)	13 ^(Note 3)
Number of re-entry cases ^(Note 4)	9	0

Note:

1. As case processing work may straddle different years, the number of warning letters issued 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. The lease enforcement actions were taken by Lands D against UBWs not falling under the scope of BD's reporting scheme (as the built-over area of the concerned NTEHs had not exceeded the exemption criteria under Cap. 121) and other breaches such as sewage disposal, unauthorised openings and unauthorised partitions.
 4. Lands D took re-entry actions against cases concerning breach of lease conditions other than UBWs.
- (4) According to the records of Home Affairs Department (HAD), a total of 391 rates exemptions cases were cancelled by HAD in the past two years (2015 to 2016) based on Lands D's reports on breaches of lease conditions or unauthorised extensions.
- (5) In 2016, Lands D did not receive any complaints about suspected breaches of the restriction on alienation of small houses as stipulated in the relevant land instruments. Separately, Lands D received in 2016 over 700 complaints/referrals about suspected selling of small house rights by indigenous villagers. So far, amongst these cases, around 40 suspicious cases have been referred to other law enforcement departments for further investigation, while the rest of the complaints/referrals are either not substantiated based on information available or are being investigated by Lands D.

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