

**CONTROLLING OFFICER'S REPLY****DEVB(PL)163****(Question Serial No. 2610)**

Head: (91) Lands Department

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

Programme: (1) Land Administration

Controlling Officer: Director of Lands (Thomas CHAN)

Director of Bureau: Secretary for Development

Question:

- (1) How many applications for small houses were approved in each of the past five years? Among these applications, how many involved government land? What were the respective areas of private land and government land involved?
- (2) Of the above, how many applications in a single submission involved more than five small houses in an adjoining location (within 20 metres)?

Asked by: Hon KWOK Ka-ki (LegCo internal reference no.: 22)

Reply:

- (1) Based on cases approved and executed, the number of small houses granted by way of free building licence for private land, granting of government land under private treaty and land exchange in the past five years (2014 to 2018) are set out below:

Year	Number of small houses granted on private land by way of free building licence	Number of small houses granted on government land by way of private treaty	Number of small houses granted by way of land exchange
2014	839	128	20
2015	775	146	23
2016	562	78	16
2017	655	73	24
2018	582	47	25

Whilst each small house can have a roofed-over area of not exceeding 65.03 square metres under the existing policy, the area of government land granted for individual small houses may be smaller due to site constraints, while that of private land on which

approved small houses are built varies from case to case. The Lands Department (LandsD) has no readily available information on the area of government or private land involved.

- (2) Under the Small House Policy, in general, a male indigenous villager aged 18 years old or above who is descended through the male line from a resident in 1898 of a recognised village in the New Territories may apply to the authority once during his lifetime for permission to build for himself a small house on suitable Government or private land within his own village. As each individual indigenous villager has to submit his own small house application to LandsD for consideration, there is no case in which a single submission involves more than one small house.

The Court of First Instance of the High Court handed down a judgment on 8 April 2019 on a judicial review of the small house policy, and ruled that the Free Building Licence (FBL) arrangement under the policy, being a lawful traditional right and interest of the indigenous inhabitants of the New Territories within the meaning of Article 40 of the Basic Law, is lawful and constitutional, while the Private Treaty Grant (PTG) and Land Exchange arrangements under the policy are not. The Government will consider whether to lodge an appeal after studying the judgment in detail and seeking legal advice. Pending a decision on whether to appeal, the processing of outstanding applications for PTG and land exchange will be suspended. FBL applications will continue to be processed as usual.

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