

# LCQ10: Development of Tso/Tong lands

Following is a question by the Hon Lau Kwok-fan and a written reply by the Secretary for Home Affairs, Mr Caspar Tsui, in the Legislative Council today (July 7):

Question:

The Government indicated in the 2019 Policy Address that it would resume, by invoking the Lands Resumption Ordinance (Cap. 124), those private lands zoned for high-density housing development but still without any development plans due to various reasons and assessed as suitable for public housing development. To this end, the Government reviewed 10 land parcels, and announced earlier on that it would resume the private lands within three of these land parcels. Such private lands include Tso/Tong lands the development of which has been difficult for many years as the unanimous consent of all clan members for selling such lands could not be obtained. In this connection, will the Government inform this Council:

(1) given that currently, as long as one member of the clan raises objection to the sale of Tso/Tong lands, the District Officer (DO) concerned will not issue consent to the sale decision, whether the Government will study amending the New Territories Ordinance (Cap. 97) to lower the threshold for selling Tso/Tong lands, e.g. by stipulating that a DO may issue consent for such sale if consent has been given by the Tso/Tong manager and the representatives of the various family branches, or that the relevant persons may, after obtaining the consent of a specific proportion of members of the clan, apply for compulsory sale of Tso/Tong lands;

(2) given that the Home Affairs Department and the Heung Yee Kuk New Territories set up a working group in 2018 to discuss and examine those issues in relation to the handling of Tso/Tong matters, of the work achievements of the working group; and

(3) as the Government indicated in its reply to a question raised by a Member of this Council on January 15 last year that it did not keep information relating to the number and area of the existing Tso/Tong lands across the territory, whether the Government will compile the relevant statistics; if so, of the details; if not, the reasons for that?

Reply:

President,

The consolidated reply to the Hon Lau Kwok-fan's question is as follows:

Section 15 of the New Territories Ordinance (Cap. 97) (the Ordinance) does not specify the threshold for the sale of Tso/Tong lands or the Government's procedures on handling applications for consent to such sale. Despite having the statutory power to give consent to Tso/Tongs' decisions on appointing managers and selling lands, the District Officers (DOs) have no

role to play in the decision-making process, as Tso/Tongs are by nature private organisations and it is up to them to decide on the sale of Tso/Tong lands. However, according to court judgments in the past, unanimity is required for ancestral Tso/Tongs to sell Tso/Tong lands. Thus, the DOs must ensure that unanimous consent is obtained from all members when handling applications for the sale of ancestral Tso/Tong lands.

If a DO receives an objection when processing an application, he/she will first contact both the applicant and the objector for mediation under appropriate circumstances, and will give consent to the application for the sale of Tso/Tong lands only after obtaining unanimity.

If necessary, the Administration will review and examine the necessity and feasibility of amending the requirements in the Ordinance pertaining to the handling of Tso/Tong lands by their managers. As lowering the threshold for the sale of ancestral Tso/Tong lands will have considerable impact on Tso/Tong members, it must be carefully considered upon full consultation with stakeholders.

To further improve Tso/Tong matters, the Home Affairs Department and the Heung Yee Kuk New Territories (HYK) set up a working group on New Territories Tso/Tong matters in 2018. Knowing that individual Tso/Tongs have internal rules in place, the working group is of the view that if Tso/Tongs make their internal rules, they could make reference to such rules when handling appointment of managers and other internal matters in future. Therefore, the working group has recommended that the HYK should examine how to assist Tso/Tongs in making their internal rules. It is understood that the HYK has proactively followed up on the recommendation and has been discussing the relevant matters with Tso/Tongs. However, not all members support the making of internal rules.

The DOs do not have statistics on the number and area of Tso/Tong lands as such information is not relevant to their decisions made in handling the sale of Tso/Tong lands. Neither does the Government have any plan to compile statistics on the number and area of the existing Tso/Tong lands across the territory.