

LCQ2: Contraventions relating to residences or properties of public officers

Following is a question by the Hon Tony Tse and a reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (July 8):

Question:

In recent years, unauthorised building works (UBWs), unauthorised occupation of government land or breach of the conditions of Government Land Licence in respect of the residences of politically appointed officials, senior officers of the Police Force, Executive Council Members, Legislative Council Members and District Council members or properties under their names, have been uncovered from time to time, raising doubts on the integrity of public officers and the credibility of the Government. In this connection, will the Government inform this Council:

(1) as the Chief Secretary for Administration stated in January 2018 that the Chief Executive would remind all accountability officials that they must inspect their properties to see if illegal or UBWs issues were involved, whether such reminders are issued regularly or only at the time when the officials assume office;

(2) given that in 2011, the Buildings Department (BD) introduced a set of special procedure for handling celebrities' UBWs cases (i.e. expeditiously sending staff to inspect the sites and conducting investigations, so as to allay public concern), whether the BD still adopts the procedure at present; if so, whether the BD has assessed its effectiveness; if it has ceased to adopt the procedure, of the reasons for that; and

(3) whether it will set up an inter-departmental task force comprising representatives of Government departments such as the BD, the Lands Department, the Hong Kong Fire Services Department and the Rating and Valuation Department to expedite the handling of alleged contravention cases involving the residences of the aforesaid public officers or properties under their names, as well as proactively inspect such residences and properties, so as to ascertain if there is contravention of the law?

Reply:

President,

The Government has always attached great importance to building safety and land administration in Hong Kong, and takes enforcement actions according to the relevant laws and established policies.

When formulating and implementing policies in dealing with unauthorised

building works (UBWs), the Government has always put building safety as the first priority and adopted a pragmatic approach to handle the matter impartially according to the priority and category of the UBWs concerned. The Building Authority (i.e. the Director of Buildings) is responsible for taking enforcement actions against UBWs in accordance with the Buildings Ordinance (Cap. 123) (BO). The Buildings Department (BD) has for that purpose formulated clear enforcement policies and arrangements and has been handling UBWs cases in accordance with the BO and the enforcement policies impartially in accordance with the law.

Generally, the BD adopts a risk-based approach in determining the priority of enforcement actions against UBWs. For "actionable" UBWs, unless the owners have proactively handled the relevant UBWs, the BD will issue a removal order requiring the owners concerned to remove the UBWs within a specified period of time. The BD will also register the removal order against the record of the premises concerned at the Land Registry (LR), commonly known as "imposing an encumbrance". The BD will consider instigating prosecution actions against owners who could not rectify the situation within the specified time without reasonable excuse.

Regarding land administration, whether a building is in violation of the land lease depends on the terms of the land lease and the actual conditions of the land and the building thereon. In case there is a breach of the land lease, the Lands Department (LandsD) will take appropriate enforcement actions according to priority.

In general, in respect of breach of land lease, the LandsD will first issue a warning letter requiring the owner concerned to rectify the lease breach within a specified period. If the owner does not rectify the breach by the deadline, the LandsD may register the warning letter at the LR. If the situation of the breach is serious, for instance if it poses a serious threat to public safety, the LandsD will consider re-entry of the lot or vesting the relevant interest to Government. In respect of breach of conditions of government land licence, the LandsD will first issue a warning letter to the licensee requiring rectification of the breach within a specified period. If the nature of the breach is serious, the LandsD will consider cancelling the licence. In respect of the unlawful occupation of government land, the LandsD will take enforcement actions in accordance with the Land (Miscellaneous Provisions) Ordinance (Cap. 28), posting of statutory notice at the relevant location requiring the occupier to cease occupation of the land. If the occupation of land does not cease by the deadline, the LandsD may instigate prosecution.

Regarding some recent reports which have caused public concern over UBWs, unauthorised occupation of government land or breaches of land licences, the BD and the LandsD have, upon receipt of the reports, followed up the cases according to the relevant laws and established policies. The departments have proceeded with investigations and enforcement actions impartially in accordance with the law in a fair and equitable manner without varying the enforcement standards depending on the identities of those involved.

My reply to the three parts of the question is as follows:

(1) Any property owner, being the one who owns the property, regardless of his or her identity, must ensure that the property under his or her name complies with the relevant laws and the terms of the relevant land lease. Property owners should appoint a professional Authorised Person to inspect the properties and seek professional advice as needed.

Besides, in view of the public expectation of senior government officials, the Chief Executive has reminded the politically appointed officials (PAOs) should be vigilant at all times and observe the highest standards of personal conduct and integrity, striving for safeguarding the reputations of the Government and all public officers.

(2) and (3) In response to the keen concern of the community, the BD has since mid-2011 adopted a set of special procedures where priority would be accorded by the BD in conducting site inspection for investigating existence or otherwise the suspected UBWs for clearing public concerns as soon as practicable if the owners involved in the UBWs cases under media inquiry or media reporting are senior government officials or community celebrities (including the Chief Executive, secretaries of departments and directors of bureaux, other PAOs, permanent secretaries and heads of departments; Executive Council members, Legislative Council members and influential people in the community (i.e. those who have a direct influence on public policy)). If any UBWs are identified in the site inspection, the BD will take appropriate actions in accordance with the BO and the prevailing enforcement policies impartially without adopting different enforcement standards because of the identities of those involved. These special procedures have proven effective and has not been changed.

When handling cases involving private properties, other government departments also adhere to the principles of impartiality and equal treatment for all. For instance, if the LandsD identifies any suspected irregularities in relation to violation of land leases or unauthorised occupation of government land, it will follow up the cases in accordance with the established mechanism regardless of the identities of the involved persons. When conducting fire safety inspection, the Fire Services Department will do so impartially taking into account actual situation. The Rating and Valuation Department will adhere to the requirements of the Rating Ordinance (Cap. 116) when assessing the rateable value of a property on the basis of the actual use and occupation status of the property for assessment and collection of rates.

As stated in my reply to the first part of the question, it is the owners' responsibility to ensure that their properties are in compliance with the relevant land lease conditions and laws, including but are not limited to the laws regarding building safety, fire safety and taxation. The relevant departments take follow up actions in accordance with relevant laws and established policies in an equitable and impartial manner regardless of the owners' identities. Departments have consistently handled media enquiries with a high degree of transparency to allay public concern. At present, all

departments take enforcement action under their prerogative effectively and the mechanism is running effectively. The Government has no plan to change these policies or to establish a task force for taking special enforcement arrangements against the properties owned by aforementioned public officers.

Thank you, President.