

LCQ21: Tso/Tong lands

Following is a question by the Hon Tony Tse and a written reply by the Secretary for Home Affairs, Mr Lau Kong-wah, in the Legislative Council today (January 15):

Question:

Tso/Tong lands (commonly known as ancestral land) in general refer to the village lands in the New Territories which are collectively owned by traditional organisations (e.g. families or Tongs) and not by individual persons. It is learnt that as the criteria for the sale of Tso/Tong lands are rather stringent, including the requirement that the registered manager of the Tso/Tong concerned must obtain the consent issued by the District Officer (DO) of the relevant district on behalf of the Secretary for Home Affairs, and the DO will issue such consent only when there is unanimous consent of all the stakeholders, coupled with the problem that different villages act according to their own customs, the overall planning and development of Tso/Tong lands and the lands in their vicinity have been restrained. It has been reported that the Heung Yee Kuk and the Home Affairs Department formed a working group last year to study ways to facilitate the sale and development of Tso/Tong lands, so as to promote the development of the New Territories and increase the overall supply of land in Hong Kong for development. In this connection, will the Government inform this Council:

(1) of the existing number and area of Tso/Tong lands across the territory, together with a breakdown by the district in which such lands are situated;

(2) whether it knows the number, area and post-sale uses of the Tso/Tong lands sold in the past five years; and

(3) of the study progress of the aforesaid working group and its concrete recommendations on facilitating the sale and development of Tso/Tong lands?

Reply:

President,

The consolidated reply to Hon Tony Tse's question is as follows:

Section 15 of the New Territories Ordinance (Cap. 97) provides for the registration of Tso/Tong managers and their power to deal with lands held by Tsos/Tongs:

"Whenever any land is held from the Government under lease or other grant, agreement or licence in the name of a clan, family or t'ong, such clan, family or t'ong shall appoint a manager to represent it. Every such appointment shall be reported at the appropriate New Territories District Office of the Home Affairs Department, and the Secretary for Home Affairs on receiving such proof as he may require of such appointment shall, if he approves thereof, register the name of the said manager who shall, after

giving such notices as may be prescribed, have full power to dispose of or in any way deal with the said land as if he were sole owner thereof, subject to the consent of the Secretary for Home Affairs, and shall be personally liable for the payment of all rents and charges and for the observance of all covenants and conditions in respect of the said land. Every instrument relating to land held by a clan, family or t'ong, which is executed or signed by the registered manager thereof in the presence of the Secretary for Home Affairs and is attested by him, shall be as effectual for all purposes as if it had been executed or signed by all the members of the said clan, family or t'ong. The Secretary for Home Affairs may on good cause shown cancel the appointment of any manager and select and register a new manager in his place. If the members of any clan, family or t'ong holding land do not within three months after the acquisition of the land make and prove the appointment of a manager, or within three months after any change of manager prove the appointment of a new manager, it shall be lawful for the Government to re-enter upon the land held by such clan, family or t'ong, which shall thereupon become forfeited. Such re-entry shall be effected by the registration of a memorial thereof in the Land Registry."

In fact, section 15 of the New Territories Ordinance does not specify the criteria for the sale of Tso/Tong lands or the Government's procedures on handling consent to applications for such sale. Despite that District Officers (DOs) have the statutory power to give consent to Tsos/Tongs' decisions on appointing managers and selling lands, DOs have no role to play in the decision-making process, as Tsos/Tongs are by nature private organisations and it is up to them to decide on the sale of Tso/Tong lands.

The Government does not have information on the existing number and area of Tso/Tong lands across the territory. According to records, DOs gave consent to over 300 applications for the sale of Tso/Tong lands in the past five years. Information such as the area and post-sale uses of lands involved in these applications is not available either. We would like to reiterate that Tsos/Tongs are by nature private organisations and it is up to them to decide on the sale of Tso/Tong lands.

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 (working group) in 2018 to discuss and examine matters on appointment of managers by Tsos/Tongs and their handling of Tso/Tong lands.

Knowing that individual Tsos/Tongs have internal rules in place, the working group is of the view that if Tsos/Tongs make their internal rules, they could be used as reference 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 Tsos/Tongs in making their internal rules.

It is understood that the HYK is proactively following up on the recommendation and discussing relevant matters with Tsos/Tongs.