

## LCQ3: Handling of unauthorised building works

Following is a question by the Hon Doreen Kong and a reply by the Secretary for Development, Ms Bernadette Linn, in the Legislative Council today (November 1):

Question:

There are views that the number of unauthorised building works (UBWs) in Hong Kong is significant. Such UBWs are not only illegal, but also cause structural safety problems of buildings and endanger the safety of residents. In this connection, will the Government inform this Council:

(1) of the respective numbers of removal orders and notices issued by the Government this year for cases of UBWs, additional storeys built illegally and unauthorised occupation of government land, and the number of prosecutions instituted; of the number of cases of non-compliance with the removal orders and notices, as well as the effectiveness of the enforcement measures and follow-up actions taken by the Government under the "risk-based" principle;

(2) of the number and percentage of cases in which the aforesaid removal orders and notices were complied with in each of the past three years; of the current number of government officers dedicated to handling cases of UBWs, additional storeys built illegally and unauthorised occupation of government land, and whether it has estimated how long it will take to clear the current backlog of cases; whether it will consider increasing manpower to enhance the efficiency of case handling; and

(3) whether it will consider making good use of technologies to introduce more ways of inspecting UBWs so as to enhance enforcement efficiency; if so, whether it has the details of the specific plan and a timetable?

Reply:

President,

The Buildings Department (BD) and the Lands Department (LandsD) take enforcement actions against unauthorised building works (UBWs) and unlawful occupation of government land in accordance with the Buildings Ordinance (BO) and the Land (Miscellaneous Provisions) Ordinance respectively. In view of the large number of cases and the limited manpower resources, the departments have to adopt a pragmatic "risk-based" approach to set priorities for enforcement, according priority to cases of a larger scale, more serious contraventions, or cases involving safety or environmental hygiene risks.

In respect of handling UBWs that are categorised as "actionable" by the BD, i.e. posing a threat or imminent danger, serious health or environmental nuisance, etc., the BD will accord priority to enforcement by issuing removal

orders to the owner and registering the removal order in the Land Registry, i.e. commonly known as "imposing an encumbrance". If the owner fails to rectify the situation within the specified period without reasonable excuse, the BD will consider instigating prosecution.

For unlawful occupation of government land, the LandsD also adopts the "risk-based" approach in setting priorities by targeting cases with occupation of large areas, and posting a statutory notice requiring the occupier to cease occupation before a specified deadline. If the situation does not improve after the specified deadline, the LandsD will take control actions, including taking possession of and clearing the property or structures remaining on the land. If the identity of the occupier can be ascertained with evidence, the LandsD will also consider instituting prosecution.

My respective replies to the various parts of the Hon Kong's question are as follows:

(1) The relevant figures on enforcement against UBWs and unlawful occupation of government land by the BD and the LandsD respectively from 2020 to September this year are set out in the Annex. Depending on the nature and complexity of the cases, the time required for handling each case varies and it is rather difficult to make a generalisation.

Under the "risk-based" policy framework, the two departments will also adjust their enforcement priorities in the light of the latest situation and public concerns. For example, the landslide incident on the Redhill Peninsula in September has revealed the safety hazard of detached houses located near the coastal slope and with irregularities. Therefore, the two departments launched a joint operation at the end of September to accord priority to handling detached houses along the coast; and for instance, in response to public concerns about unauthorised brownfield operations in the New Territories, the LandsD set up the Special Duties Task Force in 2019 to step up targeted enforcement against unlawful occupation of large areas of government land or serious lease breaches involving private agricultural land.

(2) At present, there are about 720 staff in the BD responsible for handling UBWs, and about 610 staff in the LandsD responsible for enforcement work in relation to government land. These staff are also responsible for other duties of their departments. The average numbers of reported cases of UBWs and cases of unlawful occupation of government land handled each year by the two departments are about 30 000 and over 10 000 respectively. It is difficult to handle non-compliant cases effectively on a sustainable basis by solely relying on increasing manpower deployment, nor is it the most cost-effective way. The two departments will re-organise and re-deploy manpower to tackle the issue. For example, with effect from April this year, the LandsD has consolidated the land enforcement functions at various District Lands Offices level, such that one single team can handle unauthorised cases in the same geographical area in an integrated manner; the BD has also set up a special task force to carry out special duties relating to building safety and to expedite the clearance of outstanding removal orders. Where necessary,

the departments will consider outsourcing to increase their handling capacity.

(3) The two departments will review and optimise the mode of enforcement from time to time, including:

(i) on the application of innovative technology, the BD will make wider use of drones to assist in the inspection of UBWs on the exterior of buildings. The BD is also developing a new system for patrolling areas with a patrolling vehicle equipped with cameras and LiDAR equipment to identify damaged signboards. If the technology is mature, it could assist in identifying UBWs. The LandsD will also continue to use drones and mobile devices to enhance the effectiveness of inspection and the overall efficiency of regular land enforcement work;

(ii) both departments will strengthen law enforcement and deterrent effect by stepping up prosecution work. For example, the BD will instigate not less than 3 600 prosecutions per year for non-compliant removal orders from 2024 onwards, as well as streamline internal workflow and leverage on validation by external professionals to expedite the handling of cases; and

(iii) as stated in the Policy Address delivered last week, we will conduct a comprehensive review of the BO to strengthen the BD's enforcement powers. We will examine ways to increase penalties and consider streamlining prosecution procedures through, for example, summary offences or fixed penalties; and at the same time explore lowering of the prosecution threshold, so as to be more effective in combating the erection of UBWs and other contraventions of the BO. We will put forth recommendations for legislative amendments next year.