

LCQ5: Boundary control and monitoring of lands in the frontier closed areas

Following is a question by the Hon Claudia Mo, and a reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (December 5):

Question:

Last month, the media uncovered that the Guangdong Border Defence Corps (the Corps) had, since 2012, occupied and cultivated a land parcel with an area of about 20 000 square feet in the Sha Tau Kok Frontier Closed Area (FCA) and built, without permission, a pedestrian bridge straddling the Shenzhen River. Moreover, members of the Corps from time to time commuted, via that bridge, to and from the land parcel which was located within the territory of the Hong Kong SAR. In this connection, will the Government inform this Council:

(1) of the details of the Government's current work on the management of the lands in FCAs;

(2) as the Government had been ignorant of the aforesaid land occupation and bridge building incidents for six years, whether the Government has reviewed if there was maladministration and ineffective monitoring on the part of the relevant departments, and the improvements to be made in this respect; and

(3) notwithstanding that the Corps has stopped using the occupied land parcel for the time being, whether the Government will request the Mainland authorities to return the land parcel in question to the landowner(s) concerned, hold the relevant persons responsible and apologise to Hong Kong people; if so, of the details; if not, the reasons for that?

Reply:

President,

The Hong Kong Special Administrative Region (HKSAR) Government attaches great attention to the suspected occupation of land in the vicinity of the Sha Tau Kok River by the Mainland. The Development Bureau, the Security Bureau, the Constitutional and Mainland Affairs Bureau and their relevant departments have been liaising closely with one another to follow up on this matter.

The site inspections conducted by the relevant departments including the Lands Department (LandsD) and the Hong Kong Police Force (HKPF) have found a new water channel to the south of the Sha Tau Kok River. The area between the new water channel and the Sha Tau Kok River is encircled by wire fences and covered with artificial vegetation. A bridge straddling the Sha Tau Kok River

was found adjacent to the area.

The LandsD has looked up the relevant information including past land boundary records, aerial photos, and works records. According to the past land boundary records, the land in question falls within the Sha Tau Kok River and the southern area thereof as demarcated on the map of the LandsD. The aerial photos show that in recent years there have been changes to the conditions of certain areas to the south of the Sha Tau Kok River, including removal of vegetation and appearance of a new water channel. But the HKSAR Government has no record of river training works in the vicinity of that section of the Sha Tau Kok River.

In early November 2018, the LandsD received an enquiry from an owner of one of the private lots concerned, who said that he suspected that his lot was occupied by the Mainland. Promptly afterwards, the HKSAR Government communicated with the relevant Mainland parties. The Mainland side expressed that river channel works had been conducted at the tributary of the Sha Tau Kok River due to flood control considerations, and the boundary was taken to be the centre line of that tributary. At that time, the HKSAR Government explained to the Mainland that we considered the land in question to fall within the boundary of HKSAR, because the relevant section of the boundary of HKSAR at the location in question was "Sha Tau Kok Town to Pak Kung Au", and the boundary line thereat should run along the centre line of the Sha Tau Kok River according to the Order of the State Council of the People's Republic of China No. 221 of 1997 (hereafter referred to as State Council Order No. 221) promulgated on July 1, 1997. From the perspective of the HKSAR Government, the course of the Sha Tau Kok River has not changed over the past years.

The HKSAR Government and the relevant Mainland parties agreed to work together towards the accurate implementation of the provisions of the State Council Order No. 221. The two sides are currently engaged in active dialogue with a view to reaching an accurate understanding on the boundary issue and following up on other related matters as soon as practicable. The two sides have also agreed that, to allay public concerns, Mainland personnel would refrain from using the land in question before a consensus is reached on the boundary issue.

In consultation with the Security Bureau and other relevant departments, our consolidated reply to the three-part question is as follows:

(1) and (2) To reduce the coverage of the Frontier Closed Area (FCA) to the minimum necessary for ensuring public order, from 2008 to 2016 the Government substantially reduced the land coverage of the FCA from about 2 800 hectares at the time to about 400 hectares in three phases, thereby releasing 2 400 hectares of land for various uses. Currently, the reduced FCA covers the HKPF's boundary patrol roads (BPRs) and the areas to its north, border-crossing facilities, Sha Tau Kok Town, Starling Inlet and parts of Mai Po.

To prevent illegal immigration and combat other cross-boundary criminal activities, the HKSAR Government constructed BPRs and erected fences along the 35-kilometre land boundary of Hong Kong. Where site conditions permit and

works are technically feasible, BPRs will be constructed as close to the boundary bordering Shenzhen as possible. The HKPF carries out routine patrols mainly along the BPRs, which are also equipped with closed circuit television (CCTV) and surveillance systems including electronic sensors to combat attempts by illegal immigrants to unlawfully enter HKSAR across the land boundary. The set-up of BPRs is to enable police officers to arrive at the scene expeditiously and safely to intercept any illegal immigrant in case CCTV or the surveillance system detects attempts to cross the boundary by illegal immigrants. If site conditions do not permit or works are technically not feasible, there will be distances between the BPRs and the boundary bordering Shenzhen. If there is intelligence of illegal activity outside the BPRs but within the boundary, law enforcement officers will handle such activities according to the laws of Hong Kong having regard to actual circumstances and operational considerations.

From the land management perspective, owing to the large number of government land and private lots in Hong Kong, the LandsD generally acts on complaints or enquiries to follow up on cases of suspected occupation of government land or lease breaches of private lots, and conduct inspections or surveillance at individual locations with high land management risks. The FCA, which is largely uninhabited, is not among the locations considered by the LandsD as high-risk for breach of land-related laws or leases. Nevertheless, the LandsD will handle any cases identified or received by the LandsD or referred by other departments according to the applicable mechanism and having regard to its relative priority and urgency. If non-compliance with relevant legislation or land lease is established upon investigation, the LandsD will take appropriate enforcement actions.

Since the land in question and the nearby BPR are separated by some distance and the area in between is covered by overgrown vegetation, the line of sight between the two is blocked. Police officers are unable to directly observe the status of the land in question during routine patrols. Furthermore, in view of the location and ground conditions of the land in question which is uninhabited and without road access, it is difficult for the LandsD to be aware of the status of the land in question through normal inspections.

As mentioned above, the LandsD received an enquiry only recently from an owner of one of the private lots concerned, who suspected that his lot was occupied. Before that, the LandsD had not received any enquiry or complaint from owners of private lots about the land in question. The LandsD was also not aware beforehand that the Mainland side had conducted river training works near the Sha Tau Kok River.

In view of public concerns caused by this incident, we believe that there is room for improvement in relevant issues. Relevant government departments have started to conduct relevant reviews accordingly. The major directions include: as regards border patrol, the HKPF will suitably examine its work from the usual angles of prevention of illegal immigration and combatting cross-boundary criminal activities; in respect of land administration and management, the LandsD will examine the existing arrangement and explore placing more attention on land near the HKSAR

boundary through practical and efficient means, including studying the use of aerial photos to facilitate reconnaissance of changes in usage of land within HKSAR's territory near the land boundary; and the LandsD will also suitably review the current arrangements for masking of aerial photos, with a view to reducing possible human error in the manual masking process; as regards flood control and training works for boundary rivers, the Development Bureau and the Drainage Services Department will explore enhancing the existing liaison mechanism with relevant Mainland parties.

(3) The HKSAR Government has all along been handling border matters with the Mainland through friendly dialogue and conversation. In fact, the experience of the Loop of Shenzhen River shows that such approach can arrive at desirable results.

From the perspective of the HKSAR Government, the relevant section of the boundary of HKSAR at the location in question has not changed, and the land in question falls within HKSAR territory. There is also no change in land ownership. The HKSAR Government will continue to engage in active dialogue with the relevant Mainland parties in respect of the boundary issue. I believe that both sides are committed to accurately implementing State Council Order No. 221, and what is important is to have a clear understanding of the State Council No. 221 and the relevant facts of the incident through an objective and pragmatic attitude. As mentioned above, to allay public concerns, both sides have agreed that Mainland personnel would refrain from using the land in question before a consensus is reached on the administrative boundary issue. After sorting out the administrative boundary issue, the HKSAR Government will continue to actively follow up on other related matters. In view of the special circumstances of this case, the District Lands Office, North of the LandsD has also taken the initiative to contact the owners of the private lots concerned to understand their requests to facilitate the provision of appropriate assistance.