

Property owner given suspended jail sentence and fined for persistently not complying with removal order

A property owner was sentenced to two months' imprisonment suspended for 18 months and fined \$10,000 at Fanling Magistrates' Courts last month for failing to comply with a removal order, requiring the demolition of an unauthorised four-storey village house at Po Sheung Tsuen, Sheung Shui, with a floor area of about 48 square metres on each floor, issued under the Buildings Ordinance (BO) (Cap 123).

The village house has not been exempted from the application of the BO under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121). As the building was constructed without prior approval from the Buildings Department (BD), contravening section 14(1) of the BO, a removal order was served on the owner under section 24(1) of the Ordinance.

Since the owner did not comply with the order, he was prosecuted by the BD three times and was fined about \$50,000 in total upon conviction at the Fanling Magistrates' Courts. However, as the owner persisted in not complying with the order, the BD instigated prosecution against him for the fourth time. The owner was convicted at the Fanling Magistrates' Courts on June 23 this year. The Court noticed that the owner had three previous conviction records of not complying with the removal order and considered the seriousness of the case. After taking into account the defendant's background report, the court imposed the sentence of two months' imprisonment suspended for 18 months, plus a fine of \$10,000, on July 28.

"Unauthorised buildings works may adversely affect the structural and fire safety of a building, leading to serious consequences. Owners should seek professional advice before carrying out any building works in their premises," a spokesman for the BD said today (August 9).

Pursuant to section 40(1BA) of the BO, any person who, without reasonable excuse, fails to comply with an order served on him under section 24(1) of the BO commits an offence and is liable on conviction to a fine of \$200,000 and imprisonment for one year, as well as a further fine of \$20,000 for each day that the offence has continued.