

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

A property owner was convicted and sentenced to 14 days' imprisonment suspended for 18 months, and fined over \$31,000 at the Tuen Mun Magistrates' Courts on November 15 for persistently failing to comply with a removal order issued under the Buildings Ordinance (BO) (Cap. 123).

The case involved unauthorised building works (UBWs) at a unit of a three-storey building on Yu Chui Street, Tai Lam, Tuen Mun, which included the removal of a slope, the erection of walls and a staircase, the removal of a protective barrier and the construction of unauthorised structures at the garden on the first floor of the building, with a total area of about 70 square metres. As the UBWs were carried out without prior approval and consent from the Buildings Department (BD), a removal order was served on the owner under section 24(1) of the BO.

Failing to comply with the removal order, the owner was prosecuted by the BD in 2022 and was fined \$10,000 upon conviction by the court. Although the owner subsequently removed the unauthorised structures at the garden on the first floor of the building, the owner failed to fully comply with the requirements of the removal order, including the failure to reinstate the slope and protective barrier in accordance with the approved plans and remove the remaining UBWs. The BD then instigated prosecution again in 2023; and the owner was convicted and fined more than \$10,600 by the court. As the owner persisted in not fully complying with the removal order, the BD instigated the third prosecution. The owner was convicted again and sentenced to 14 days' imprisonment suspended for 18 months, and fined a total of \$31,020 at the Tuen Mun Magistrates' Courts on November 15.

A spokesman for the BD today (December 2) said, "UBWs may lead to serious consequences. The owners concerned must comply with the removal orders without delay. The BD will continue to take enforcement actions and consider instigating prosecution against the owners again if they persist in not complying with the orders, to ensure building safety."

Failure to comply with a removal order without reasonable excuse is a serious offence under the BO. The maximum penalty upon conviction is a fine of \$200,000 and one year's imprisonment, and a further fine of \$20,000 for each day that the offence continues.