

Property owners given suspended jail sentences for persistently not complying with removal orders

Three property owners were given suspended jail sentences last week at the Tuen Mun Magistrates' Courts and the Kowloon City Magistrates' Courts respectively for failing to comply with two removal orders issued under the Buildings Ordinance (BO) (Cap. 123).

The first case involved a three-storey house on Yu Chui Street, Tai Lam, Tuen Mun. The unauthorised building works (UBWs) included illegal site formation works for constructing around 120 square metres of garden and construction on different floors of five structures of about 55 sq m in total.

The second case involved several UBWs, including a yard structure of about 10 sq m, two metal frames and a canopy, in a shop on the ground floor of South Wall Road, Kowloon City, owned by two owners.

As the UBWs were carried out without prior approval and consent from the Buildings Department (BD), removal orders were served on the three owners under section 24(1) of the BO. After failing to comply with the removal orders, the owners were prosecuted by the BD.

The owner in the first case was prosecuted by the BD five times and fined about \$350,000 in total upon conviction at the Tuen Mun Magistrates' Courts. However, the owner persisted in not complying with the order and the BD instigated prosecution against the owner for the sixth time. The owner was convicted again at the Tuen Mun Magistrates' Courts on August 27. Considering the seriousness of the case given the owner's previous conviction records, the court imposed a four-month imprisonment sentence suspended for two years.

The two owners in the second case were prosecuted by the BD three times and fined about \$30,000 in total upon conviction at the Kowloon City Magistrates' Courts. However, the owners persisted in not complying with the order and the BD instigated prosecution against them for the fourth time. In the hearing held on August 25, the court imposed a 14-day imprisonment sentence suspended for 18 months, plus a fine of \$4,400, after considering the seriousness of the case given the two owners' previous conviction records.

"UBWs may adversely affect the structural and fire safety of a building, leading to serious consequences. Owners must comply with the removal orders without further delay. The BD will continue to take enforcement action against owners who have failed to comply with the removal orders (including instigation of prosecution) so as to achieve a deterrent effect", a spokesman for the BD said today (September 3).

Pursuant to section 40(1BA) of the B0, any person who, without reasonable excuse, fails to comply with the removal order served on the person under section 24(1) of the B0 commits an offence and is liable on conviction to a fine of \$200,000 and to imprisonment for one year, as well as a further fine of \$20,000 for each day that the offence continues.