

Village house owner given eight months' jail sentence for persistently failing to comply with removal orders

An owner was sentenced to eight months' imprisonment at the Fanling Magistrates' Courts last week for persistently not complying with two removal orders issued by the Buildings Department (BD) under the Buildings Ordinance (BO) (Cap. 123), requiring the demolition of two adjoining unauthorised four-storey village houses. This is so far the heaviest sentence imposed among similar cases.

The unauthorised village houses concerned owned by two co-owners are located at Pan Chung Village, Tai Po. They were found under construction during inspections conducted by staff of the BD. Since the Lands Department has not granted any approval to the buildings, they are not New Territories Exempted Houses under the BO (Application to the New Territories) Ordinance (Cap. 121). As the buildings were constructed without prior approval and consent from the BD, they are unauthorised building works (UBWs). Two removal orders were then issued to the two co-owners of the buildings under section 24(1) of the BO.

As the owners failed to comply with the orders, they were prosecuted by the BD. One of the co-owners was given a jail sentence of 12 weeks upon conviction at the Fanling Magistrates' Courts in January 2019 in the sixth prosecution. As the other co-owner failed to appear in court, the court issued a warrant for arrest, which is still valid.

Inspection conducted by staff of the BD in July this year revealed that the unauthorised village houses had still not been removed. The BD instigated prosecution for the seventh time and the co-owner pleaded guilty at the Fanling Magistrates' Courts on October 5. Considering the seriousness of the case given the owner's previous conviction records, the court imposed an eight months' imprisonment sentence on October 19.

A spokesman for the BD said today (October 25), "UBWs may adversely affect the structural and fire safety of a building, leading to serious consequences. Owners must comply with the removal orders without 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 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 one year's imprisonment and a fine of \$200,000, and a further fine of \$20,000 for each day that the offence continues. Land owners must not defy the law and should bear full responsibility to ensure the safety of their buildings.