

Reply to Questions Attached to PAC's Letter of 21.12.2006

(a) Regarding paragraph 4.21 of the Audit Report, the Committee would like to know :

- (i) why had the LandsD not issued any warning to the tenant upon finding during an inspection on 20 October 1992 that he had used the site for residential purposes (paragraph 4.21(a) refers);

ANS The reason(s) for not issuing warning letter after detection of the breach on 20.10.1992 cannot be traced. Enquiries have been made with the officers who dealt with the case at that time. None of them could recall why no warning was issued.

- (ii) why had the LandsD not requested the Housing Department (HD) to clear the car-port structure after the inspections on 25 October 1995, 16 September 1996 and 8 November 1999, while it had requested the HD to do so after the inspection on 20 July 1994 (paragraph 4.21(b) refers);

ANS The case was referred to Housing Department following the inspection on 20.7.1994. Further memos were sent on 9.9.1994, 4.10.1994 and 17.2.1995 to remind Housing Department to take action. Enquiries have been made with the officers who dealt with the case at that time. None of them could recall why no follow up action was taken requesting clearance of the structure.

- (iii) why had the LandsD not sought advice from the Buildings Department regarding the propriety of the building structures found within the short term tenancy (STT) premises during the inspections on 9 August 1984, 17 September 1990 and 14 December 1999 (paragraph 4.21(d) refers); and

ANS Enquiries have been made with the subject officers. They either could not recall the details of the case or considered that the focus at that time was on the misuse of the premises.

- (iv) except for the breach noted on 14 December 1999, why had the LandsD not specifically required the tenant to demolish the domestic fixtures found within the premises on other occasions (paragraph 4.21(e) refers).

ANS Our file records do not indicate whether DLO/ST had required the tenant to demolish the domestic fixtures found within the premises on occasions other than the discovery of the breach on 14.12.1999. Officers who dealt with the case at that time could not recall why there was no such request.

(b) The Committee noted from paragraphs 4.22 and 4.23 of the Audit Report that the LandsD carried out a check of the up-to-date status of Company M with the then Registrar General's Department in November 1989, and found that there was no record of Company M. It was not until December 1992 that the LandsD carried out a check of Company M with the Business Registration Office. In this respect :

(i) why had the LandsD continued the STT with Company M in 1989 despite that it was not a registered company; and

ANS Subject officers at the time have been asked why no follow up action had been taken to check the status of the tenant with the Business Registration Office. None could recall the details of the case.

(ii) why had the LandsD only carried out a check of Company M with the Business Registration Office 33 months upon advice by the Registrar General's Department?

ANS A check on the status of Company M with the Business Registration Office was made in late 1992 in the course of a rent review exercise of the subject STT.

(c) Given that "STT 2 would normally be terminated as the site was being used for residential purposes in breach of the tenancy condition", why the LandsD still approved the tenancy transfer to Tenant A in June 1993 (paragraph 4.25 refers)?

ANS The reasons for granting the STT to Tenant A in June 1993 were :

(i) neither the Government Property Agency nor the then Agriculture and Fisheries Department wished to acquire the site;

(ii) leaving the site vacant would result in loss of rental income and management problems due to its remote location; and

(iii) no complaint had been received in the previous ten years (i.e. since 1983).