

For Information
On 15 June 2009

**Legislative Council Panel on Environmental Affairs
Subcommittee on Combating Fly-tipping**

**Village Access near San Tin Park,
Fan Tin Tsuen, Yuen Long, New Territories**

INTRODUCTION

This paper informs members of the position of above case.

BACKGROUND

2. The District Lands Officer/Yuen Long (DLO/YL) received an anonymous complaint in September 2005 against an unauthorized conversion of a footpath (Footpath A) in San Tin Park into an access (Access A) also for vehicular use, and the complainant was concerned that such a vehicular access would compromise the safety of the pedestrians and students in the area. By way of background, Access A referred to in the complaint falls largely within the land which is covered by a Government Land Licence (GLL) granted to the Chairman of the San Tin Rural Committee (STRC) in 1979 by the then District Commissioner, New Territories. The GLL provides that the licence area may be used for the purpose of a non-profit making recreation park open to members of the public. A location plan is attached.

3. From a site inspection held on 31 August 2005, it appeared to DLO/YL that excavation had been done at the side of Access A. DLO/YL then arranged a joint site inspection on 9 September 2005 with District Officer/Yuen Long (DO/YL) and the Chairman of STRC (the GLL licensee). The Chairman of STRC was requested by DLO/YL to reinstate the affected land. The Chairman of STRC advised that he was unable to trace the party responsible for any such excavation works but nevertheless agreed to effect some environmental improvement works to this Access. His environmental improvements works were subsequently completed by March 2008.

4. DLO/YL was led to believe that Access A had been newly converted into vehicular use in 2005 by the complaint and therefore he proposed to take land control action to install a crash gate or erect bollards on Access A to block off vehicles. As requested by DLO/YL, DO/YL conducted, in December 2006, a consultation exercise about DLO/YL's proposed land control action in respect of Access A. DO/YL issued letters to STRC, the village representatives of the local villages (i.e. Fan Tin San Yi Cho and Ming Tak Tong), and the DC member of San Tin Constituency and asked them to consult the villagers concerned. The nearby Tun Yu School was also consulted. In February 2007, DO/YL informed DLO/YL that a total of 269 replies had been received during the consultation period, and 90% of them objected to the erection of bollards or installation of a crash gate as contemplated by DLO/YL to stop vehicles from using Access A. Separately, STRC wrote to DO/YL on 13 February 2007 requesting for repair of the Access. DO/YL rejected the request on 12 March 2007, since DLO/YL was then planning a land control action to install a crash gate at the entrance of Access A to stop vehicles from using this Access.

5. Still under the belief that Access A had been newly converted from a footpath into a vehicular access as referred to in the complaint, DLO/YL carried out a land control action to install a crash gate at the entrance of Access A on 15 March 2007. This land control action was met with strong resistance from local villagers and had to be suspended in the circumstances. On 30 March 2007, the Chairman of STRC again requested, DO/YL to consider improving Access A. DO/YL turned down the request on 18 July 2007 as there were diverse views among villagers.

6. At a subsequent inter-departmental meeting convened by DLO/YL on 6 May 2008, TD advised that Access A was a short cul-de-sac of 90 m in length, which was wide enough to permit vehicles to get through and its usage by pedestrians and vehicles was low. The road was similar with other village roads in terms of usage and road safety conditions. Access A was subject to control under the Road Traffic Ordinance in speed and other aspects. The meeting noted that there was no compelling need to stop vehicles from using Access A on safety grounds.

7. DLO/YL still decided to proceed with a land control action to stop vehicles from using Access A as he was led to believe by the information provided by the 2005 complaint that Access A had been

converted for vehicular use in 2005. Having regard to the experience of the action taken in March 2007 as referred to in paragraph 5 above, strong local resistance to another land control action was also anticipated. DLO/YL therefore sought assistance from the Police. The Police agreed to render assistance to DLO/YL to carry out a land control action scheduled to take place on 9 October 2008.

8. Nevertheless, DLO/YL was informed at a meeting on 17 September 2008 with STRC and Mr. Man Luk-sing (who is an elected Yuen Long District Council Member of San Tin Constituency and Indigenous Inhabitants Representative (IIR) of Ming Tak Tong, a village right next to the Park) that Access A had in fact been used by vehicles for a long time prior to 2005. The STRC and IIR strongly objected to the Government's proposed action to close such a long existed vehicular access. For background information, DLOs would, depending on the circumstances and in consultation with DOs, consider taking land control action against newly created accesses to minimize the proliferation of unauthorised accesses. However, DLOs, as a practical measure, may consider allowing for continued use of individual existing village accesses in recognition of the fact that many village accesses had been built and used by local villagers. Indeed the District Officers may, depending on individual circumstances, consider to improve such village accesses under the Local Public Works programme.

9. DLO/YL then requested the District Survey Office/Yuen Long (DSO/YL) to review the available records to ascertain if Access A had been used by vehicles prior to 2005. DSO/YL advised that the access (unpaved) appeared on an aerial photo taken in 1956, that the aerial photos taken in 1990 and 1993 showed that the width of the access was sufficient to permit access by vehicles, and that an aerial photo taken in 1995 showed a car parked at the north-eastern end of the access (meaning that such car could have used Access A to reach that end). Although this access was marked as "FP" (footpath) on the old survey record, DSO/YL advised that the annotation of "FP" (footpath) on the survey record was "descriptive" and it may not preclude vehicular use.

10. DLO/YL also consulted Heung Yee Kuk (the Kuk) on 1 December 2008 and received the Kuk's advice on 24 February 2009. The Kuk suggested that the Government should upgrade Access A to a proper vehicular access to serve the local residents as it would

improve the living environment of the locals and is also a good policy demonstrating Government care the welfare of the residents.

PRESENT POSITION

11. DO/YL noted that the condition of the surface of Access A is generally acceptable and most sections can meet the minimum width of 3.5 m for village access. DO/YL agrees to consider improving the road surface of Access A following normal village access standards. According to the current plan, DO/YL plans to resurface a section of about 15 m near the entrance of the Access which is in dilapidated conditions, and to remove some of the concrete covering the drains along part of the Access to improve the drainage condition. In accordance with the established practice, DO/YL will consult STRC and villagers on the scope and design of the proposed works. Subject to the results of such local consultation, the works can be completed within 6 months barring any unforeseen developments.

COMMENT

12. Village accesses built and used by local communities without prior authorization by the Government are common in the New Territories and they serve the local communities for some years. The Government may as a practical measure allow existing village accesses to be continued to be used and may help to improve their standards. For newly created accesses, DLOs would, depending on the circumstances and in consultation with DOs, consider taking the land control action to minimise further proliferation of unauthorized accesses.

13. In respect of Access A in San Tin Park, land control action was taken by DLO/YL on 15 March 2007 on an understanding gained by DLO/YL from a complaint received in 2005 that the Access had been newly converted from a footpath into also a vehicular access. Having encountered local resistance to that land control action, DLO/YL did not give up. Instead DLO/YL solicited Police support for another land control action to be taken on 9 October 2008.

14. The land control action planned by DLO/YL for 9 October 2008 did not proceed not because DLO/YL was afraid of local resistance (indeed DLO/YL had solicited Police assistance in anticipation of local resistance), but because of new information coming to DLO/YL's knowledge that the Access could have been used

by vehicles well before 2005 and probably some years before. DLO/YL has taken into account the fact that the Government may, as a practical measure, allow for continued use of an existing village access.

15. As gathered from DO/YL's local consultation exercise the majority of local residents request for the retention of Access A for both pedestrian and vehicular use. DO/YL has agreed to consider improving the road surface of Access A following normal village access standards and will conduct a local consultation exercise on that basis.

**Lands Department
June 2009**

