



地政總署  
鄉村改善及契約執行/  
土地管制組  
Village Improvement & Lease  
Enforcement /  
Land Control Section  
LANDS DEPARTMENT

電話 *Tel:* 2231 3030  
圖文傳真 *Fax:* 2868 4707  
電郵地址 *Email:* adem@landsd.gov.hk  
本署檔號 *Our Ref.:* (1) in LDC 1/1030/07 V  
來函檔號 *Your Ref.:* CB(4)/PAC/R58  
覆函時請註明本函檔號

我們矢志努力不懈，提供盡善盡美的土地行政服務。  
We strive to achieve excellence in land administration.

香港北角渣華道三三三號北角政府合署二十二樓  
22/F., NORTH POINT GOVERNMENT OFFICES  
333 JAVA ROAD, NORTH POINT, HONG KONG

網址 Web Site: [www.landsd.gov.hk](http://www.landsd.gov.hk)

Please quote our reference in response to this letter

25 May 2012

(By Fax 2840 0716 and post)

Ms Miranda HON  
Clerk  
Public Accounts Committee  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

Dear Ms HON,

**The Director of Audit's Report on the  
results of value for money audits (Report No. 58)**

**Unlawful occupation of government land (Chapter 7)**

Thank you for your two letters dated 10 and 21 May 2012 respectively.

As requested, I would like to provide the relevant information as follows:

**(a) Self-detected cases in 2007 - 2011**

In the past five years (2007 - 2011), there were a total of 538 cases of unlawful occupation of Government land which were identified by the Lands Department ("Lands D") during patrols, i.e. the self-detected cases. 291 of these cases were related to land in the New Territories while the remaining 247 involved land in the urban areas. Such cases mainly involved dumping on Government land, erection of structures and fencings, etc. In processing these cases, the relevant District Lands Offices ("DLOs") posted notices under Section 6(1) of the Land (Miscellaneous Provisions)

Ordinance (Cap. 28). Some occupiers ceased the unlawful occupation before expiry of the notice period, but for some other cases, DLOs needed to take further land control actions to clear the unlawfully occupied land through demolition/clearance by contractors or joint operations with the Government departments concerned. Clearance actions have been completed in regard to all 538 self-detected cases of unlawful occupation of Government land. Tables showing details of these cases in the New Territories and the urban areas are at Appendix I for your reference.

(b) **Cases in which Lands D staff were assaulted in 2011**

In 2011, there were 20 cases in which Lands D staff were assaulted during the course of inspections or land control actions. Please see details of these cases at Appendix II. Besides, there were 102 cases in 2011 in which Lands D staff needed to seek the assistance of the Police or the concerned District Offices of the Home Affairs Department in order to gain access to the unlawfully occupied Government land. Details of these cases are at Appendix III.

(c) **Guidelines for the control of structures held under surveyed numbers and/or Government Land Licences**

Some structures erected on Government land are governed by Government Land Licences (GLLs) issued by the Government in earlier years and also are temporarily tolerated because they comply with the 1982 Squatter Survey records of the Housing Department. Case 3 in the Audit report is an example of such cases. A Technical Memorandum was issued by LandsD in May this year to provide guidelines on how Squatter Control Unit (SCU) staff should deal with situations where squatter structures are surrounded by illegal fences/gates or entry is refused for inspection and on ways to further improve the existing inspection procedures. A copy of the Memorandum is at Appendix IV. As regards GLLs, a memo to elaborate on the enhancement of the management and control of Government land and GLLs was issued by LandsD to DLOs in May this year. A copy of the memo is at Appendix V. To enhance coordination of the two systems, instructions are given in paragraphs 6-9 of the memo at Appendix V.

(d) **Land Control Information System records on cases pending outcome of Short Term Tenancy applications**

In relation to Case 4 in the Audit Report, the District Lands Office/Yuen Long ("DLO/YL") is now examining past records in the Land Control Information System ("LCIS") to ensure that there is no case of similar nature in the system. DLO/YL has also revised the working procedures to ensure that land control records should be created first before follow-up action is taken by the land control team. An internal circular to this effect has been issued. Additionally, Lands D Headquarters has issued a memo to all DLOs

and the New Territories Action Team providing guidelines on the arrangement for data input of the LCIS with respect to those cases pending the outcome of the STT applications. In brief, upon receipt of a STT application, the corresponding land control case will be recorded in the LCIS as “**Withhold**”. The record can only be updated as “**Case Completed**” if the offer of the STT application is accepted with the settlement of rentals and fees etc. Otherwise, appropriate land control action should be resumed and the case will then be recorded as “**In Progress**”.

(e) **Interim measures pending implementation of the new Land Control Information System**

At present, Lands D is able to obtain the necessary information in relation to the progress of land control cases through the existing LCIS. Nevertheless, DLOs and the New Territories Action Team have been reminded to input data to the LCIS timely and accurately. Lands D will continue to prepare analyses and case reports manually on regular and ad-hoc basis if required.

(f) **Four-month target for Category I cases**

For the four-month target for completing Category I cases, Lands D is examining the situation of DLOs. A review will be conducted jointly with DLOs to revise such time target in light of the actual circumstances.

(g) **Setting time targets for dealing with Category II and Category III cases**

Setting time targets for Category II and Category III cases is, to a certain extent, difficult and by no means practicable as the time taken for dealing with such cases may vary from one to another. Nevertheless, instructions have been given to DLOs advising that except for special reasons, such as safety concern or the need to cope with the actions of other departments, land control actions should be taken against these cases principally according to the seriousness of the case of unlawful occupation and the priority order of dates of receipt of the relevant complaints and referrals.

(h) **An update on the progress of Case 4**

(i) **Unlawful occupation of Government land inside the Tai Lam Country Park**

Concerning the 17 structures erected on the Government land inside the Tai Lam Country Park, the operator of the Tai Tong Lychee Valley ("the Valley") had applied to DLO/YL for a Short Term Tenancy to regularise the existence of these structures. Due to the objection of the Agriculture, Fisheries and Conservation Department (“AFCD”), DLO/YL rejected the application and posted a notice on

site requiring the occupier to cease occupying the concerned Government land before 29 April 2012.

On 29 April 2012, DLO/YL inspected the Government land in question and found that the occupier had removed 11 structures. The other structures still remaining on site included an office straddled over private land and Government land, a rope course, three animal metal cages, and a suspension bridge erected on Government land. DLO/YL immediately arranged to start clearing the remaining structures on 30 April 2012.

On the first day of the clearance operation (i.e. 30 April), dozens of villagers sat at the entrance to the Valley. Some of them were holding bamboo sticks and metal spades in their hands to prevent DLO/YL staff from carrying out the operation. DLO/YL staff nevertheless carried out surveying work outside the Valley with the Police staying guard on site. Subsequently, the villagers left on their own volition. Workers then entered the Valley, erected Lands D's notice board marking the relevant Government land, and started clearing the remaining structures. The clearance operation was completed on 4 May 2012.

The concerned Government land within the Tai Lam Country Park is under the management of AFCDD in accordance with the Country Parks Ordinance (Cap. 208).

(ii) Unlawful occupation of Government land outside the Tai Lam Country Park

Concerning the several structures erected on the Government land outside the Tai Lam Country Park, the Valley operator had applied to DLO/YL for a Short Term Tenancy. However, due to the objection of AFCDD, DLO/YL rejected the application and posted a notice requiring the occupier to cease occupying the Government land before 19 May 2012.

DLO/YL inspected the concerned Government land upon expiry of the said notice, and found that some of the structures erected on the Government land remained on site. They included porches straddling over private land and Government land, and a Pai Lau, a toilet and a refrigerated container on Government land. DLO/YL immediately arranged to begin clearance operation on 21 May 2012.

On the first day of the clearance operation (i.e. 21 May), DLO/YL and its contractor's workers were met with furious resistance. Subsequently, the staff concerned escorted by Police officers, arrived at the Government land inside the Valley, conducted survey of the

structures which straddled over private land and Government land, in preparation for the subsequent demolition of the concerned structures.

Escorted by more than 100 police officers, DLO/YL and the contractor's workers continued with the clearance operation on the second day (i.e. 22 May) against the structures occupying the Government land outside the Tai Lam Country Park. The clearance of the Pai Lau and toilet on Government land and some porches straddling over private land and Government land was completed on that day. The refrigerated container on Government land was also removed.

DLO/YL and its contractor's workers continued with the operation on the third day (i.e. 23 May) with the remaining porches straddling over private land and Government land in the Valley removed. The whole operation was completed on the same day.

The site in question has been included in the "black spots" inspection programme. DLO/YL will arrange regular patrol to deter recurrence of unlawful occupation of the site in the future.

The above operation has been extensively reported by the media. You may wish to refer to the relevant media reports for reference.

Yours sincerely,



(Ms. Karen P.Y. CHAN)  
for Director of Lands

- c.c. Secretary for Development (fax no. 2151 5303)  
Director of Agriculture, Fisheries and Conservation (fax no. 2735 3695)  
Director of Food and Environmental Hygiene (fax no. 2524 1977)  
Director of Civil Engineering and Development (fax no. 2246 8708)  
Secretary of Financial Services and the Treasury (fax no. 2147 5239)  
Director of Audit (fax no. 2583 9063)

**Self-detected cases in which District Lands Offices (DLOs) had taken enforcement actions  
to clear unlawful occupation of government land in 2007 - 2011**

**分區地政處自行巡察並已完成清理不合法佔用政府土地的個案(2007 - 2011)**

Table 1 表一: New Territories DLOs 新界分區地政處

DLOs 分區地政處	Categories of Unlawful Occupation of government land 不合法佔用政府土地分類							Clearance Action 清理行動			
	dumping 傾倒廢物	erection of structure 豎立構築物	erection of fencing 豎立圍網	bicycle parking 停泊單車	Skip 貨斗	Others 其他 (e.g. Open storage 露天貯存, cultivation 耕種)	Total 總數	Self-rectified 自行糾正	cleared by DLOs 由地政 處清理	cleared by Joint Operation 聯合行動	Total 總數
Islands 離島	3	6	4	0	1	2	16	10	5	1	16
North 北區	1	3	5	0	0	4	13	8	5	0	13
Sai Kung 西貢	5	2	27	0	1	44	79	26	53	0	79
Shatin 沙田	8	3	8	1	6	30	56	28	24	4	56
Tai Po 大埔	2	4	5	0	0	6	17	10	7	0	17
Tsuen Wan & Kwai Tsing 荃灣葵青	4	1	3	0	0	15	23	0	23	0	23
Tuen Mun 屯門	15	6	2	2	0	24	49	9	38	2	49
Yuen Long 元朗	7	4	2	0	0	25	38	0	37	1	38
<b>Total 總數</b>	<b>45</b>	<b>29</b>	<b>56</b>	<b>3</b>	<b>8</b>	<b>150</b>	<b>291</b>	<b>91</b>	<b>192</b>	<b>8</b>	<b>291</b>

Table 2 表二: Urban DLOs 市區分區地政處

DLOs 分區地政處	Categories of Unlawful Occupation of government land 不合法佔用政府土地分類							Clearance Action 清理行動			
	dumping 傾倒廢物	erection of structure 豎立構築物	erection of fencing 豎立圍網	bicycle parking 停泊單車	Skip 貨斗	Others 其他 (e.g. Open storage 露天貯存, cultivation 耕種)	Total 總數	Self-rectified 自行糾正	cleared by DLOs 由地政處 清理	cleared by Joint Operation 聯合行動	Total 總數
HK East 港島東	1	2	0	6	165	8	182	175	6	1	182
HK West & South 港島西及南區	7	6	2	3	12	21	51	21	29	1	51
Kowloon East 九龍東	0	1	0	0	0	2	3	1	2	0	3
Kowloon West 九龍西	1	3	1	1	2	3	11	5	5	1	11
<b>Total 總數</b>	<b>9</b>	<b>12</b>	<b>3</b>	<b>10</b>	<b>179</b>	<b>34</b>	<b>247</b>	<b>202</b>	<b>42</b>	<b>3</b>	<b>247</b>

Table 3 表三

	Categories of Unlawful Occupation of government land 不合法佔用政府土地分類							Clearance Action 清理行動			
	dumping 傾倒廢物	erection of structure 豎立構築物	erection of fencing 豎立圍網	bicycle parking 停泊單車	Skip 貨斗	Others 其他 (e.g. Open storage 露天貯存, cultivation 耕種)	Total 總數	Self-rectified 自行糾正	cleared by DLOs 由地政 處清理	cleared by Joint Operation 聯合行動	Total 總數
NT DLOs 新界分區地政處	45	29	56	3	8	150	291	91	192	8	291
Urban DLOs 市區分區地政處	9	12	3	10	179	34	247	202	42	3	247
Total 總數	54	41	59	13	187	184	538	293	234	11	538



## Appendix II

Staff of LandsD were assaulted during conducting  
site inspections or taking enforcement actions in 2011

District	Number of case	Type of assault	Result
Tai Po	1	An officer was threatened by the occupier during clearance operation by pouring diesel onto him.	The occupier was arrested and subsequently convicted of 'attempt arson (企圖縱火)' in October 2011.
Tsuen Wan	1	During a site inspection, 3 staff of the office were attacked by a person with a stick tied with a sickle.	The person was convicted of two charges of 'common assault (普通襲擊)' in September 2011.
Tuen Mun	1	In the course of taking land control action, staff of the office were splashed with water by a person. Also an office digital camera was damaged by the splashing water.	The person was convicted of two charges - 'common assault (普通襲擊)' and 'criminal damage (刑事毀壞)' offences in September 2011.
Yuen Long	17	Criminal intimidation (刑事恐嚇) to staff who were in the course of inspection or taking land control actions.	The cases were reported to Police for investigations.
Total	20		

### Appendix III

Assistance of the Police and/or the concerned District Offices of the Home Affairs Department was sought by Lands D staff for gaining access to unlawfully occupied government land in 2011

Districts	Number of case	Type of resistance to access	Result
Tai Po	1	During site inspection in a land control case, staff of the office were resisted to enter the village.	With the assistance of Police and DO(TP), the staff concerned successfully proceeded with the land control actions.
Tuen Mun	3	During site inspection, staff of the office were resisted to gain access to a site which was unlawfully occupied by a fisherman.	With the Police's assistance, required inspection and clearance actions were successfully conducted.
Yuen Long	16	In the course of carrying out inspections to land control cases and clearance of ex-licensed structures, staff of the office met resistance for gaining access to the site in question.	With the assistance of Police and DO/YL, DLO/YL inspected the site and took the required land control actions.
Hong Kong Island	82	Staff of the office often encountered resistance in the course of carrying out clearance actions.	With the assistance of Police and DO, clearance operations were successfully conducted.
Total	102		

**Estate Management Section, Lands Department**  
**Squatter Control Unit Technical Memorandum No. 27**

**Guidelines to Enhance Existing Inspection Procedures**

**I. Purpose**

This Technical Memorandum (TM) seeks to enhance the existing inspection procedures with a view to detecting irregularities at an early stage for taking appropriate SC actions.

**II. Background**

2. All along, fences/gates erected on undeveloped and unleased Government land (UUGL) and leased land have not been covered by any SC surveys conducted by the Housing Department. In practice, they have not attracted and will probably not attract compensation of any kind upon clearance. They will either enclose a piece of Government land (GL) for private exclusive use or block up a strip of common access walkway in front of some squatter structures, depriving the public from access to these squatter structures. Worst still, these illegal fences/gates or refused entry will deprive SCOs of the access to conduct site inspections and hut-to-hut checks to the concerned squatter structures. This will hinder SC Officers (SqCOs) from accomplishing their inspection tasks to all the surveyed structures within the hut-to-hut check cycles, i.e. 12 months for those patrol areas with surveyed structures below 2,500, 18 months for those patrol areas with surveyed structures between 2,501 and 4,000, and 24 months for those patrol areas with surveyed structures over 4,000. As a result, the irregularities will persist for a long time, and rectification will be difficult to achieve. To tackle this problem, SCOs should get rid of these hindrances in the first instance once discovered.

**III. Guidelines to Enhance Existing Inspection Procedures**

3. If site inspections and hut-to-hut checks to the concerned squatter structures is hindered by any enclosing fences and gates, priority should be accorded to remove them instead of putting aside the concerned site inspections and hut-to-hut checks. Hence, to enhance the vigorousness and effectiveness of the existing inspection programme in detecting irregularities in squatter structures, i.e. change of materials, change of use, change of dimension, etc, SCO staff should strictly comply with the following guidelines: -

- (a) During daily routine patrol, SqCOs should pay attention to spot out any fences/gates that will hinder their inspections and hut-to-hut checks and should take prompt actions to get rid of these hindrances. It is important to ensure that the public access to all squatter structures is not denied by any hindrances.

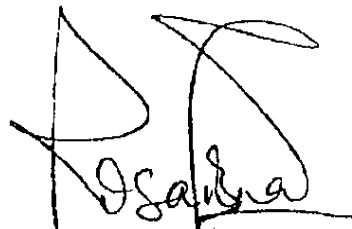
- (b) For simple and straightforward cases, such as fences/gates on UUGL, SCO staff should issue Cap. 28 S6 (1) notice for removal of the enclosing fences/gates. SCOs should inform DLOs of this action. For substantial and complex cases, such as wall/hindrances erected on Private Agricultural Lot (PAL)/straddled on PAL and GL, SCO staff should refer these cases to DLOs for taking actions/joint actions to dismantle them. In order to expedite early completion of the joint action cases, the cases can be put up to District Case Steering Conference (DCSC) for early settlement.
- (c) If nobody answer the fences/gates when they are knocked, repeated “turn-up” notices and letters should be served to the owner(s)/occupier(s) accordingly. If the structures are suspected vacant, the procedures to deal with the deserted/vacant structures in TM No. 25 can be applied.
- (d) The aerial photos provided by Survey and Mapping Office (SMO) can be adopted as preliminary evidence to facilitate Squatter Control actions. Staff in SCOs are required to check with SMO for relevant aerial photos if inspections are denied. If the photos demonstrate suspected illegal extension of existing surveyed structures or erection of new unauthorized structures, prompt SC action by SCOs or land control action by DLOs should be carried out.

**IV. Implementation**

- 4. This TM takes immediate effect.

**V. Enquiry**

- 5. For enquiry, please contact AM/SC (HQ) at 2231 3045.



( Ms. Rosanna TSE )

Chief Estate Surveyor/Estate Management

17 May 2012

Distribution

All SCU officers

c.c. AD/EM  
CEO/LAO  
SEO/EM  
SES/TI

## **MEMO**

<p><i>From</i> Assistant Director/Estate Management</p> <p><i>Ref.</i> (65) <i>in</i> LD 83/4020/99 Pt. 2</p> <p><i>Tel. No.</i> 2231 3030</p> <p><i>Fax No.</i> 2868 4707</p> <p><i>Date</i> 17.5.2012</p>	<p><i>To</i> NTDLOs</p> <p><i>(Attn.:</i> _____ <i>)</i></p> <p><i>Your Ref.:</i> ( ) <i>in</i> _____</p> <p><i>dated</i> _____ <i>Fax No.</i> _____</p> <p><i>Total Pages</i> _____</p>
---	--

### **Management of Government Land Licences and Reinforcement of Land Control Action**

The criteria for determining land control priorities are laid down in LAO Instructions Section G-1L(ii). Based on such criteria, the District Lands Offices (DLOs) will easily identify the need to take a high priority for cases where the concerned Government Departments/Offices consider and advise that the cases will likely cause imminent danger to life or serious property loss, serious pollution, health hazard, jeopardize the interests and well-being of the public-at-large, etc. However, for taking actions on the rest of the cases, the criteria for determining whether a medium or a low priority should be taken for a particular case nowadays may be blurred and difficult to follow. In the circumstances and taking into account the fact that time to complete low priority cases would be lengthy and may not be acceptable to the general public, it is now considered not necessary to categorise the rest of the cases into medium or low priorities. DLOs should take prompt action for these cases basically following the respective dates of receipt of the relevant complaints/referrals. Should the case officers have difficulties about the approach in handling the cases, they should seek advice and directives from their supervisors without delay. It is of paramount importance to nip the problem in the bud such that the damage generated, if any, could be kept to a minimum. In any event, District Review Board should regularly review all the cases in hand with a view to expediting/commencing land control actions having regard to the situations. The above arrangement will be reviewed in due course.

#### Government Land Licence

2. Referring to the temporary uses of Government land held under Government Land Licences (GLLs) issued long time ago, such “temporary” uses seem to become “permanent” due to their existence over a number of years, and removal of such “temporary becoming permanent” uses needs to go through a gradual process. Arising from the Ombudsman cases, this Department has been advised to step up actions on improper and illegal

occupation of Government land in the New Territories resulting from the inefficient management of GLLs. The guidelines elaborated in paragraphs 3 to 9 below supplement the LAO Instructions for GLLs in Section C-3.

#### Transfer of Government Land Licence (LAOI C-3A para. 10)

3. The general conditions of a GLL provide that the licence is not transferable. Therefore, upon the death of the licensee, the GLL will lapse, unless the immediate family members (including spouses and children of the licensee) apply to the relevant District Lands Office (DLO) for a change of the licensee and such application is approved. DLO should in no circumstances initiate to ask the immediate family members to apply for a cancel and re-issue of the licence concerned.

4. DLO should not drag on to deal with such cases. To expedite the processing of application for such transfer, breaches of the conditions of the licence should be dealt with separately. A disclaimer clause according to LAO Instructions Section C Appendix LVIII should be indicated in the approval/notification letter.

#### Cancellation of Government Land Licence

5. DLO would proceed with the cancellation of GLL in accordance with the licence conditions in the case where (i) the death of the Licensee is made known to DLO (unless there is an application for the transfer of licence received from the immediate family members); (ii) the occupier is a thirty party not relating to the licensee whose whereabouts cannot be traced; or (iii) there is a breach of the licence conditions. A notice for termination should be affixed on site for a period of one month. Thereafter, the GLL will be cancelled after three months from the expiry date of the notice. A sample notice is at L.I. C Appendix XLV.

#### Structures allowed to remain

6. Before cancellation of the GLL, DLO should check with the Squatters Control Unit (SCU) on whether the existing structure on site (if applicable) is a tolerated squatter structure registered in the 1982 Squatter Control Survey (SCS) with a Squatter Control Number. If the structure matches the SCU record, the structure remains tolerated after cancellation of the GLL. If not, appropriate squatter control actions will follow.

7. If it is considered that the existing structure/building might have some economic or historical values, the DLO may consult the relevant departments whether it could remain. If such is the case, it must be properly fenced off before demolition or taken up by other department or bodies. This arrangement also applies to Modification of Tenancy (MOT), Short Term Waiver (STW), etc.

## Demolition of Structures

8. After the cancellation of the GLL and confirmation that the ex-GLL structure is not covered by squatter control number, land control action should be taken without delay. DLO should cause a statutory notice to be posted under section 6(1) of Chapter 28, requiring the occupier to cease unlawful occupation within a reasonable period having regard to the urgency, nature and scale of the unlawful occupation. If the unlawful occupation does not cease upon expiry of notice, clearance action should be taken. In the event that the ex-licensee is deceased, the site should be cleared at the cost of the Government as the licensee's family members or relatives are not liable to reimburse the Government any costs incurred. After clearance of the Government land concerned, such land should be fenced up and alternative use of the land should then be explored and followed up according to the existing practices and procedures e.g. letting the land by way of ATS/direct grant of a STT at market rent; including it in the list of sites available for temporary uses, etc, before the site is put to permanent use.

9. Pending implementation of the alternative temporary or permanent use of the land, SCU and/or DLO should closely monitor the land to avoid unlawful occupation of the Government land concerned. Consideration of including the land in DLO's Blackspot Patrol Programme should also be given.

## Modification of Tenancy and Short Term Waiver

10. As a related issue, I also take this opportunity to advise that for MOTs and STWs, if the original intention is to allow residential use in connection with farming activities, DLO should seriously consider whether the MOT/STW holders are genuine farmers. If there is substantial deviation from the original intention or spirit, DLO should arrange to cancel such MOTs and STWs if they have been converted to pure residential use (with no farming activities) or other use such as for the use as a columbarium.

11. This memo will be circulated at regular intervals until its contents have been incorporated into the LAO Instructions as appropriate.



( Ms Karen P. Y. CHAN )  
Assistant Director/Estate Management



c.c.

DD/S  
DD/G  
AD/NT  
AD/HK  
AD/K  
DLO/HKS&W  
DLO/HKE  
DLO/KW  
DLO/KE  
CES/EM  
SES/TI  
SES/SC  
PLE/VI&C  
PLE/SC  
PLE/NTAT  
CLE/C  
CLE/VI