

## **A. Introduction**

The Audit Commission ("Audit") conducted a review of the management of government land, covering the Lands Department ("Lands D")'s action to prevent, detect and rectify unlawful occupation of government land. The review focused on the following areas:

- prevention and detection action;
- enforcement action;
- Audit's case studies;
- Land Control Information System; and
- performance reporting.

## **B. Prevention and detection action**

### Inspections and investigations by District Lands Offices

2. As revealed in paragraph 1.12 of the Director of Audit's Report ("Audit Report"), the Lands D had accorded a relatively low priority to land control matters. Audit found that most of the unlawful government land occupation cases ("land control cases") were detected as a result of media reports and complaints from the public. Owing to the absence of regular inspections, the Lands D could not always detect unlawful occupation of government land in a timely manner, resulting in some government land sites having been unlawfully occupied for a long period of time without being detected. Moreover, the Lands D did not always take prompt and effective enforcement action on identified land control cases, causing some cases to remain unresolved for a long time after detection.

3. The Lands D stated in paragraph 1.14 of the Audit Report that owing to the large areas of unleased and unallocated government land and other higher priorities, District Lands Office ("DLO") staff mainly relied on complaints and referrals for taking land control action and they could only conduct patrols of the fenced-off and black-spot sites. The Lands D also stated that given the competing priorities, further resource redeployment to land control would unlikely be realistic.

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4. Against the above background, the Committee asked:

- whether the Administration considered that it had satisfactorily discharged its duty to protect government land from unlawful occupation;
- whether the Secretary for Development had directed the Lands D to take measures to tackle the problem of unlawful occupation of government land and carry out its land control duties more effectively; and
- why the Lands D considered it unrealistic to deploy further resources to land control.

5. **Mrs LAM CHENG Yuet-ngor, Secretary for Development**, responded that:

- unlawful occupation of government land in the New Territories was of a diverse nature. Due to historical reasons, some government land and private land in the New Territories were interlocking, and some private-land owners would be tempted to encroach upon government land; and
- the Administration fully understood that both the Legislative Council ("LegCo") and members of the public were very concerned about the problem of unlawful occupation of government land. The Development Bureau always responded to Audit Reports in a positive manner. As pointed out in paragraph 1.16 of the Audit Report, she agreed that the Lands D should take prompt and effective action to protect government land from unlawful occupation. Paragraph 1.16(d) also stated that the Lands D was prepared to implement Audit's recommendations where feasible and practicable. As the responsible policy bureau, the Development Bureau would allocate the appropriate level of resources to the Lands D to enable it to execute its duties effectively.

6. **Miss Annie TAM Kam-lan, Director of Lands**, responded that:

- the Lands D dealt with land control matters seriously, including the problem of unlawful occupation of government land in the New Territories and the urban area. The Lands D encountered more

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problems in handling land matters in the New Territories due to the large areas of unleased and unallocated government land and the situation of interlocking government land and private land in the New Territories; and

- according to the Lands D's record, in 2004, 2,365 cases were completed and 4,954 cases were carried forward to 2005. However, as shown in Table 1 in paragraph 3.3 of the Audit Report, the Lands D had dealt with a large number of land control cases from 2008 to 2011. In 2008, 7,725 cases were completed and 5,292 cases were carried forward to the following year. In 2011, 9,006 cases were completed and only 3,909 cases were carried forward to the following year. All these figures indicated that the Lands D had made a lot of effort to deal with land control cases in the past several years.

7. The Committee pointed out that members of the public expected the Administration to discharge effectively its duty to protect government land from being unlawfully occupied and to take law enforcement action promptly against those people who breached the law. However, the Audit Report revealed that there were various cases of unlawful occupation of government land, some of which had existed for an excessively long period of time. It appeared to the Committee that the Lands D had been slack in taking law enforcement actions in land control matters.

8. The Committee also doubted whether the existing level of penalties (including fine and imprisonment) for unlawful occupation of unleased land under section 6(4) of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) ("LMPO") could produce adequate deterrent effect. As stated in paragraphs 3.27 to 3.29 of the Audit Report, of the 21 convicted cases from 2008 to 2011, the total amount of fines imposed was only \$81,900, and only one unlawful occupier was sentenced to three-month imprisonment in 2008 with suspension for three years. The maximum fine of \$10,000 under the LMPO was imposed in only two cases. In fact, the level of penalties under the LMPO had not been revised since 1972.

9. The Committee queried:

- why the Administration had not taken the initiative to amend the LMPO to raise the level of fines for unlawful occupation of unleased land in the past 40 years; and

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- whether the Administration would take prompt action to review the LMPO and increase the level of penalties, including introducing a system of daily fine, so as to produce adequate deterrent effect against such offences.

10. The **Secretary for Development** replied that:

- as reported in paragraph 3.28 of the Audit Report, at a meeting of the LegCo Panel on Planning, Lands and Works in February 2004, the Director of Lands mentioned that the existing levels of penalty for offences of unlawful occupation of land did not have an adequate deterrent effect. The Lands D had followed up the matter with its policy bureau, proposing to increase the penalty and introduce a system of daily fine. The bureau had discussed with the Lands D the need for legislative amendment to enhance the deterrent effect. It transpired that in about 2007, the bureau took the stance that legislative amendment was time-consuming and complicated, and requested the Lands D to improve the situation through other means that did not require amendment to the law. To address the land control problem, the Lands D had taken other measures, such as redeployment of staff and convening case conferences to discuss difficult cases, and the situation had improved in the following years;
- both the Development Bureau and the Lands D had not raised the issue of legislative amendment or increasing the penalties for offences of unlawful occupation of government land during the current term of the Government; and
- she totally agreed that the level of penalties under the LMPO had not been reviewed for a long time and this was inappropriate. She would immediately direct responsible staff of the Development Bureau and the Lands D to conduct a review, with a view to putting up a proposal to amend the LMPO for consultation with the LegCo Panel on Development as soon as possible in the next LegCo session.

11. The **Director of Lands** supplemented that:

- the Lands D was fully aware of the public expectation for the department to properly manage government land. In response to the policy bureau's request in 2007, the Lands D had strived to explore other

effective means to address the land control problem. As reported in Table 2 in paragraph 3.5 of the Audit Report, most land control cases were dealt with by self-rectification, clearance action and referral to other government departments; and

- in some warranted cases with sufficient evidence, the Lands D would take prosecution action against the occupiers. However, there were not many prosecution cases because it was difficult to collect sufficient evidence.

### The Lands Department's work priorities

12. While the Administration stressed that the Lands D attached great importance to address the land control problem, the Committee noted that in her various responses to the Audit recommendations as recorded in the Audit Report, the Director of Lands only "agreed to consider" the recommendations, but not "agreed to" the recommendations firmly. In contrast, the Secretary for Development used the term "agreed" in her response. The Committee asked whether the choice of the expression "agreed to consider" reflected that the Director of Lands lacked the determination to implement Audit's recommendations in dealing with land control matters.

13. The **Director of Lands** explained that she did not object to the general principles set out by Audit. However, as the Audit recommendations covered many details of the Lands D's work in managing government land, including the handling of land control cases, the Lands D had to examine thoroughly how its work procedures and the Lands Administration Office Instructions should be amended in order to implement Audit's recommendations. Hence, she used the expression "agreed to consider" for the sake of prudence.

14. The **Secretary for Development** added that it was pragmatic and prudent for the Director of Lands to state that she "agreed to consider" the Audit recommendations because some of them, such as amending the law and allocating more resources to land control functions, fell outside the Director of Lands' scope of responsibility and had to be decided by the policy bureau. As the bureau secretary, she could give a more direct response to those recommendations.

15. The Committee noted that at the Finance Committee special meeting this year, in reply to a Member's enquiry, the Director of Lands advised that the Lands D did not plan to increase resources for carrying out land control and lease enforcement work. Moreover, the Director of Lands mentioned in the Audit Report many times that the Lands D had other higher priorities. The Committee enquired whether the Lands D considered that it already had sufficient manpower to perform its land control duty and hence no additional resources were required, or whether it had attached a low priority to such duty.

16. The **Director of Lands** replied that:

- it was true that the Lands D had many competing priorities apart from land management, including land resumption, small house, changes to land lease and so on. The public expected the Lands D to discharge all such duties properly. Notwithstanding its other duties, the Lands D attached great importance to the management of unleased government land. Additional resources were allocated to conduct inspections and take enforcement operations against unlawful occupation through internal redeployment of staff resources. In 2004, there were only 131 Lands D staff deployed to carry out such functions and the number had increased by 78 to 209 in 2011. Of the 78 additional staff, 68 were deployed to perform land control duty in the New Territories; and
- when a land control case came to the attention of the Lands D through media reports or other channels, the Lands D would follow it up proactively. Case 3 mentioned in the Audit Report was an example. After the Lands D became aware of the case upon receipt of a media enquiry on suspected structures on government land in Sheung Shui, Lands D took immediate actions and all unauthorised structures on the sites concerned were removed within two months.

17. The Committee pointed out that one of Audit's criticisms was that the Lands D did not proactively conduct regular inspections targeting at unlawful government land occupation. It only acted in response to complaints and media reports. In the absence of regular inspections, many land control cases were undetected, with some having taken place for a long period of time. The Committee was also concerned that the Lands D's passive approach in conducting inspections and taking enforcement actions would encourage people to occupy government land illegally for many years, as they had a low risk of being detected. The Committee

asked whether the Lands D would adopt a proactive approach and conduct regular inspections.

18. The Committee also asked why the Lands D could resolve Case 3, which had been outstanding for a long time, in two months while some cases had remained unresolved for more than 10 years.

19. The **Director of Lands** explained that:

- although some cases had remained unresolved for a long time, the Lands D had in fact taken actions to deal with them over the years. Owing to the special circumstances of Case 3, it could be resolved shortly after being reported. Some cases, like Case 5, involved intermittent unlawful government land occupation and could not be resolved promptly;
- to completely safeguard government land from unlawful occupation would require round-the-clock guarding or surveillance of all unleased government land, which would incur enormous manpower and was not practicable. Hence, the Lands D mainly acted in response to complaints, media reports and referrals. Nevertheless, the Lands D would strategically protect those unleased land sites which were vulnerable to illegal occupation by fencing and conducting regular patrols on them (i.e. fenced-off and black-spot sites). The number of black-spot sites had increased from 408 in 2004 to 522 in 2011; and
- the Lands D also kept the land control situation under review from time to time. She had recently requested the DLOs to examine again the work of the review committees in their respective districts and their work procedures with a view to strengthening the actions on difficult cases and black-spot sites.

20. The **Secretary for Development** stated that:

- it was not practical to allocate an enormous amount of manpower resources to conduct patrols of all unleased government land. In recent years, she had tried to promote community monitoring whereby members of the public were encouraged to play a role in monitoring the use of public facilities and public resources, such as public open space

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and management of trees. She would request relevant government departments to adopt measures to facilitate people in detecting and reporting land control cases; and

- she agreed that the Lands D's information system for land control matters should be improved. She had requested the Director of Lands to explore the use of information technology to assist the Lands D in monitoring land control cases, with a view to enabling the department to properly perform its duties without having to deploy a large amount of manpower resources to undertake inspection and surveillance duties.

21. It appeared to the Committee that community monitoring might not be effective because people living close to the unlawfully occupied land might be reluctant to report the case to the Administration for good neighbourhood relationship. On the other hand, people living far away might not have knowledge of the illegal occupation. The Committee enquired whether:

- the Administration would consider changing its existing passive approach for detecting unlawful occupation of government land; and
- the Lands D had made use of the aerial photography service to assist it in identifying and detecting land control cases, such as by comparing aerial photographs taken of suspected unauthorised structures on government land at different times.

22. The **Secretary for Development** agreed that the Administration should explore other useful means of managing government land. The Development Bureau and the Lands D would follow up the Committee's suggestions.

23. On the use of aerial photography, the **Director of Lands** said that:

- the Lands D's Survey and Mapping Office provided aerial photography service for all government bureaux and departments. On average, the Lands D shot more than 10,000 aerial photographs at different flying heights covering the whole territory of Hong Kong every year; and
- while aerial photographs were widely used in mapping, land administration and development, etc, they might not be useful for determining the size of a structure on a piece of land. Moreover, a



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large amount of manpower would be required if the Lands D was to compare all the aerial photographs taken every year. Nevertheless, the Lands D had recently adopted a procedure whereby upon receipt of a complaint about unlawful occupation of government land, the Lands D staff would check the aerial photographs taken of the site concerned first before conducting a site inspection. If unlawful occupation was suspected, the staff would bring along statutory notices for posting, thus shortening the procedure. However, Lands D staff still had to conduct physical inspections for the purpose of posting notices, collecting evidence, etc.

Self-detection by the Lands Department

24. To ascertain the effectiveness of the Lands D's patrols in detecting land control cases, the Committee enquired whether, in the past five years, there were land control cases which were identified by the Lands D during patrols instead of through media reports and complaints and which the Lands D had taken clearance actions subsequently.

25. In her letter of 25 May 2012 in *Appendix 7*, the **Director of Lands** stated that:

- in the past five years from 2007 to 2011, there were a total of 538 cases of unlawful occupation of government land which were identified by the 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; and
- in processing the cases, the relevant DLOs posted notices under section 6(1) of the LMPO. Some occupiers ceased the unlawful occupation before expiry of the notice period, but for some other cases, the 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 had been completed in regard to all 538 self-detected cases.

26. The Committee noted that compared to more than 8,000 land control cases received by Lands D each year, there were few self-detected cases over the years.

## **C. Enforcement action**

### Prosecution action

27. The Committee was concerned that the land control problem had deteriorated in recent years. Table 1 in paragraph 3.3 of the Audit Report revealed that the number of suspected land control cases received by the DLOs had increased from 7,284 in 2008, 8,597 in 2009 to 9,109 in 2010. In 2011, 8,406 cases were received. In comparison, paragraph 3.21 revealed that the number of cases recommended by the Lands D for prosecution had decreased by 56% from 16 in 2008 to 7 in 2011, and the number of prosecution cases had also decreased by 82% from 11 in 2008 to only two in 2011.

28. The Committee further referred to paragraph 3.9 which stated that there was a large number of outstanding land control cases, and 70% of the outstanding Category I (high priority) cases as of December 2011 had exceeded the Lands D's four-month target, with four cases outstanding for more than 10 years.

29. The Committee questioned why the Administration had not stepped up law enforcement and prosecution actions to combat the aggravating land control problem, but had allowed the problem to persist. Given that the Lands D had informed Audit in paragraph 3.9(c) of the Audit Report that the long outstanding cases included those where the occupiers had sought the assistance of local dignitaries and influential bodies, the Committee further asked whether the Administration had not proactively dealt with the problem because of the pressure exerted by influential people and dignitaries in society. For example, an Executive Council Member had recently spoken in support of some villagers' occupation of government land.

30. The **Secretary for Development** stated that:

- the Development Bureau was responsible for formulating and implementing the Government's policy on unlawful occupation of government land. In the course of policy implementation, different persons might give different views. She would promptly make clarification when certain views were given by dignitaries who might cause confusion in the public. The Government's policy on land control matters was clear and would not be affected by the verbal remarks of individual persons;

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- it was the Lands D's experience that some occupiers of government land would seek help from local dignitaries and influential bodies. For instance, in one of the case studies raised in the Audit Report, the relevant District Council had passed a motion demanding the Administration to allow some unauthorised structures erected on the occupied government land to remain. But such act would not affect the Lands D's law enforcement work; and
- the Lands D was the main enforcement agency for dealing with unlawful occupation of unleased land under the LMPO. The Lands D also played the role of a landlord in the management of government land. As a landlord, the Lands D would try to handle complaints about unlawful occupation by other possible means instead of resorting to prosecution action immediately. For example, self-rectification was a pragmatic way of resolving the unlawful occupation problem. If the occupier did not cease the unlawful occupation, the Lands D would institute prosecution. The effectiveness of the Lands D's work should not be measured by the number of prosecution cases.

31. On the Lands D's prosecution action, the **Director of Lands** stated that:

- under section 6 of the LMPO, when unlawful occupation of government land was detected, the Lands D would post a statutory notice requiring the occupier to cease the occupation within three days or more. Depending on the circumstances of the case, such as the presence and scale of unauthorised structures on the occupied land, 28 days would be allowed in accordance with the Department of Justice ("DoJ")'s advice. In other words, self-rectification was an option provided for under the law and the Lands D could not institute prosecution as soon as unlawful occupation was detected. If the occupier did not comply with the statutory notice, the Lands D could consult the DoJ to decide whether or not to institute prosecution. Prosecution action could only be taken when the occupier did not have reasonable excuses;
- as reflected in Case 1 of the Audit Report, in taking prosecution action, the Lands D faced difficulty in obtaining an occupier's confession, without which the Lands D would have to collect sufficient evidence. Very often, this was difficult as people were not willing to be witnesses; and

- the Lands D considered that apart from prosecution, self-rectification and clearance action could also produce deterrent effect because the structures erected at the occupier's cost would be removed.

#### Time for completing land control cases

32. The Committee also asked why the four Category I cases had remained outstanding and unresolved for more than 10 years. The **Director of Lands** responded that:

- although the Lands D had not completed action on the four cases at the time of the Audit Report, the department had in fact taken actions to deal with them over the years. Furthermore, in Case 5, the occupier cleared the unauthorised structures after the Lands D had posted notices requiring cessation of the unlawful occupation, but the occupation recurred afterwards. The situation repeated 10 times with clearance actions taken by the occupier on seven occasions and by the Lands D on the other three occasions. Subsequently, the occupier applied for a short-term tenancy ("STT") to use the land for gardening purposes, instead of for restaurant use as in previous applications. The application was acceptable and approved; and
- the above case showed that the Lands D had taken corresponding actions as the case developed.

33. As a large number of Category I cases had exceeded the four-month target, the Committee enquired whether the Lands D would review whether the target was still realistic.

34. Paragraph 3.12 of the Audit Report also stated that the Lands D considered it not practicable to set time targets for dealing with Category II (medium priority) and Category III (low priority) cases. The Committee asked whether the Lands D agreed that without setting targets for such cases, some of these unlawful land occupation cases might remain unresolved for a long period of time.

35. In her letter of 25 May 2012, the **Director of Lands** informed the Committee that:

- a review on the four-month target for completing Category I cases would be conducted jointly with the DLOs to revise such time target in light of the actual circumstances; and
- setting time targets for Category II and Category III cases was, to a certain extent, difficult and by no means practicable as the time taken for dealing with such cases might vary from one to another. Nevertheless, instructions had been given to the 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 such 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.

Unlawful government land occupation over a watercourse in Yuen Long (Case 1)

36. The Committee noted from paragraph 3.24 that in Case 1, an unauthorised bridge was built on three private lots, spanning over a watercourse which was government land. As the bridge was built for the convenience of local villagers, the Committee asked whether the Lands D could consider other options rather than demolishing the bridge, or whether the Administration could take the initiative to build another bridge to serve the villagers' need.

37. The **Director of Lands** replied that:

- the Lands D understood that local residents and logistics operators needed the bridge for crossing the watercourse and accessing the separate land lots, and hence had considered accepting the STT application to regularise the occupation. The Lands D had consulted the relevant government departments on the STT. However, as the bridge had already been built and the government departments could not confirm its structural safety, the Lands D had to reject the application. If the occupiers had applied for an STT before building the bridge, the Lands D would have dealt with the application expeditiously and the works departments concerned could have given advice to address the safety concerns;

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- following the rejection of the STT application, the DLO/Yuen Long had required the occupiers to demolish the bridge by 9 May 2012, failing which the DLO/Yuen Long would carry out the demolition. The DLO/Yuen Long would also seek legal advice and decide whether to institute prosecution; and
- as both sides of the watercourse were private land lots, the Administration could not build a bridge on those lots without the owners' consent. Moreover, the bridge was not an indispensable facility for the district. It might not be in the public interest for the Administration to spend public money on building a bridge which only served the need of a small group of people and logistics operators. In the present case, the occupiers should demolish the bridge first and build another one that met the safety conditions set by relevant works departments. Then they could apply for an STT again and the Lands D would process the application expeditiously. If they had difficulties in building the bridge, they could seek the assistance of the District Office (Yuen Long) of the Home Affairs Department ("HAD").

38. The **Secretary for Development** agreed that the Administration should facilitate members of the public. For instance, the Minor Works Control System was implemented with a view to providing an alternative to the established statutory procedures for building owners to carry out small-scale building works in a lawful, simple, safe and convenient manner. However, it was unacceptable for people to first occupy government land unlawfully and then apply for an STT for regularisation after being detected.

Safety of Lands Department staff in taking enforcement action

39. As stated in paragraph 1.6(c) of the Audit Report, the clearance of unauthorised structures detected on government land could be difficult due to resistance by the inhabitants. The Committee was concerned that frontline staff of the Lands D might be assaulted in carrying out inspections and land control actions. It therefore asked about the number of such cases and the number of cases in which Lands D staff had to seek the assistance of other government departments in gaining access to unlawfully occupied government land.

40. The **Director of Lands** stated at the public hearing and in her letter of 25 May 2012 that:

- in 2011, there were 20 cases in which Lands D staff were assaulted during the course of inspections or land control actions. Besides, there were 102 cases in the same year in which Lands D staff needed to seek the assistance of the Police or the concerned District Offices of the HAD in order to gain access to the unlawfully occupied government land; and
- the Lands D attached much importance to the safety of its staff in carrying out enforcement actions. The staff had greater difficulty in taking enforcement actions in rural areas where local people tended to resist more strongly. In launching a land control operation, the Lands D would assess if there would be strong resistance by consulting the relevant HAD District Office and the people concerned. Where necessary, the Lands D would enlist the assistance of the Police in carrying out clearance actions.

#### **D. Audit's case studies**

##### Prolonged unlawful occupation of government land without being detected (Case 2)

41. In Case 2, the prolonged unlawful occupation of government land was subsequently regularised by the granting of an STT. The Committee was concerned about Audit's comments in paragraph 4.6(e) that some people might take advantage of the STT arrangement by first unlawfully occupying government land, and then applying for an STT after the Lands D's detection, as in Case 2.

42. The Committee enquired about the criteria adopted by the Lands D in considering an STT application submitted by an unlawful occupier of government land after the Lands D had taken enforcement action, and whether the Lands D would reject such application.

43. The **Director of Lands** stated that:

- the Lands D did not encourage people to first occupy government land and then apply for regularisation by way of an STT. In considering granting an STT to regularise an unlawful occupation of government land, the Lands D would assess each case on its own merits. The

Lands D would consider various factors, such as whether the proposed use of the land concerned was appropriate, whether relevant government departments had any adverse comments and whether there was any local objection; and

- the STT applications by unlawful occupiers would not be approved by the Lands D indiscriminately. Of the seven cases studied by Audit, the STT applications in Cases 1, 3, 4 and 7 were rejected. When their applications were rejected, the occupiers would face the risk of being required to clear the unauthorised structures on the land concerned and being prosecuted.

44. The Committee noted from paragraph 4.4 of the Audit Report that the records relating to the land lot in Case 2 after the land resumption in March 1980 were missing. In response to the Committee's question, the **Director of Lands** said that the land resumption had taken place before the establishment of the Lands D. Despite its efforts, the Lands D could not trace the relevant land resumption file records. Hence, the purpose of resuming the land was not known.

#### Insufficient monitoring of licensed structures (Case 3)

45. In Case 3, the Lands D had noted serious breaches of the licence conditions of some structures in Sheung Shui some 20 years ago, but only cancelled the government land licence for the structures in late 2011. Moreover, paragraph 4.12(d) revealed that the DLO/North only informed Person C2 in May 2006 that his application submitted in 1991 for re-issue of a licence in his name could not be approved. The Committee asked about the reasons for the prolonged delay and the measures that the Lands D had taken to prevent recurrence of similar situation.

46. The **Director of Lands** explained at the public hearing and in her letter of 25 May 2012 that:

- some structures erected on government land were governed by government land licences ("GLLs") issued by the Government in earlier years and also were temporarily tolerated because they complied with the 1982 Squatter Survey records of the Housing Department. Case 3 was an example of such cases. The case was complicated as it involved structures licensed under two different systems and delay had occurred due to insufficient coordination between the two systems; and



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- a Technical Memorandum had been issued by the Lands D in May 2012 to provide guidelines on how the Squatter Control Unit staff should deal with situations where squatter structures were surrounded by illegal fences/gates or entry was refused for inspection and on ways to further improve the existing inspection procedures. As regards GLLs, the Lands D had also issued a memo to the DLOs in May 2012 to elaborate on the enhancement of the management and control of government land.

47. The Technical Memorandum and the memo of May 2012 mentioned above were also provided to the Committee in the Director of Lands' letter of 25 May 2012.

Unlawful land occupation in a country park (Case 4)

48. In Case 4, the DLO/Yuen Long detected as early as in April 1993 that there was a commercial recreational park development in Yuen Long, i.e. Tai Tong Lychee Valley ("TTLV"), which was partly located within the Tai Lam Country Park ("TLCP") with unauthorised structures erected on both private land and government land. As of June 2000, the recreational park unlawfully occupied an area of 4,672 square metres of government land, involving extensive site formation with landscaping, footpaths and open space in some of the country-park area. As of February 2012, the recreational park was still in operation and the DLO was processing a new STT application submitted by the park operator.

49. The Committee noted that after the case was revealed by the Audit Report and widely reported by the media, there had been recent press reports that the Lands D had posted a statutory notice on 19 April 2012 requiring the operator to stop the unlawful occupation by 28 April 2012, or else the Government would take clearance actions. Under such circumstances, the Committee questioned:

- why the unlawful government land occupation had not been rectified for more than 18 years after detection; and
- whether the Lands D had only taken vigorous law enforcement actions due to the pressure brought about by the Audit Report and the media.

50. The **Director of Lands** responded that:

- the Lands D had carried out enforcement actions during the years. Upon receipt of the case referred by the Agriculture, Fisheries and Conservation Department ("AFCD") in 1993, the DLO/Yuen Long immediately mounted a joint operation with the relevant government departments. As reported by Audit, from June 1996 to November 2011, the DLO/Yuen Long conducted 25 site inspections and issued 12 warning letters to the park operator, requiring him to demolish the unauthorised structures. During the period, the park operator had submitted eight STT applications for regularising the unauthorised structures on government land, all of which were rejected by the Lands D;
- it was found that due to an omission of the Lands D staff concerned to follow the department's instructions to input the case into the Land Control Information System ("LCIS") for land control actions after the Lands D had rejected the STT application in 2006, no action had been taken by the Lands D to demolish the unauthorised structures in the TTLV. The omission was not discovered by the Lands D's management and the case was left unnoticed until 2011 when the operator submitted another STT application;
- owing to the objection of the AFCD, the DLO/Yuen Long had recently rejected the STT application for regularising the existence of the 17 structures erected on the government land inside the TLCP. The DLO/Yuen Long posted a notice on site requiring the occupier to cease occupying the concerned government land before 29 April 2012; and
- the Lands D would not accept any new STT applications in respect of the TTLV unless the AFCD held other views. The Lands D had also referred the case to the DoJ for consideration of prosecution.

51. The Committee asked about the specific measures that the Lands D would take to improve its internal control systems and procedures so as to prevent the recurrence of similar omissions.

52. In her letter of 25 May 2012, the **Director of Lands** stated that the DLO/Yuen Long was examining past records in the LCIS to ensure that there was no case of similar nature in the system. The DLO/YL had also revised the working

procedures to ensure that land control records should be created first before follow-up action was taken by the land control team. An internal circular to this effect had been issued. In addition, the Lands D Headquarters had issued a memo to all the 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.

53. The Committee noted the view of the TTLV operator that the Government had infringed on his private property rights by incorporating his land lots into the TLCP. The Committee asked whether this was the case and whether the Administration had consulted affected local villagers before designating the TLCP.

54. The **Secretary for Development** responded that the TLCP was designated under the Country Parks Ordinance (Cap. 208) ("CPO") in the 1970s. In designating a country park for the benefit and enjoyment of the public, the Government did not take away the property rights of private land owners. However, the developments of the private lands inside country parks were subject to restrictions and this was the source of contention.

55. **Mr Alan WONG Chi-kong, Director of Agriculture, Fisheries and Conservation**, stated that:

- the private land inside the TLCP was agricultural lots. Private land in country parks was subject to the regulation of "Control of use of land in country park" (i.e. section 16 of the CPO) and lease conditions of the land. The use of private land within a country park could be changed after obtaining approval from the relevant authority according to established legal procedure. In the case of the TTLV, however, the operator only applied for STTs after the structures had been erected; and
- country parks were designated for the purposes of nature conservation and provision of recreational facilities to members of the public. Hence, the AFCD had all along had strong reservations about approving developments in country parks as that would be inconsistent with the purposes of country parks.

56. As regards the consultation prior to the designation of the TLCP, the **Director of Agriculture, Fisheries and Conservation** said that the TLCP was formally designated on 23 February 1979. In 1978, the Administration had consulted the affected parties and the public on the designation of several country parks, including the TLCP. The parties consulted included the then chairman and vice-chairmen of the Shap Pat Heung Rural Committee. Tai Tong Village was under the jurisdiction of Shap Pat Heung. No objection had been raised by the villagers of Tai Tong Village or the Shap Pat Heung Rural Committee.

57. In his letter of 17 May 2012 in *Appendix 8*, the **Director of Agriculture, Fisheries and Conservation** also provided a chronology of the events and actions taken by the Administration relating to the consultation before designation of the TLCP.

58. In response to the Committee's request, the **Director of Lands** provided in her letter of 25 May 2012 a detailed update on the progress made by the Administration in rectifying the unlawful occupation of government land in Case 4. In gist, she advised that:

- regarding the unauthorised structures erected on the government land inside the TLCP, the DLO/Yuen Long started to clear the structures remaining on site on 30 April 2012 upon expiry of the statutory notice on 29 April 2012. The clearance operation was completed on 4 May 2012. The concerned government land within the TLCP was under the management of the AFCD in accordance with the CPO;
- regarding the several structures erected on the government land outside the TLCP, the TTLV operator had applied to the DLO/Yuen Long for an STT. However, due to the objection of the AFCD, the DLO/Yuen Long rejected the application and posted a notice requiring the occupier to cease occupying the government land before 19 May 2012. The DLO/Yuen Long inspected the concerned government land upon expiry of the notice, and found that some of the structures erected on the government land remained on site. The DLO/Yuen Long immediately arranged to begin clearance operation on 21 May 2012; and
- on the first day of the clearance operation (i.e. 21 May 2012), the DLO/Yuen Long and its contractor's workers were met with furious resistance. Subsequently, escorted by more than 100 police officers, the DLO/Yuen Long and the contractor's workers demolished the

concerned structures in the following two days. The whole operation was completed on 23 May 2012. The site in question had been included in the "black spots" inspection programme. The DLO/Yuen Long would arrange regular patrols to deter recurrence of unlawful occupation of the site in the future.

#### Information on STT applications

59. To enhance the transparency of the Lands D's handling of STT applications and enable the public to help monitor unlawful occupation of government land, the Committee enquired whether the Administration would consider:

- setting time targets for handling an STT application for regularising unlawful government land occupation and uploading the targets onto the Lands D's website; and
- uploading onto the Lands D's website information on the STT applications received by the Lands D for using government land for private purposes or for regularising unlawful occupation of government land, so that the public might raise objection if necessary.

60. The **Secretary for Development** and the **Director of Lands** responded that:

- the time required for handling an STT application would vary according to the complexities and nature of each individual case. For some STT applications, the Lands D might need to consult the views of different government departments and would take longer time. It was the Lands D's practice to promptly follow up an application with relevant departments and inform the occupier of the decision as soon as possible. If the application was rejected, the Lands D would resume land control action;
- in deciding whether an STT could be granted, the Lands D would consider the applicant's financial position, credit status, etc. Hence, information on application for regularisation could not be published on the Internet or made available to the public because the identity and the personal data of the applicants would be revealed; and

- many of the STT applications received by the Lands D were related to using the land for gardening purposes. It would not be meaningful to introduce a complicated public consultation procedure for STT applications which would require a large amount of manpower to operate. In practice, in processing an STT application which was sensitive and might arouse concerns from the local district, the Lands D would take the initiative to request the relevant District Office of the HAD to consult related people and organisations, and the Lands D could also bring up the case for discussion at the relevant District Council.

## **E. Land Control Information System**

61. According to paragraph 5.8 of the Audit Report, the existing LCIS was not effective in supporting the Lands D in managing its land control cases as it did not record the date of posting any statutory notice requiring clearance of structures on government land, or the date of any land control action taken. The LCIS also did not provide management reporting functions, such as ageing analyses and exception reporting of outstanding cases. The Committee asked:

- about the level of staff who were involved in developing the LCIS, and whether management staff had given any input; and
- the reason why DLO staff did not input data to the LCIS accurately and timely, as identified by Audit, and what remedial measures had been taken to improve the situation.

62. The **Director of Lands** replied that:

- different levels of staff were involved in developing the LCIS. The Lands D was fully aware of the limitations of the existing system and therefore had obtained funding for revamping it;
- as the LCIS was used by more than 200 staff, they might adopt different criteria for categorising cases and deciding whether a case should be treated as "completed". As such, the data input to the LCIS might not be accurate; and
- the Lands D issued guidelines to the DLOs to ensure the accuracy and completeness of the LCIS from time to time. Recently, the Lands D had issued a memorandum to remind the DLOs, among other things, to

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adopt a uniform approach in counting the number of cases, and to timely submit statistical reports. The Lands D had also reminded the land control staff of the requirements during training courses and seminars. New staff would be informed during induction training courses.

63. The Committee noted from paragraph 5.19 of the Audit Report that the completion of the LCIS revamping project had been delayed from June 2012 to July 2014. The Committee enquired about the interim measures that the Lands D would put in place before completion of the revamping project to address the limitations of the existing LCIS, including improving data sharing and collaboration among the 12 DLOs and the Lands D Headquarters in the handling of land control cases.

64. In her letter of 25 May 2012, the **Director of Lands** advised that at present, the Lands D was able to obtain the necessary information in relation to the progress of land control cases through the existing LCIS. Nevertheless, the DLOs and the New Territories Action Team had been reminded to input data to the LCIS timely and accurately. The Lands D would continue to prepare analyses and case reports manually on regular and ad-hoc basis if required.

65. The Committee shared Audit's concern about the propriety of the Lands D's existing arrangement of marking a land control case in the LCIS as "completed" once the occupier had submitted an STT application, and creating a new case if the STT application was subsequently cancelled or not approved. The Committee noted that this might result in under-reporting of the actual age of a case, and Case 7 was an example. According to paragraph 5.16 of the Audit Report, in this case, the unlawful government land occupation had remained unresolved for eight years and 11 months, but the case was recorded in the LCIS as outstanding only for three years and 10 months.

66. The **Director of Lands** responded that under the Lands D's existing guidelines, a land control case would be regarded as completed after the related STT application had been dealt with. If another STT application relating to the case was received after some years, the case would be treated as a new one. However, the Lands D would review the guidelines in the light of Audit's comments and recommendations.

## **F. Conclusions and recommendations**

67. The Committee:

### Overall comments

- considers that land is a scarce and valuable resource in Hong Kong and it is of the utmost importance that the Lands Department ("Lands D") discharges effectively its duty to manage unleased and unallocated government land to protect such land from being unlawfully occupied;
- expresses serious dissatisfaction and disappointment about the persistent failure of the Secretary for Development, the Director of Lands and the officers who assumed the position of the land authority in Hong Kong in the past to effectively discharge their duty to protect government land from unlawful occupation and the Lands D's slackness in taking law enforcement actions in land control matters, in that:
  - (a) as revealed in the Director of Audit's Report ("Audit Report"), there were various cases of unlawful occupation of government land, some of which had existed for an excessively long period of time;
  - (b) the Lands D has accorded a low priority to land control matters and has deployed most of its resources to other duties such as land disposal and resumption;
  - (c) the Lands D has failed to proactively conduct regular inspections targeting at unlawful government land occupation, but has mainly acted in response to complaints and media reports;
  - (d) there were too few prosecution cases in comparison with the number of unlawful government land occupation cases ("land control cases") received by the Lands D. For instance, there were only two prosecution cases but a total of 8,406 cases in 2011;
  - (e) the Development Bureau and the Lands D have failed to review the level of penalties (including fine and imprisonment) for unlawful occupation of unleased land under section 6(4) of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) ("LMPO") during the current term of the Government, despite that the level of penalties has not been revised since 1972 and the fines for convicted cases of such offence were too lenient to have an adequate deterrent effect. For instance, of the 21 convicted cases



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from 2008 to 2011, the total amount of fines imposed was only \$81,900, with the maximum fine of \$10,000 imposed in only two cases; and

- (f) although the Lands D's existing Land Control Information System ("LCIS") is not effective in supporting the department in managing its land control cases, it has not taken prompt action to revamp the system;
- acknowledges:
  - (a) the Secretary for Development's undertaking to immediately conduct a review on the penalty for unlawful occupation of government land, with a view to putting up a proposal for amending the LMPO for consultation with the Panel on Development as soon as possible in the next Legislative Council ("LegCo") session; and
  - (b) the Secretary for Development's stance that it is unacceptable for people to first occupy government land unlawfully and then apply for a short-term tenancy ("STT") after being detected;
- finds it unacceptable and inexcusable that despite the Secretary for Development's above stance, some people can still take advantage of the short-term tenancy ("STT") arrangement to first unlawfully occupy government land, and then applying for an STT after being detected by the Lands D (Case 2 in the Audit Report is an example);
- strongly urges the Secretary for Development and the Director of Lands to:
  - (a) accord a high priority to tackling the problem of unlawful occupation of government land and deploy sufficient resources for carrying out the duty effectively;
  - (b) promptly initiate legislative amendments to increase the level of penalties and consider introducing a system of daily fine to ensure that the penalty for unlawful occupation of government land will be adequate for achieving a deterrent effect; and
  - (c) take specific and effective measures to translate into actions the Secretary for Development's stance, and ensure that an STT

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application by an unlawful occupier of government land will not be entertained indiscriminately so as to demonstrate the Government's resolve to prevent abuse of the STT arrangement;

Prevention and detection action

- expresses grave dismay and finds it unacceptable that:
  - (a) in the absence of regular inspections of unlawful government land occupation (other than inspecting fenced-off and black-spot sites) by the Lands D, many land control cases were undetected, with some having taken place for a long period of time (Case 2 is an example);
  - (b) the Lands D did not always take prompt and effective enforcement action after detecting land control cases, resulting in some cases remaining unresolved for a long period of time (Cases 3 to 6 are examples);
  - (c) the patrol programmes of the District Lands Offices ("DLOs") were not properly documented and were not submitted to the Lands D Headquarters for monitoring; and
  - (d) the Lands D did not conduct inspections of licensed structures;
- acknowledges the Secretary for Development's initiative to promote community monitoring whereby members of the public are encouraged to play a role in monitoring and reporting land control cases, but considers the effectiveness of such initiative doubtful because people living close to the unlawfully occupied land may be reluctant to report the case for good neighbourhood relationship while non-neighbouring people may not have knowledge of the illegal occupation;
- strongly urges the Secretary for Development and the Director of Lands to identify measures to improve the effectiveness of the Lands D's work on the administration of government land, apart from promoting community monitoring;
- acknowledges that:
  - (a) the Secretary for Development has requested the Director of Lands to explore the use of information technology to assist the Lands D

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in monitoring land control cases, given the need to use resources effectively; and

- (b) the Director of Lands has agreed with the audit recommendation in paragraph 2.9(e) of the Audit Report;
- strongly urges the Director of Lands to:
- (a) proactively explore effective measures, such as the development of integrated information technology systems and comparison of aerial photographs taken of suspected unauthorised structures on government land at different times, to assist the Lands D in detecting unlawful government land occupation;
  - (b) conduct an overall review of the Lands D's strategy, priority and resource allocation on management of unleased and unallocated government land, as recommended in paragraph 1.15 of the Audit Report;
  - (c) ascertain the magnitude of the land control problem, and take necessary preventive measures to reduce the number of land control cases as far as possible, as recommended in paragraph 2.9(a) of the Audit Report;
  - (d) strengthen the Lands D's publicity campaigns on prevention of unlawful occupation of government land, as recommended in paragraph 2.9(b) of the Audit Report;
  - (e) require the DLOs to strengthen and document their risk-based inspection programmes, as recommended in paragraph 2.9(c) of the Audit Report;
  - (f) require the DLOs to periodically submit their inspection programmes to the Lands D Headquarters for monitoring, as recommended in paragraph 2.9(d) of the Audit Report; and
  - (g) take measures to step up the Lands D's monitoring and control of surveyed structures and licensed structures, as recommended in paragraph 2.15 of the Audit Report;

Enforcement action

- expresses astonishment and finds it unacceptable that:
  - (a) 70% of the outstanding Category I (high priority) land control cases as of December 2011 had exceeded the Lands D's four-month target, with four cases outstanding for more than 10 years;
  - (b) the DLOs did not maintain records of the reasons for Category I cases not meeting the four-month target, at variance with the Lands D's requirement; and
  - (c) the number of land control cases recommended by the DLOs for prosecution had decreased by 56% from 2008 to 2011, and the number of prosecution cases had also decreased by 82% during the period;
  
- expresses great dissatisfaction and disappointment that:
  - (a) the Lands D has not set time targets for dealing with Category II (medium priority) cases and Category III (low priority) cases, and the Director of Lands considers it difficult and not practicable to do so;
  - (b) the existing LCIS cannot produce ageing analysis reports of land control cases or generate exception reports of long outstanding cases;
  - (c) the DLO/Yuen Long's staff concerned did not immediately record the confession made by the defendant in Case 1, resulting in acquittal of the case;
  - (d) the DLO/Yuen Long did not take action to stop the construction of an unauthorised bridge over government land in Case 1 which was found during a site inspection in March 2010, and the bridge had been allowed to remain over government land up to March 2012, giving rise to safety concerns; and
  - (e) as of March 2012, eight land control cases had remained unresolved for over one year after court conviction;

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- expresses grave concern that in 2011, there were 20 cases in which Lands D staff were assaulted during the course of inspections or land control actions and 102 cases 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;
- acknowledges that:
  - (a) the Director of Lands would review whether the four-month target for dealing with Category I cases is appropriate; and
  - (b) the Director of Lands has agreed with the audit recommendation in paragraph 3.30(b) of the Audit Report;
- strongly urges the Director of Lands to:
  - (a) require the DLOs to ascertain the reasons for cases that have remained outstanding for a long time and expedite action to rectify them, take measures to ensure Category I cases meet the four-month target as far as possible, and document and report the reasons for each Category I case not meeting the four-month target, as recommended in paragraph 3.14(a) of the Audit Report;
  - (b) reconsider the setting of time targets for dealing with Category II and Category III cases, so as to ensure that such cases will be dealt with within a reasonable period of time;
  - (c) take measures to compile periodic exception reports on long outstanding land control cases, as recommended in paragraph 3.14(b) of the Audit Report;
  - (d) strengthen staff training by implementing regular training programmes on conducting investigation of land control cases and evidence collection, and organising experience-sharing sessions of prosecution cases, as recommended in paragraph 3.30(a) of the Audit Report;
  - (e) require the DLOs to take prompt clearance action for cases of continued unlawful land occupation after court conviction, as recommended in paragraph 3.30(c) of the Audit Report;

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- (f) in respect of Case 1, take expeditious actions in collaboration with the District Office (Yuen Long) of the Home Affairs Department and other relevant government departments to assist the villagers to construct a bridge which meets the legal requirements for the convenience of the villagers;
- (g) take effective measures to protect the safety of Lands D staff in carrying out inspections and land control actions, including conducting detailed assessment on the risk of encountering obstruction before the actions and taking suitable precautionary measures, and providing adequate support and training to the staff; and
- (h) take prosecution action in cases where Lands D staff were assaulted in law enforcement actions as the circumstances warranted, so as to achieve a deterrent effect;

Audit's case studies

- finds it appalling and totally unacceptable that:

*Prolonged unlawful occupation of government land without being detected (Case 2)*

- (a) the unlawful occupation of a government land lot in Sheung Shui in Case 2 had not been detected during the 20-year period from March 1980 to December 2000;
- (b) the records relating to the land lot in Case 2 after the land resumption in March 1980 are missing;

*Insufficient monitoring of licensed structures (Case 3)*

- (c) notwithstanding that the Lands D had noted in Case 3 serious breaches of the licence conditions of some structures some 20 years ago, it only cancelled a government land licence for the structures in late 2011;
- (d) the DLO/North had not taken prompt follow-up action after issuing warning letters in March and December 2010 relating to the unauthorised building works at Site A;

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- (e) the DLO/North only informed Person C2 in May 2006 that his application submitted in 1991 for re-issue of a licence in his name could not be approved;

*Unlawful land occupation in a country park (Case 4)*

- (f) notwithstanding that the Lands D had detected the unlawful occupation of government land by a commercial recreational park, i.e. Tai Tong Lychee Valley (located partly within the Tai Lam Country Park ("TLCP")) in Yuen Long in Case 4 as early as 1993, the unlawful land occupation had not been rectified for more than 18 years after detection;
- (g) as of June 2000, the recreational park unlawfully occupied an area of 4,672 square metres of government land, involving extensive site formation with landscaping, footpaths and open space in some of the country-park area;
- (h) owing to an omission of the Lands D staff concerned to follow the Lands D's instructions to input the case into the LCIS for land control actions after rejecting the park operator's STT application in 2006, no action had been taken by the Lands D to demolish the unauthorised structures in Tai Tong Lychee Valley. The omission had not been discovered by the Lands D's management until 2011 when the operator submitted another STT application;
- (i) the park operator had operated an unlicensed food business (without a licence under the Food Business Regulation — Cap. 132 sub. leg. X) and set up three exhibition rooms for displaying vegetables, farming instrument and insects without a licence under the Places of Public Entertainment Ordinance (Cap. 172), as revealed in two site inspections in December 2011 and January 2012 by the Food and Environmental Hygiene Department;

*Intermittent unlawful government land occupation (Case 5)*

- (j) the intermittent unlawful land occupation in Case 5 had taken place for over 10 years from October 1999 to January 2010 before the Lands D granted an STT to the village house owner in February 2010;

*Unauthorised works on a government slope (Case 6)*

- (k) the unauthorised platform on government land in Case 6 had existed for more than six years from July 2003 to January 2010 before the Lands D granted a temporary government land occupation permit to the house owner for site investigation and slope upgrading works with effect from February 2010, giving rise to slope safety concern;
  - (l) the DLO/Tuen Mun had not consulted the Geotechnical Engineering Office of the Civil Engineering and Development Department before issuing the temporary government land occupation permit in December 2011; and
  - (m) notwithstanding that the DLO/Tuen Mun had conducted 12 site inspections and issued a total of 13 warning letters from 2003 to 2011 in Case 6, it had not taken any clearance or prosecution action;
- commends the decisive acts of the Secretary for Development and the Director of Lands in taking law enforcement actions to rectify the unlawful land occupation and demolish the unauthorised structures erected on government land at Tai Tong Lychee Valley (Case 4) in late May 2012, despite the obstruction caused by some villagers to the operation;
  - acknowledges that:
    - (a) in respect of Case 4:
      - (i) the Director of Agriculture, Fisheries and Conservation has clarified that before the designation of the TLCP under the Country Parks Ordinance (Cap. 208) in February 1979, the Administration had consulted the affected parties and the public in 1978, including the chairmen and vice-chairmen of the rural committees concerned, and no objection had been raised by the villagers of Tai Tong Village or the Shap Pat Heung Rural Committee;
      - (ii) the various STT applications by the operator of Tai Tong Lychee Valley for regularising the unauthorised structures on the government land were all rejected by the DLO/Yuen Long



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due to the objection of the Agriculture, Fisheries and Conservation Department; and

- (iii) the Lands D had successfully carried out clearance operations to remove the unauthorised structures erected on the government land inside and outside the TLCP in April and May 2012. The site concerned outside the TLCP has been included in the "black spots" inspection programme and the DLO/Yuen Long will arrange regular patrol to deter recurrence of unlawful occupation of the site in the future;
  - (b) the Director of Lands has taken measures to improve the Lands D's working procedures for handling land control cases pending the outcome of STT applications, including the issuance of guidelines by the Lands D Headquarters to all DLOs on the arrangement for data input of the LCIS with respect to those cases pending the outcome of the STT applications;
  - (c) the Director of Lands has agreed with the audit recommendations in paragraphs 4.13(b) and (c), 4.23, 4.40 and 4.44(b) of the Audit Report;
  - (d) the Director of Food and Environmental Hygiene has agreed with the audit recommendations in paragraph 4.24 of the Audit Report;
  - (e) the Director of Agriculture, Fisheries and Conservation has agreed with the audit recommendations in paragraphs 4.23 and 4.25 of the Audit Report; and
  - (f) the Director of Civil Engineering and Development has agreed with the audit recommendations in paragraph 4.40 of the Audit Report;
- strongly urges the Secretary for Development and the Director of Lands to take decisive law enforcement actions to tackle warranted cases of prolonged unlawful occupation of government land, instead of taking actions only after such cases have been revealed by the Audit Report and widely reported by the media, thereby demonstrating the Lands D's determination to properly carry out its land control duties and deter unlawful occupation of government land;

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- strongly urges the Director of Lands to:
  - (a) improve the internal control systems of the Lands D to ensure the DLO staff's compliance with the department's instructions and procedures for handling land control cases, and require management staff to strengthen supervisory checks to enable timely detection of non-compliance;
  - (b) consider setting time targets for handling STT applications and upload the targets onto the Lands D's website;
  - (c) improve the consultation procedure for the granting of STTs, and consider uploading onto the Lands D's website information on the STT applications received by the Lands D for using government land for private purposes or for regularising the unlawful occupation of government land for the knowledge of the public;
  - (d) review the public consultation procedure for designating a piece of land as part of a country park and make improvement as appropriate;
  - (e) formulate and implement a risk-based inspection programme for detecting unauthorised modifications or re-building of licensed structures, as recommended in paragraph 4.13(a) of the Audit Report;
  - (f) require the DLOs to take more effective enforcement action in cases involving intermittent occupation of government land, including taking prosecution action in warranted cases with sufficient evidence, as recommended in paragraph 4.31 of the Audit Report; and
  - (g) conduct a review to identify other long outstanding cases of unlawful government land occupation and take prompt and effective action to rectify and prevent such unlawful occupation, as recommended in paragraph 4.44(a) of the Audit Report;

Land Control Information System

- expresses grave concern:
  - (a) that the existing LCIS was not effective in supporting the Lands D in managing its land control cases;
  - (b) that the DLOs did not input data to the LCIS accurately and timely, and the system did not provide management reporting functions, such as ageing analyses and exception reporting of outstanding cases;
  - (c) about the propriety of the Lands D's existing arrangement of marking a land control case in the LCIS as "completed" once the occupier has submitted an STT application, and creating a new case if the STT application is subsequently cancelled or not approved because this may result in under-reporting of the actual age of a case; and
  - (d) that the completion of the LCIS revamping project, which aims to address the limitations of the existing LCIS, has been delayed from June 2012 to July 2014;
- acknowledges that the Director of Lands has agreed with the audit recommendations in paragraphs 5.17 and 5.22 of the Audit Report;
- strongly urges the Director of Lands to take effective measures to improve data sharing and collaboration among the 12 DLOs and the Lands D Headquarters in the handling of land control cases before completion of the LCIS revamping project; and

Follow-up actions

- wishes to be kept informed of:
  - (a) the progress made in implementing the various recommendations made by the Committee and the Audit Commission; and
  - (b) the land control actions taken by the Lands D in rectifying the unlawful government land occupation in Cases 1 and 6.