

**立法會**  
**Legislative Council**

LC Paper No. CP 443/11-12  
(These minutes have been seen by the Ombudsman)

Ref: CP/G06/4 XVI

**Minutes of meeting between Legislative Council Members  
and Mr Alan LAI Nin, GBS, JP, The Ombudsman,  
on Tuesday, 13 December 2011, at 11:00 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon Miriam LAU Kin-yee, GBS, JP (Chairman)  
Hon Fred LI Wah-ming, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Ronny TONG Ka-wah, SC  
Hon IP Wai-ming, MH  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC

**Attendance by invitation** : Office of the Ombudsman  
  
Mr Alan LAI Nin, GBS, JP  
The Ombudsman  
  
Mr Tony MA Kai-loong  
Assistant Ombudsman

**Staff in attendance** : Mr Stephen LAM  
Principal Council Secretary (Complaints)  
  
Ms Yvonne YU  
Senior Council Secretary (Complaints)<sup>3</sup>

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The Chairman welcomed Mr Alan LAI, The Ombudsman, and Mr Tony MA, Assistant Ombudsman to the meeting. She said that the purposes of the meeting were for The Ombudsman to brief Members on the work of the Office of The Ombudsman (the Office), and to exchange views on issues of common concern. The Chairman reminded Members that the meeting was not covered by the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and that individual cases would not be discussed.

**I. The work of The Ombudsman's Office in the previous year**  
(LC Paper No. CP290/11-12(01))

Briefing by The Ombudsman

2. The Ombudsman said that in the 2010-2011 reporting year, the Office received a total of 12 227 enquiries and 5 339 complaints, and concluded 5 437 complaints. On average, the Office received about 1 100 enquiries and 440 complaints each month. In the first eight months of 2011-2012 (i.e. from April to November 2011), there were 4 686 complaints for processing. This number seemed to be smaller than the 4 933 cases of the same period last year. However, if cases of the same topics were excluded, the actual number of complaints received in 2011-2012 was larger.

3. The Ombudsman advised that most complainants lodged their complaints in writing in the past few years, and email continued to be the most popular channel. In view of this trend, the Office adopted a new measure to handle complaints lodged by email. The Office used to reply the complainants by post, having regard to the fact that confidentiality might not be fully protected by replying through email, and that the Office had to confirm the complainants' identity. However, in recent months, the Office had begun to reply the complainants by encrypted emails. When a complainant received the password from the Office, he/she could use it to open

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all encrypted emails delivered from the Office. This measure could protect the privacy of complainants, and with the convenience of email, accelerate the process of replying. The Office had received good response from the public since the adoption of this new measure.

4. The Ombudsman said that in the 2010-2011 reporting year, the Office completed six direct investigations. Apart from direct investigations, the Office also concluded ten direct investigation assessments. Moreover, a total of 182 recommendations were made to improve various aspects of public administration for the year. Of these, 142 were related to complaints and 40 were resulted from direct investigations. As at November 2011, 96% of the recommendations had been accepted by the departments or organisations concerned for implementation.

Discussion

*Problems relating to unlawful trading of small house concessionary rights*

5. Ms Audrey EU said that besides problems relating to unauthorised structures of small houses in the New Territories, unlawful trading of small house concessionary rights was rampant at present, as reported by the media. She had raised a question to the Secretary for Development (SDEV) regarding violation of clauses in small house grants, and SDEV simply replied that "the Lands Department (LandsD) would, upon receipt of any complaints related to small house applications, follow up in accordance with applicable procedures". As The Ombudsman was authorised under The Ombudsman Ordinance (Cap. 397) to launch direct investigations, Ms EU considered that the Office should conduct direct investigations to ascertain whether the Government had failed to take law enforcement actions according to the Small House Policy when dealing with this matter, and whether maladministration was involved.

6. The Ombudsman explained that the Office did not have any power to enforce the law, and it was

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difficult to force the Government to take enforcement actions. The Office could only examine and deal with the issue of whether maladministration was involved. For example, the Office was conducting direct investigations on issues of granting short term tenancies at nominal rent by the Government.

The  
Ombudsman

7. The Chairman said that the concessionary rights of indigenous residents of the New Territories were really traded at the black market in recent years through various tactics that did not violate the New Territories Small House Policy and clauses in relevant small house grants. Some people even posted advertisements on the internet for touting, which was a sign showing that the situation was aggravating. As such, the Chairman pointed out that the problem was worth examining to see how the loopholes could be plugged, and she requested The Ombudsman to take note of this matter. The Ombudsman agreed to examine whether there was maladministration on the part of the Government in dealing with the issue of unlawful trading of concessionary rights.

*Complaints made by the public against the Lands Department*

8. Ms Audrey EU said as shown in Table 6 of the Annual Report of The Ombudsman Hong Kong 2011, LandsD was the top organisation against which complaints were made. She was concerned whether many of the complaints against LandsD received by the Office were related to small houses in the New Territories, and whether some of them involved allegations against LandsD for its failure to take enforcement actions according to the Small House Policy.

9. The Ombudsman replied that the complaints against LandsD were mainly about issues such as unlawful occupation of government land, delay in processing the application for building licence, and unauthorised building works, and they involved locations in the New Territories and urban areas. However, he had an impression that more complaints involved locations in the New Territories.

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10. Ms Audrey EU was also concerned whether the loads of complaints against LandsD were caused by shortage of manpower in the department. In response, The Ombudsman said that the government departments often used shortage of manpower as a pretext for maladministration or delay. The Office was responsible for redressing grievances and addressing issues of maladministration in the public sector. As regards how the government departments deployed their resources, it should be decided by the heads of departments, and the Office would not intervene in this regard.

**II. Any Other Business**

11. There being no other business, the meeting ended at 11:27 am.