

**For discussion
on 25 June 2013**

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

Public Open Space in Private Developments

Purpose

This paper updates Members on the latest position with regard to public open space in private developments (POSPD) and the monitoring of the management of POSPD.

Background

2. In response to public concerns over a number of cases of POSPD, the Development Bureau (DEVB) undertook an in-depth policy review of the subject matter in 2008 and briefed Members of the Legislative Council Panel on Development (“the Panel”) on the refined arrangements for the provision of POSPD at its meeting in January 2010 vide paper CB(1)930/09-10(03).

3. DEVB also commissioned a consultancy study in 2009 for drawing up a set of clear and practicable design and management guidelines for POSPD for reference by property owners, management agencies and the general public. The “Design and Management Guidelines for Public Open Space in Private Developments” (“the POSPD Guidelines”) were promulgated in January 2011 (http://www.devb.gov.hk/filemanager/en/content_582/Guidelines_English.pdf) and the Panel was briefed on them vide paper CB(1)1085/10-11(01).

4. DEVB subsequently provided an update on the implementation of the refined arrangements and the Guidelines to the Panel in May 2011 vide paper CB(1)2270/10-11(01).

The Latest Position

5. The refined administrative arrangements in respect of the provision, information dissemination and management of POSPD, implemented since January 2010, strive to strike an appropriate balance between the public’s right to use and enjoy POSPD on the one hand, and the rights and obligations of the owners of the private developments in respect of these POSPD on the other hand.

6. In this connection, the Government has taken steps to enhance dissemination of information to facilitate public's access to POSPD. Since March 2008, the Government has been compiling information on private developments containing public open space and making it available through the websites of the Lands Department (LandsD) and the Buildings Department (BD). The information includes the location and area, the level at which the public open space is located, the opening hours, as well as the site plan of the public open space. As at end of May 2013, there were 62 POSPD listed on LandsD and BD's websites.

7. Meanwhile, the POSPD Guidelines are promulgated with the aim to promote good practices on the use and various operational issues of POSPD, such as permissible activities, opening hours, dissemination of information, as well as responsibilities of owners and management agencies, among stakeholders. The POSPD Guidelines have been distributed to the owners/owners' corporations, management agencies of all POSPD, the Real Estate Developers Association of Hong Kong and the District Councils.

Monitoring the Management and Opening of POSPD

8. The owners of POSPD are generally required under the relevant contractual documents (which can be lease or deed of dedication) to properly maintain and manage POSPD under their ownership, and to permit the public to use and enjoy POSPD during the prescribed hours of a day for all lawful purposes. For POSPD required under lease, District Lands Offices (DLOs) of LandsD conduct site inspections of POSPD under their respective jurisdiction from time to time as well as on receipt of complaints. In case of suspected breach of lease conditions in respect of the management and opening of POSPD, DLOs would take timely follow-up actions (including lease enforcement actions) as appropriate.

9. Owing to the large number of POSPD and the fact that they are scattered throughout the territory, public monitoring remains the most effective way to ensure owners of POSPD fulfil the responsibilities of managing and maintaining such public open space, as well as permitting the public to access and enjoy these facilities in accordance with the requirements of the relevant contractual documents. The information made public through LandsD and BD's websites as mentioned above serves to facilitate public monitoring. Members of the public are encouraged to inform the relevant DLOs for follow up if it is suspected that owners are not fulfilling their responsibilities.

Development Bureau
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