

政府總部
發展局
規劃地政科



Planning and Lands Branch
Development Bureau
Government Secretariat

香港添馬添美道二號
政府總部西翼十七樓

17/F, West Wing,
Central Government Offices,
2 Tim Mei Avenue, Tamar, Hong Kong

本局檔號 Our Ref. DEVB(PL-L)89/02/14

電話 Tel.: 3509 8830

來函檔號 Your Ref.

傳真 Fax : 2845 3489

29 January 2018

Ms Doris Lo
Clerk, Panel on Development,
Legislative Council Secretariat
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong

Dear Ms Lo,

**Re: Hon Tanya Chan's letter dated 8 January 2018
to the Chairman of Legislative Council Panel on Development**

Thank you for your email of 9 January 2018 referring to us Hon Tanya Chan's letter and seeking our response to the issues raised by Hon Chan. Our reply is as follows –

Review of the Small House Policy

The existing Small House Policy has been in operation for a long period of time. Any review inevitably involves complicated issues in aspects such as legal, environment, housing, land use planning and demand on land, all of which require careful examination. As the Development Bureau has to accord priorities to other more pressing policy issues under its purview, the review of the Small House Policy is not a priority task for the time being. Separately, given that the Small House Policy is currently subject to a judicial review, the Government is not in a position to make any public comment on issues that may prejudice its handling of the case.

Buying and Selling of Small House Rights

The existing Small House Policy allows indigenous villagers to apply for the construction of small houses on private agricultural land. Alienation of small houses before the issue of a Certificate of Compliance (CC) is generally prohibited, but an applicant may apply for transfer of ownership of his small house after the issue of its CC subject to payment of the necessary land premium according to the established mechanism. Therefore, the transactions of small houses are not against the policy, while the buying and selling of “small house rights” should not be confused with the transactions of small houses.

Under the existing arrangement, when processing an application for building a small house on private agricultural land, the Lands Department (LandsD) will require the applicant to declare in his statutory declaration that he is the sole legal and registered owner of the subject lot. It is also required under a small house building licence that the licensee shall warrant that he has never entered into any arrangement or agreement with any person or persons to transfer, alienate, dispose of or otherwise deal with the subject lot or any part thereof or any interest therein, or the applicant’s rights in and over the subject lot, including but not limited to the right to develop the subject lot or any part thereof.

The act of selling “small house rights” refers to an act involving a person who has fraudulently breached the above statutory declaration or warranty clause, with a view to deceiving LandsD into issuing a small house grant or a small house building licence. Such an act goes against the policy intent and contravenes the licence terms. In addition, it is against the law to obtain government approval by deception through false representation or fraud. Criminal prosecution can be initiated if the illegal acts are established by the law enforcement departments. In the past, prosecutions had been instituted by the law enforcement agencies and individuals were convicted by the court accordingly. As the relevant judicial proceedings are still ongoing, it is not appropriate for the Government to comment further.

LandsD will follow up seriously on cases violating the small house grant conditions or building licence terms. If there are reasonable grounds for suspecting individual cases involving obtaining government approval by deception, LandsD will refer the cases to the law enforcement agencies for investigation and will fully cooperate with them in their investigations as appropriate.

Discussion at the Legislative Council Panel on Development

We understand Hon Chan's wish to have an early discussion about issues mentioned in her letter at the Legislative Council Panel on Development. However, having regard to the considerations as set out above, especially the ongoing judicial proceedings, the Government considers that discussion about the relevant issues at the Legislative Council Panel on Development is not appropriate for the time being.



(Ms Christina Chong)
for Secretary for Development

c.c.

Director of Lands (Attn: Mr Alan Lo)