

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2號
政府總部西翼

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

本局檔號 Our Ref. DEVB(PL-L)30/30/87 Pt.8
來函檔號 Your Ref. LS/B/30/13-14

電話 Tel.: 3509 8836
傳真 Fax : 2845 3489

9 October 2014

BY FAX (2877 5029)

Legal Service Division,
Legislative Council Secretariat,
Legislative Council Complex,
1 Legislative Council Road,
Central,
Hong Kong
(Attn: Miss Winnie LO)

Dear Miss LO,

Land (Miscellaneous Provisions) (Amendment) Bill 2014

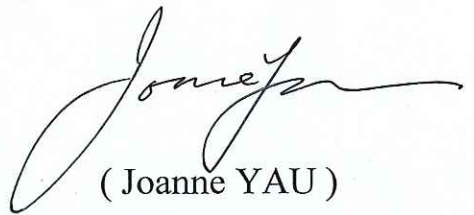
We refer to your letter of 26 September 2014 to the Development Bureau regarding the Land (Miscellaneous Provisions) (Amendment) Bill 2014. As requested, our clarification is set out in the ensuing paragraphs.

Section 6(5) of the Land (Miscellaneous Provisions) Ordinance (Cap.28) ("the Ordinance") provides that the Authority may recover cost of demolition works from a person convicted under section 6(4) or section 6(4A) of the Ordinance. Nonetheless, there is no stipulation as to the manner of making such recovery. Past experience has shown that there could be uncertainty over the trial court's authority to make an order against the convicted person under section 6(5). While the Lands Department ("LandsD") saw cases of successful applications for court orders to recover demolition costs, there have also been unsuccessful cases. According to LandsD's record, since 2005, there have been two cases in which the court made no order to the application for recovery of demolition costs under section 6(5).

In view of the uncertainty as explained above, notwithstanding that we are not readily aware of provisions with a similar structure in other ordinances, we consider from the policy point of view that it is necessary to enact the proposed section 6(6) to put beyond doubt that the trial court has power, whether on application by the Authority or on the court's own initiative, to make an order against the convicted person requiring the payment of the cost to the Authority. The proposed section 6(6) aims at facilitating the enforcement actions under the relevant provisions of the Ordinance.

Should you have further questions, please feel free to contact us.

Yours sincerely,



(Joanne YAU)

for Secretary for Development

c.c.

Department of Justice (Attn: Ms. Cindy Cheuk)

Lands Department (Attn: Ms. Olga Lam)

Fax: 2869 1302

Fax: 2868 4707