

電話 2231 3000
圖文傳真 2152 0450
電郵地址 dofl@landsd.gov.hk
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Please quote our reference in response to this letter.



地政總署
LANDS DEPARTMENT

我們矢志努力不懈，提供盡善盡美的土地行政服務。
We strive to achieve excellence in land administration.

香港北角渣華道三三三號北角政府合署二十樓

20/F., NORTH POINT GOVERNMENT OFFICES
333 JAVA ROAD, NORTH POINT, HONG KONG

By Fax & Post
(Fax No. 2543 9197)

30 December 2015

Clerk, Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong
(Attn: Mr Anthony CHU)

Dear Mr. CHU,

Public Accounts Committee
Consideration of Chapter 3 of the Director of Audit's Report No.65
Use and disposal of vacant school premises ("VSP")

Thank you for your letter of 17 December 2015. I provide herewith the information requested, following the paragraph numbering in your letter:

- (a) As per your letter dated 18 December 2015 addressed to the Education Bureau (EDB), Lands Department (LandsD) has provided our input to the flowchart showing the procedures for handling VSP.
- (b) As per your letter dated 18 December 2015 addressed to EDB, the information will be provided by the bureau.
- (c) While EDB's records indicate that the 73 schools have ceased operation for years (paragraph 3.14(a) of the Audit Report), it was since the inter-departmental meeting held in November 2005 as mentioned in paragraph 2.3 of the Audit Report that EDB started to

pass a list of VSP or school premises to be vacated to LandsD for reference and further action as appropriate. The notification arrangements were further refined after establishment of the central clearing mechanism as endorsed by the Steering Committee on Housing Land Supply in October 2011, with EDB notifying the Planning Department and other relevant departments including LandsD of VSP not required for school use.

However, notification by EDB of VSP no longer required for school/other education uses does not necessarily mean that the Government is having control over the land and the premises therein, as some of those VSP are situated on private land governed by land leases or situated on government land but held by external bodies through government land licences/short term tenancies.

For VSP on land returned to LandsD, we would arrange to put them into gainful use. Where a long-term use has been identified and agreed within the Government, LandsD will make arrangements to dispose of the site for the said purpose. Where implementation of the identified long-term use would take time or where a long-term use is yet to be determined, LandsD would try to put the site together with the VSP to temporary uses such as allocating it for use by government bureau/department, renting it out on short-term tenancy upon identification of a suitable temporary use, or including the VSP into the list of vacant government sites that are available in the relevant district for application for greening and community uses on short-term basis.

The current position and follow-up actions of the 73 VSP as at December 2015 are set out below:

- (i) 2 VSP have been approved for alternatives uses and are pending site possession by the project proponents. LandsD is liaising with the project proponents in order to put the VSP into approved uses.
- (ii) There were 22 VSP with planned uses/applications being considered and processed as at September/October 2015. LandsD is continuing with consideration and processing of 20 of them while 2 earlier planned uses/applications are no longer pursued by the concerned parties. These 2 VSP would therefore be included into the list of vacant government sites available for application for short-term uses.

- (iii) There were 21 VSP on the list of vacant government sites available for application for use on short-term basis as at September/October 2015. Two of these VSP have recently been earmarked by interested parties for consideration of alternative uses.
 - (iv) LandsD is taking action to recover possession of 10 VSP (with 4 under land leases carrying a cessation/diminution of user clause and 6 under government land licences) and will arrange to put them into appropriate permanent or temporary uses when physical possession has been obtained.
 - (v) 18 VSP are on private land for which there is no cessation/diminution of user clause in the land lease to allow the Government to re-enter the land after the cessation of school use. These 18 VSP remain in possession of private lot owners as the Government has no authority to ask for return of the private land simply because the schools thereon have ceased operation.
- (d) The 21 VSP are located in the rural areas of the New Territories or outlying islands. The majority of these VSP are unattractive for use due to their remote location with poor access. Some require substantial slope-related works or renovation works to the existing premises before they could be re-used. Some require planning permission before the premises could be put into other uses. Some applications for direct grant of these VSP had been received in the past but were subsequently not pursued due to various reasons such as local objections or the necessary policy support from the relevant bureau not being obtained by the applicants. It may be noted that applications for 2 of these VSP have recently been received from interested parties and they are currently being considered.

It is not a normal practice for LandsD to undertake improvement works for government sites/premises just for the sake of attracting applications for temporary uses. First, the improvement works would become abortive if the premises are not taken up in good time. Secondly, the improvement works may vary depending on the nature, duration and design requirements to suit the particular temporary use proposed by a project proponent. It would not be cost-effective for the Government to carry out some works in advance only to have such works altered by a project proponent

after the site/premises is granted. While the general expectation is for the project proponent to pursue any improvement works required for its proposal, it is for relevant policy bureaux supporting a particular use to consider whether, and if yes how, further assistance may be given by the Government in implementing the improvement works required.

- (e) As at December 2015, the planned uses/applications for 2 of the 22 VSP were not pursued further by the concerned parties. LandsD will continue processing the remaining 20 proposals with a view to putting them into gainful use as early as possible.

Among the 20 cases, the planned uses/applications were proposed in the following timing: 9 in 2015; 6 in 2014; 1 in 2012; 2 in 2010; 2 between 2005 to 2009.

The processing time required depends on individual circumstances. In an optimistic scenario assuming positive progress on all fronts, such as sufficient information on the proposal is available for assessment, policy support for direct grant to the applicant is given by the relevant bureau, government requirements are met by the applicant and no major objections received etc., we expect that an application for temporary use can be approved in about a year's time after the application is received. Disposal for permanent land uses can be more complicated and may take longer due to the possible need for conducting elaborate land use reviews, feasibility studies and statutory procedures. On present showing, we estimate that the processing of 13 cases will be completed within financial year 2016/17.

- (f) The 18 VSP are wholly or partly on private lots held by private land owners. As the sites were not granted by the Government to the lessees and have been privately owned before the schools existed, it is understandable that there is no cessation/diminution of user clause under the leases. In the circumstances, the Government has no right to demand surrender of the private land just because the school thereon has ceased operation. Same as owners of other private lots, the owners of these 18 VSP are at liberty to continue their use and enjoyment of the private land in accordance with the land leases. LandsD cannot take any action to take possession of the land, unless there is a breach of lease conditions warranting re-entry by the Government as the landlord or unless the land is

resumed for a public purpose under statute (see following paragraph).

Resumption of private land under the Lands Resumption Ordinance (Cap.124) is invoked only if the private land is required for identified public purpose(s) and compensation will be payable by the Government in accordance with the law. At present, we have not been advised of a need to invoke resumption powers to resume any of the 18VSP for a project of public purpose.

- (g) The management and maintenance of VSP under LandsD's control is performed as part of the land control work of individual District Lands Offices of LandsD. Generally, the work involves site cleaning, erecting government notice boards and fencing on site, grass-cutting as necessary and providing security service through stationing security guards on site or by patrolling. Worked out on a pro rata basis, the total cost incurred in the past 10 years on the maintenance and management of VSP under LandsD's purview (the number of which varies over time) is estimated at about \$7.6 million, averaging at about \$0.76 million per year. As this is an approximate figure worked out on a pro rata basis taking into account the pool of VSP out of land control work undertaken by the department, we do not have readily available information to work out a precise breakdown by year.
- (h) Measures taken by LandsD for the management and maintenance of VSP to prevent illegal break-in or trespassing include fencing off from public access, erection of warning notice boards, patrol by district land control staff or deployment of security guards through outsourced contractors.

Please let me know if further information is required.

Yours sincerely,



(Ms Bernadette Linn)
Director of Lands

c.c. Secretary for Education (Fax no. 2810 7235)
Director of Housing (Fax no. 2761 6700)
Secretary for Financial Services and the Treasury (Fax no. 2147 5239)
Director of Audit (Fax no. 2583 9063)