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LC Paper No. CB(1)573/16-17(02)

15 February 2017

Clerk to LegCo Panel on Environmental Affairs
Legislative Council Secretariat
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong
(Attn: Ms Angel SHEK)

Dear Ms SHEK,

LegCo Panel on Environmental Affairs

Actions to combat illegal land filling and fly-tipping of construction and demolition waste

Thank you for your email of 22 December 2016. We would like to provide supplementary information below in response to Members' questions raised at the meeting of 19 December 2016.

- (a) list out respectively by the ordinances/regulations set out in Annex I to the Administration's paper (LC Paper No. CB(1)295/16-17(03)) (i) the maximum penalties against illegal land filling and/or fly-tipping of construction and demolition waste, and (ii) the number of prosecutions and convictions made, and the penalties imposed on convicted cases in the past three years from 2013 to mid-2016; and*

Please see the maximum penalties of the ordinances/regulations and the penalties imposed on convicted cases in **Annex I**.

- (b) review whether it is feasible to enhance the GeoInfo Map that is available for public access at the Lands Department's website by incorporating relevant information, such as baseline*

environmental conditions and land boundaries, with a view to facilitating monitoring of and enforcement against illegal land filling.

Please see the reply from Lands Department (LandsD) below:

Approximate locations, boundaries and particulars of individual private lots are publicly accessible information in Hong Kong. At present, if members of the public wish to see the location and approximate boundaries of a private lot and the land status information of its vicinity area, they may purchase a Lot Index Plan (LIP) from the map sales counters of the Survey and Mapping Office of LandsD. Members of the public may also search for the approximate locations and boundaries of individual private lots by its lot number through the GeoInfo Map available on the Internet provided by the Government. Orthophotos which are merged aerial photographs in uniform scale covering all land area of Hong Kong can also be viewed from the GeoInfo Map. As such, LandsD has no plan to create any new database to carry such information which will duplicate the aforementioned sources.

Yours faithfully,



(David WONG)

for Director of Environmental Protection

Encl.

c.c. (Internal)
CEO(CBD)

Statutory Control over Illegal Land filling and Fly-tipping of Construction and Demolition Waste

Illegal land filling and fly-tipping activities are regulated by various environmental, land management, planning, drainage, public health or country park legislations which are enforced by a number of Government departments.

Ordinance/ Regulation	Relevant Statutory Control	Maximum Penalties by the Ordinances/ Regulations	Item	Private Land Filling Figures				Fly-tipping Figures			
				2013	2014	2015	2016 (30.6.2016)	2013	2014	2015	2016 (30.6.2016)
1. Environmental Protection Department (EPD): Waste Disposal and Pollution Control											
Waste Disposal Ordinance (Cap. 354) (WDO)	Enforce against illegal land filling and fly-tipping activities for waste deposition on Government land, or on private land without the consent of the land owners or lawful occupiers.	Under section 18(1) of WDO, the maximum penalty for a person who commits an offence under section 16A or 16B (which are relevant to the unauthorized depositing of construction waste) is: (a) for the first offence, a fine of \$200,000 and imprisonment for six months; (b) for a second or subsequent offence, a fine of \$500,000 and imprisonment for six months; and (c) in addition, if the offence is a continuing offence, a fine of \$10,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.	No. of prosecutions (by summonses)	1	1	8	1	39	43	52	56
			No. of convictions (by summonses)	1	1	8	1	39	43	50	55
			Fixed penalty tickets issued	N/A	N/A	N/A	N/A	46	18	18	23
			Total fines (\$)	6,000	8,000	57,000	5,000	307,500	314,000	358,400	538,700

Ordinance/ Regulation	Relevant Statutory Control	Maximum Penalties by the Ordinances/ Regulations	Item	Private Land Filling Figures				Fly-tipping Figures				
				2013	2014	2015	2016 (30.6.2016)	2013	2014	2015	2016 (30.6.2016)	
(i) Air Pollution Control (Construction Dust) Regulation (Cap. 311R) (CDR)	Control dust emission, noise and wastewater discharges arising from illegal land filling activities.	(i) Under section 5(2) of CDR, the first offence is \$25,000; second or subsequent offence is \$50,000; and the continue offence is \$5,000 for each day.	No. of prosecutions (by summonses)	0	0	0	0	0	1 (Cap 400)	0	0	
(ii) Noise Control Ordinance (Cap. 400) (NCO)			(ii) Under section 6(5) of NCO, the first offence is \$100,000; second or subsequent offence is \$200,000; and the continue offence is \$20,000 for each day.	No. of convictions (by summonses)	0	0	0	0	0	1 (Cap 400)	0	0
(iii) Water Pollution Control Ordinance (Cap. 358) (WPCO)			(iii) Under section 11(1) of WPCO, the first offence is \$200,000; second or subsequent offence is \$400,000; and the continue offence is \$10,000 for each day.	Total fines (\$)	-	-	-	-	-	8,000 (Cap 400)	-	-

2. Lands Department (LandsD): Land management

Land (Miscellaneous Provisions) Ordinance (Cap. 28) (Note: Land (Miscellaneous	Enforce against illegally dumped C&D waste on unallocated Government land excluding Government land under the control	Under section 6(4AA) of the Land (Miscellaneous Provisions) Ordinance, the maximum penalty for a person who commits an offence is: (a) for the first conviction, a fine of \$500,000 and to imprisonment for 6 months	No. of prosecutions (by summonses)	N/A	N/A	N/A	N/A	0	0	0	0
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Ordinance/ Regulation	Relevant Statutory Control	Maximum Penalties by the Ordinances/ Regulations	Item	Private Land Filling Figures				Fly-tipping Figures			
				2013	2014	2015	2016 (30.6.2016)	2013	2014	2015	2016 (30.6.2016)
Provisions) Ordinance, Chapter 28 (Cap. 28) is not applicable against land filling on private land.)	of other Government departments where formal land allocation is not required as unlawful occupation.	(b) and, for a continuing offence, to a further fine of \$50,000 for each day during which the offence continues; and for each subsequent conviction, a fine of \$1,000,000 and to imprisonment for 6 months and, for a continuing offence, to a further fine of \$100,000 for each day during which the offence continues.	No. of convictions (by summonses)	N/A	N/A	N/A	N/A	0	0	0	0
			Total fines (\$)	N/A	N/A	N/A	N/A	-	-	-	-

3. Planning Department (PlanD) : *Planning control*

Town Planning Ordinance (Cap. 131) (TPO)	Enforce against unauthorized land filling activities falling within the Development Permission Areas (DPAs) in the rural area when provisions of statutory plans are not complied with. (Planning permission from	According to section 23(6) of the TPO, any person who undertakes an unauthorized development or fails to comply with the statutory notice commits an offence and may be prosecuted: (a) The fine for a first conviction is up to \$500,000, and in addition a daily fine up to \$50,000 after the date in the notice during which the person continues	No. of prosecutions (by summonses)	26	4	20	10	N/A	N/A	N/A	N/A
			No. of convictions (by summonses)	12	14	17	9	N/A	N/A	N/A	N/A

Ordinance/ Regulation	Relevant Statutory Control	Maximum Penalties by the Ordinances/ Regulations	Item	Private Land Filling Figures				Fly-tipping Figures			
				2013	2014	2015	2016 (30.6.2016)	2013	2014	2015	2016 (30.6.2016)
	the Town Planning Board is required for land filling mainly in conservation-related zones, “Green Belt” and “Agriculture” zones within DPAs.)	to fail to comply; and; (b) for the second or subsequent conviction is up to \$1,000,000, and in addition a daily fine up to \$100,000 after the date in the notice during which the person continues to fail to comply.	Total fines (\$)	285,000	331,700	930,000	230,000	N/A	N/A	N/A	N/A

4. Food and Environmental Hygiene Department (FEHD): *Environmental Hygiene*

Public Health and Municipal Services Ordinance (Cap.132) (PHMSO)	Enforce against the responsible person if filling or dumping of C&D waste on a particular piece of private land gives rise to sanitary nuisance. Also against deposition that leads to an accumulation of	Under Schedule 9 of PHMSO, the maximum penalty for a person who contravenes section 27 and 127 is a fine of \$25,000 and daily fine of \$450.	No. of prosecutions (by summonses)	0	0	0	0	N/A	N/A	N/A	N/A
			No. of convictions (by summonses)	0	0	0	0	N/A	N/A	N/A	N/A

Ordinance/ Regulation	Relevant Statutory Control	Maximum Penalties by the Ordinances/ Regulations	Item	Private Land Filling Figures				Fly-tipping Figures			
				2013	2014	2015	2016 (30.6.2016)	2013	2014	2015	2016 (30.6.2016)
	water resulting in breeding of mosquitoes.		Total fines (\$)	-	-	-	-	N/A	N/A	N/A	N/A
Public Cleansing and Prevention of Nuisances Regulation (Cap.132BK).	Against the registered owner or hirer of the specified vehicle for littering offences.	Under Section 23 of Public Cleansing and Prevention of Nuisances Regulation, any person who contravenes section 4(1) or 9A(1) shall be guilty of an offence or if any person is guilty of an offence under section 9A(2) or 9A(4), shall be liable to a fine of \$25,000 and to imprisonment for 6 months.	No. of prosecutions (by summonses)	N/A	N/A	N/A	N/A	1	15	19	4
			No. of convictions (by summonses)	N/A	N/A	N/A	N/A	1	15	17	4
			Fixed penalty tickets issued	N/A	N/A	N/A	N/A	1	17	14	13
			Total fines (\$)	N/A	N/A	N/A	N/A	4,500	73,500	75,500	30,000
5. Buildings Department (BD): Slope Safety											
Buildings Ordinance (Cap. 123) (BO)	Enforce against dangerous slope on private land arising from land filling activities.	Under section 40(1B) of the BO, an owner who, without reasonable excuse, fails to comply with an order served on him under section 27A shall be guilty of an offence	No. of prosecutions (by summonses)	0	0	0	0	0	0	0	0

Ordinance/ Regulation	Relevant Statutory Control	Maximum Penalties by the Ordinances/ Regulations	Item	Private Land Filling Figures				Fly-tipping Figures			
				2013	2014	2015	2016 (30.6.2016)	2013	2014	2015	2016 (30.6.2016)
		and shall be liable on conviction to a fine of \$50,000 and, to imprisonment for 1 year and to a further fine of \$5,000 for each day during which the failure to comply with the order has continued. Furthermore, the BD may under section 27A(3) cause the necessary works to be carried out on the owner's behalf and subsequently recover the cost of the same plus supervision charges and a 20% surcharge from the owner under section 32A, 32B and 33.	No. of convictions (by summonses)	0	0	0	0	0	0	0	0
			Total fines (\$)	-	-	-	-	-	-	-	-

6. Agriculture, Fisheries and Conservation Department (AFCD): Country Park management

Country Parks and Special Areas Regulations (Cap. 208A)	Enforce against illegal dumping on Government land within country parks and special areas.	Under Regulation 20 of Country Parks and Special Areas Regulations, any person who contravenes Regulation 12 (which are relevant to the depositing of litter or rubbish) is liable to a	No. of prosecutions (by summonses)	N/A	N/A	N/A	N/A	0	0	0	0
			No. of convictions (by summonses)	N/A	N/A	N/A	N/A	0	0	0	0

Ordinance/ Regulation	Relevant Statutory Control	Maximum Penalties by the Ordinances/ Regulations	Item	Private Land Filling Figures				Fly-tipping Figures			
				2013	2014	2015	2016 (30.6.2016)	2013	2014	2015	2016 (30.6.2016)
		maximum fine of \$2,000 and to imprisonment for 3 months, where the offence is a continuing offence to an additional fine of \$100 for each day during which the offence has continued.	Fixed penalty tickets issued	N/A	N/A	N/A	N/A	0	0	0	0
			Total fines (\$)	N/A	N/A	N/A	N/A	-	-	-	-

7. Drainage Services Department (DSD): Flood control

Land Drainage Ordinance, (Cap.446) (LDO)	Gain access onto private land to remove illegal structure that causes stormwater drainage obstructions to designated watercourses so as to control flooding.	Under section 46 of LDO, the maximum penalties for a person who commits an offence is: (a) any person who wilfully obstructs any person lawfully exercising or performing any power, duty or function arising under this Ordinance commits an offence and is liable to a fine not exceeding \$50,000. (b) any person who contravenes section 18(10) or 19(4)	No. of prosecutions (by summonses)	0	0	0	0	0	0	0	0
			No. of convictions (by summonses)	0	0	0	0	0	0	0	0

Ordinance/ Regulation	Relevant Statutory Control	Maximum Penalties by the Ordinances/ Regulations	Item	Private Land Filling Figures				Fly-tipping Figures			
				2013	2014	2015	2016 (30.6.2016)	2013	2014	2015	2016 (30.6.2016)
		<p>commits an offence and is liable to a fine not exceeding \$25,000.</p> <p>(c) any person who contravenes section 26(1) or 27(1) or (2) commits an offence and is liable to a fine not exceeding \$50,000.</p>	Total fines (\$)	-	-	-	-	-	-	-	-

Note: Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570) is also being applied by Government departments (Hong Kong Police Force, Housing Department, Leisure and Cultural Services Department, Marine Department, AFCD, EPD and FEHD) to tackle certain public cleanliness offences including littering and minor waste deposition.