

Development Bureau responds to judgment on judicial review of Small House Policy

The Court of First Instance of the High Court handed down a judgment today (April 8) on a judicial review of the Small House Policy. The Court ruled that the Free Building Licence (FBL) arrangement under the Small House Policy, being a lawful traditional right and interest of the indigenous inhabitants of the "New Territories" within the meaning of Article 40 of the Basic Law, is lawful and constitutional, while the Private Treaty Grant (PTG) and Land Exchange arrangements under the Policy are not.

The Development Bureau (DEVB) welcomes the Court's ruling on the FBL arrangement as being lawful and constitutional. As for the PTG and Land Exchange arrangements, the DEVB will consider whether to lodge an appeal after studying the judgment in detail and seeking legal advice.

"PTG and Land Exchange arrangements are part of the Small House Policy. During the period when the Government considers whether to lodge an appeal, the Lands Department will suspend the receipt of new applications for building small houses through PTG and Land Exchange, as well as the processing of PTG and Land Exchange applications already received," a spokesperson for the DEVB said.

"As regards small house grants made through PTG and Land Exchange before today, the Court stated in its judgment that a part of the Small House Policy being unlawful does not mean that small house grants made are also unlawful. In other words, these grants remain valid, unless the Court accepts any grounds for setting them aside in the future," the spokesperson added.

The Small House Policy has been implemented since December 1972. The forms of land grants under the Policy include FBL, which allows applicants to build small houses on their private land, and PTG for grant of government land and Land Exchange. FBLs form the majority of grants. In the past 10 years, FBLs constituted around 80 per cent to 90 per cent of all small house grants. This trend persisted in recent years. There were 97 cases of PTG and Land Exchange out of a total of 752 executed small house grants in 2017, and 72 such cases out of a total of 654 executed small house grants in 2018.

Import of poultry meat and products

from Cuttack District, Orissa State, India, suspended

The Centre for Food Safety (CFS) of the Food and Environmental Hygiene Department announced today (April 8) that in view of a notification from the World Organisation for Animal Health (OIE) about an outbreak of highly pathogenic H5N1 avian influenza in Cuttack District, Orissa State, India, the CFS has instructed the trade to suspend the import of poultry meat and products (including poultry eggs) from the district with immediate effect to protect public health in Hong Kong.

A CFS spokesman said Hong Kong currently has an established protocol with India for import of poultry eggs but not for poultry meat. No poultry eggs were imported into Hong Kong from India last year.

"The CFS has contacted the Indian authorities over the issue and will closely monitor information issued by the OIE on avian influenza outbreaks. Appropriate action will be taken in response to the development of the situation," the spokesman said.

Appeal for information on missing man in Wong Tai Sin (with photo)

Police today (April 8) appealed to the public for information on a man who went missing in Wong Tai Sin.

Lee Yat-woon, aged 74, went missing after he left his residence in Choi Wan (1) Estate yesterday (April 7) morning. His family made a report to Police on the same day.

He is about 1.72 metres tall, 68 kilograms in weight and of thin build. He has a long face with yellow complexion and short greyish-white hair. He was last seen wearing a blue long-sleeved checkered shirt, blue trousers and black shoes.

Anyone who knows the whereabouts of the missing man or may have seen him is urged to contact the Regional Missing Person Unit of Kowloon East on 3661 0316 or 9020 2746 or email to rmpu-ke-2@police.gov.hk, or contact any police station.



Transcript of remarks by Secretary for Justice at media session

Following is the transcript of remarks by the Secretary for Justice, Ms Teresa Cheng, SC, at a media session after attending the special meeting of Finance Committee of the Legislative Council today (April 8):

Reporter: Secretary, can you comment on this report that there might be an interpretation of Article 23 (of the Basic Law)? Secondly, on access to computer with criminal or dishonest intent, what is going to be done to sort of fill that gap in the law to prosecute some cybercrimes?

Secretary for Justice: Thank you. I would not like to comment on speculative matters that have been reported, so if you would forgive me that I won't comment on that. However, it is very important to bear in mind that legislating for matters set out in Article 23 of the Basic Law is one of our constitutional duties, and therefore it is something that will be done. As the Chief Executive and the Government have repeatedly said, at an appropriate time that is something that we will have to do.

As to the Section 161 (of the Crimes Ordinance), that relates to the improper use of the computer, the Court of Final Appeal's judgment has clarified the limits of this particular law, and therefore it is necessary for appropriate legislative changes to be made in order to ensure that the acts that are being prohibited, or be it outside the current legislation of Section 161 (of the Crimes Ordinance) can still be sanctioned in order to ensure that people's privacy and various matters are being protected. I think there are a number of things that can be happening, and we hope that this may

result in a quick movement. First of all, no doubt the Security Bureau and the Department of Justice have already been working on reviewing the relevant legislations. As you know, there is the Review of Sexual Offences Sub-committee of the Law Reform Commission. Its first consultative report was produced in 2012 and the third one in 2018, so it may be possible that we may get some guidance or feedback on the first consultative report that came out, which may help us look into what is to be done. And of course, the Law Reform Commission has also set up a cybercrime sub-committee to review the legislations, if any, that need to be amended in order to keep up with the development of the laws in the fast-developing technology world.

(Please also refer to the Chinese portion of the transcript.)

Public housing resident convicted by court for false statement

A spokesman for the Housing Department (HD) today (April 8) reminded residents of public rental housing (PRH) estates to declare truthfully their income and assets.

A PRH resident living at Oi Man Estate in Ho Man Tin declared on a 2018 Income and Asset Declaration Form to have no average monthly interest, bonus and dividends derived from investments. Subsequent investigation revealed that the resident had earned a monthly dividend of approximately \$19,000 from an investment account. The resident was prosecuted by the HD for making a false statement knowingly, contrary to Section 26(1)(a) of the Housing Ordinance. The defendant was previously convicted by the presiding magistrate in Kowloon City Magistrates' Courts who considered a fine punishment could not reflect the gravity of the offence. After making reference to the probation report, the defendant was sentenced to 60 hours' community service order today.

The spokesman said that households living in PRH should complete their income and asset declaration forms accurately, which forms the foundation for the assessment of rent and their eligibility for continuing residence. Before making the declarations, households should read the contents and the completion guidelines of the income and asset declaration form carefully and compute their income and assets in accordance with the methods specified. Otherwise, they may be prosecuted for making a false statement knowingly, contrary to Section 26(1)(a) of the Housing Ordinance (if convicted, the maximum penalty is a \$50,000 fine and imprisonment for six months) or being prosecuted for neglecting to furnish information as specified in a declaration form, contrary to Section 27(a) of the Housing Ordinance (if convicted, the maximum penalty is a \$25,000 fine and imprisonment for three months). Notwithstanding the above, the HD will take action to recover the

undercharged rent incurred due to the inaccurate information or even recover their PRH units.