

Development Bureau follows up on Orders of the Court in relation to judicial review of Small House Policy

The Development Bureau (DEVB) said today (May 6) that pursuant to the judgment handed down by the Court of First Instance of the High Court on April 8, the parties filed with the Court on April 29 supplementary written submissions regarding relief and costs. The Court granted its orders on these matters on April 30.

"The Court ruled on April 8 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. In its supplementary written submission made on April 29, the Government pointed out that certain types of Land Exchange only involve private land of the applicant but not government land, hence should be identical to FBL in nature. Having considered the supplementary written submissions from the parties, the Court confirmed in the orders granted on April 30 that as far as Land Exchange is concerned, the unconstitutionality ruling handed down on April 8 applied only to Land Exchange involving government land. In view of this, the Lands Department will resume today (May 6) the receipt and processing of applications for approval to build small houses through Land Exchange not involving government land," a spokesman for the DEVB said.

Separately, with the consent of the parties, the Court approved on April 29 the extension of the deadline for appeal to May 28. The Court also reiterated that the grants made before the judgment takes effect on October 8 would not be affected by the judgment. The DEVB is studying in detail with the legal team whether to lodge an appeal. Pending a decision on whether to appeal, the Lands Department will continue to suspend the receipt of applications for grant of government land for building small houses through PTG and grant of government land for building small houses through Land Exchange, as well as the processing of such applications already received.