

LCQ11: Processing of applications for building small houses

Following is a question by the Hon Yung Hoi-yan and a written reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (February 24):

Question:

According to the New Territories Small House Policy (the Policy), a New Territories male indigenous villager over 18 years old is entitled to one concessionary grant during his lifetime to build one small house. However, following a judgement handed down by the Court of First Instance (CFI) of the High Court on April 8, 2019 on a judicial review case of the Policy, the Government has suspended the receipt and processing of applications for building small houses on government land granted through Private Treaty Grant (PTG) and Land Exchange. It has been reported that such an arrangement has led to a huge backlog of applications for building small houses awaiting to be processed, thereby arousing grave dissatisfaction among quite a number of indigenous villagers of the New Territories. In a judgement handed down on January 13 this year on the appeals against the ruling of the said case, the Court of Appeal (CA) ruled that the arrangements of Free Building Licence, PTG and Land Exchange under the Policy are lawful traditional rights and interests of the indigenous villagers of the New Territories within the meaning of Article 40 of the Basic Law, and are lawful and constitutional. Besides, I wrote to the Secretary for Development in September last year relaying that the overly long time taken (five to 10 years needed in general and even as long as 20-odd years in some cases) by the Government to vet and approve applications for building small houses, coupled with the incessantly rising construction costs, have greatly increased the financial burden on indigenous villagers in building small houses. In this connection, will the Government inform this Council:

- (1) of the respective numbers of applications for building small houses which were (i) received, (ii) approved, (iii) rejected, and (iv) still being processed by the Lands Department (LandsD) in each of the past three years;
- (2) of the number of applications for building small houses which have been submitted after CFI handed down the aforesaid judgement and are awaiting to be processed, and among such cases, the respective numbers of those applications for building small houses on government land granted through PTG and Land Exchange;
- (3) of the respective numbers of small houses which were (i) under construction and (ii) completed in each of the past five years, as well as the total area of the sites in Village Type Development zones involved;
- (4) of the LandsD's staffing establishment responsible for processing

applications for building small houses, as well as the average, longest and shortest time taken to vet and approve those applications which had been approved, in each of the past five years;

(5) how the Government will follow up the aforesaid judgement of CA; of the anticipated earliest time for resuming the receipt and processing of applications for building small houses on government land granted through PTG and Land Exchange; whether it will allocate additional resources and manpower to LandsD to expedite the processing of backlog applications; if so, of the details and implementation timetable; if not, the reasons for that; and

(6) whether it has conducted any detailed assessment on (i) the number of persons eligible for applying for building small houses in the coming 10 years, (ii) the number of applications for building small houses to be made by them, and (iii) the demand for lands in different districts across the New Territories arising from such applications; if so, of the details, the criteria based on which such assessments were made, and the new measures in place to cope with the relevant land demand; if not, the reasons for that and whether it will conduct relevant assessments in the near future?

Reply:

President,

My reply to various parts of the question is as follows:

(1) and (2) A breakdown of the number of small house applications in the past three years is set out below:

Year	Number of small house applications received	Number of applications approved	Number of applications rejected	Number of applications being processed (as at year end)
2018	1 350	830	1 080	8 223
2019	2 175	565	815	6 419
2020	814	278	567	7 113
Total	4 339	1 673	2 462	Not applicable

Note 1: As applications received in a year may not have their processing completed in the same year, the applications approved, rejected and being processed in a year may not correspond with the applications received during the same year.

Note 2: The number of applications being processed does not cover applications that have been received and pending processing.

Note 3: In light of the judgment of the Court of First Instance (CFI) on the judicial review of the Small House Policy, the Lands Department (LandsD)

suspended the receipt and processing of applications for government land for building small houses by way of Private Treaty Grant (PTG) and Land Exchange between April 8, 2019 and February 21, 2021. Therefore, the cases being processed as at end-2019 and end-2020 do not cover these two types of applications.

(3) The number of small houses completed with Certificate of Compliance (CC) issued by the LandsD in the past five years is set out below:

Year	Number of small houses completed with CC issued
2016	814
2017	799
2018	851
2019	817
2020	397
Total	3 678

The LandsD does not compile statistics on the number of small houses under construction each year and the total land area of "Village Type Development" zones involved.

(4) Since some of the staff members involved in processing small house applications are also responsible for other land administration duties, and the department reviews and redeploys manpower from time to time in light of changing operational requirements, the LandsD does not have precise information on the number of staff members dedicated to the processing of small house applications. As a general reference, around 100 staff members are involved in processing small house applications in the LandsD.

The processing time of small house applications depends on the complexity of individual application, such as whether there are local objections, land title or boundary problems, or whether there are requirements to be fulfilled in advance under other regulatory regimes. The LandsD does not compile statistics on processing time.

(5) The Court of Appeal (CA) handed down the judgment on the appeals against the CFI's ruling on the judicial review on the Small House Policy on January 13, 2021. The CA ruled that all components under the Policy, namely the arrangements of Free Building Licence, PTG and Land Exchange, are the lawful traditional rights and interests of the indigenous inhabitants of the New Territories within the meaning of Article 40 of the Basic Law, hence lawful and constitutional. The Government will continue to implement the Policy. Regarding applications for government land to build small houses by way of PTG and Land Exchange with the receipt and processing suspended earlier in light of the CFI's judgment, the LandsD has resumed the receipt and processing of these two types of applications with effect from February 22, 2021.

The LandsD will, taking into account the workload in different District Lands Offices, continue to keep in view the deployment of manpower with a view to making suitable arrangements when necessary.

(6) The number of applications for small houses is affected by factors such as the birth of indigenous villagers, their family and financial considerations etc., and whether individual indigenous villager will apply for a small house grant also depends on his own circumstances and wishes. The LandsD does not conduct forecast on eligible applicants and small house applications. According to the established policy, whether a small house application can be approved depends on whether the relevant land is suitable for small house construction, in which a series of planning, lands and technical factors have to be considered. The LandsD will continue to consult relevant departments and examine each individual application in accordance with the established mechanism.