

LCQ17: Illegal conversion of car parking spaces into shops

Following is a question by the Hon Luk Chung-hung and a written reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (June 24):

Question:

It has recently been uncovered by the media that the street-level car parking spaces of a number of old buildings in Kowloon City have been illegally converted into shops for as long as several decades. The Lands Department (LandsD) and the Buildings Department (BD) have all along failed to take follow-up actions, and the Rating and Valuation Department (RVD) has determined the rates payable by the landlords concerned on the basis of the rateable values of such premises as shops. In this connection, will the Government inform this Council:

(1) whether the LandsD and the BD have, since the occupation of the aforesaid buildings, received any applications for converting the carparking spaces concerned into shops; if so, of the number;

(2) whether the LandsD and the BD have, since the occupation of the aforesaid buildings, uncovered the relevant cases of illegal conversion; if so, of the number, as well as the law enforcement actions and follow-up work taken; and

(3) of the reasons why the RVD has determined the rates payable for such premises on the basis of their rateable values as shops?

Reply:

President,

After consulting the Financial Services and the Treasury Bureau, our reply to the various parts of the question raised by Hon Luk is as follows:

(1) and (2) It has been reported by the media in late December 2019 that certain street-level car parking spaces were for unauthorised conversion into shops at the following locations in Kowloon City, including: four ground floor properties of the building at Nos. 49 and 49A Nga Tsin Wai Road, No. 10 Grampian Road and 9 Junction Road (Location 1); four ground floor properties at Camay House at Nos. 4 and 4A Grampian Road and Nos. 3 and 3A Junction Road (Location 2); two ground floor properties at Nos. 6 and 6A Grampian Road (Location 3); two ground floor properties at Nos. 8 and 8A Grampian Road (Location 4) and two ground floor properties at No. 7C Junction Road (Location 5).

In terms of land administration, whether a certain use in a building is

in breach of the land lease depends on the terms and conditions of the relevant lease and the actual circumstances regarding how the land and buildings thereon are being used. If a breach of lease conditions is detected, the Lands Department (LandsD) will take appropriate lease enforcement actions having regard to the actual circumstances of each case and enforcement priorities. Generally speaking, the LandsD will first issue a warning letter to the owner concerned requesting rectification of the lease breach within a specified period. If the owner does not rectify the breach by the deadline, the LandsD may register the warning letter at the Land Registry, commonly known as "imposing an encumbrance". If the seriousness of the breach warrants further action, for instance where the breach poses a serious threat to public safety, the LandsD may consider proceeding with re-entry of the lot or vesting of the relevant interest to the Government.

For the above cases, the relevant lease provides that ground floor of the buildings should be used for car parking with car parking facilities. With regard to the properties at the abovementioned locations, the LandsD did not receive any applications for lease modification or waiver of the relevant lease conditions to permit the car parking area to be used for other purposes. Arising from public complaints and media enquiries, the LandsD conducted site inspections and investigations at the above locations in turn, and found that except part of Location 3, which is vacant at present, properties at other locations are being used for commercial purposes and are in breach of the lease conditions. The LandsD has been issuing warning letters to the owners liable for breach of lease conditions since September 2019 requesting rectification of the lease breach. For cases where the breach has not been rectified by the deadline, the LandsD would continue to register the warning letters at the Land Registry, and reserves the right to further lease enforcement actions.

In so far as the enforcement actions under the Buildings Ordinance (BO) is concerned, the conversion of car parking spaces into commercial use may involve unauthorised building works (UBWs) and/or unauthorised changes in use of buildings. Upon receipt of reports, the BD will conduct inspection and take follow-up or enforcement actions based on the inspection findings. For UBWs, according to the existing enforcement policy, the BD will issue removal orders to owners under section 24 of the BO requiring the removal of UBWs that constitute obvious hazard or imminent danger to life or property, or constitute serious health hazards or serious environmental nuisances. For cases involving unauthorised change in use of buildings, the BD will accord priority to deal with those which pose obvious hazard or imminent danger to life or property, or cause serious health hazards or serious environmental nuisances. For these cases, depending on the circumstances, the BD will issue statutory order in accordance with section 25 of the BO to require the owner or occupier to discontinue such unauthorised use of a building.

According to records, the BD did not receive application from the owners of the properties at the abovementioned locations for converting the uses of the properties as shops. In light of complaints and referrals, the BD paid inspections and found that the car parking spaces at the above addresses were used as shops. These changes in use did not pose obvious hazard or imminent

danger to life or property, or cause serious health hazards or serious environmental nuisances. Having said that, BD found that there were actionable UBWs in some premises that had been converted into commercial use. The BD has issued removal orders to the relevant owners in accordance with the BO and the enforcement policy against UBWs, requiring the removal of the UBWs concerned.

(3) According to the Rating Ordinance (Cap 116), the rateable value of a tenement is assessed on the basis of the actual use and occupation status of the tenement. If the tenement concerned is used as a shop, the Rating and Valuation Department (RVD) will assess the rateable value of the tenement on the basis of a shop. Assessment of the rateable value by the RVD based on the use of a tenement does not mean that the authority concerned confers legal sanction or authorisation for such use, nor does it mean that the Government will stop taking enforcement action against violation of relevant legislations or lease conditions.

[Hong Kong Customs combats unfair trade practices of renovation service](#)

â€‹Hong Kong Customs today (June 24) arrested a renovation contractor suspected of having engaged in a commercial practice involving a misleading omission in the sale of a renovation service, in contravention of the Trade Descriptions Ordinance (TDO).

Customs earlier received information alleging that a renovation contractor was suspected of engaging in a commercial practice involving a misleading omission. Before the commencement of the renovation works, the contractor had received from the customer \$100,000 as the full payment for the renovation works. The contractor then asked for an additional charge of \$80,000 for the same renovation works shortly after the renovation started.

After investigation, Customs officers today arrested a 56-year-old man.

An investigation is ongoing and the arrested man has been released on bail pending further investigation.

Customs reminds traders to comply with the requirements of the TDO and consumers to procure services at reputable shops.

Under the TDO, any trader who engages in a commercial practice that provides material information in a manner that is unclear, unintelligible, ambiguous or untimely and as a result causes, or is likely to cause, an average consumer to make a transactional decision commits an offence. The maximum penalty upon conviction is a fine of \$500,000 and imprisonment for

five years.

Members of the public may report any suspected violations of the TD0 to Customs' 24-hour hotline 2545 6182 or its dedicated crime-reporting email account (crimereport@customs.gov.hk).

LCQ11: Combating smuggling activities

Following is a question by Hon James To Kun-sun and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (June 24):

Question:

It has been reported that as a result of the closure of a number of land boundary control points since the beginning of the year, smuggling syndicates have switched to smuggling goods to the Mainland by sea. Smuggling syndicates first use trucks to transport goods such as frozen meat to the spots along the seaside (such as the New Yau Ma Tei Public Cargo Working Area, Stonecutters Island Public Cargo Working Area and Cheung Sha Wan's Yuen Fat Wharf & Godown), and then transport the goods by barges to the waters to the north of the Hong Kong International Airport (HKIA) for further transport to the Mainland by speedboats. The quantity of contraband smuggled daily exceeds 600 tonnes and the value of such goods is as high as tens of millions dollars. On the other hand, three officers of the Customs and Excise Department (C&ED) died on the night of January 21 this year after falling to the sea while discharging duties at the waters near Sha Chau. In this connection, will the Government inform this Council:

- (1) of the details of the current law enforcement operations conducted by C&ED to combat smuggling activities at (i) the aforesaid seaside spots and (ii) the waters to the north of HKIA, including the manpower, the type and number of vessels used, as well as the time and frequency of patrols;
- (2) whether C&ED will strengthen its manpower and upgrade its equipment in order to reduce the occurrence of accidents to its officers while discharging duties; if so, of the details; if not, the reasons for that;
- (3) of the details of the law enforcement operations conducted in the past six months by C&ED to combat sea smuggling activities, including the number of vessels intercepted and inspected, the respective numbers of persons arrested and prosecuted, as well as the punishments imposed on those convicted; whether it will consider amending the legislation to increase the penalties so as to enhance the deterrent effect; and
- (4) whether it will discuss with the General Administration of Customs of the

People's Republic of China on the strategies for jointly combating sea smuggling activities; if so, of the details?

Reply:

President,

The Customs and Excise Department (C&ED) is the primary enforcement agency responsible for the suppression of smuggling activities in Hong Kong. Common smuggling activities include bringing undeclared dutiable goods (e.g. cigarettes) into Hong Kong, as well as import and export of prohibited/controlled articles (e.g. dangerous drugs, infringing goods, endangered species, firearms, ammunition and weapons, etc.) without licences/certificates required by the law. The enforcement powers for C&ED's officers are vested in various ordinances, primarily the Customs and Excise Service Ordinance (Cap. 342) and the Import and Export Ordinance (Cap. 60).

C&ED has all along been proactively combating various smuggling activities, including those on the sea. The overall smuggling situation in Hong Kong has been under effective control. My reply to the various parts of the question is as follows:

(1) C&ED adopts an intelligence-driven and risk management approach in preventing and combating smuggling activities of various kinds. At present, C&ED's Marine Enforcement Group has an establishment of more than 320 officers who are dedicated to combating sea smuggling. There are more than 20 vessels of different types in C&ED's fleet for carrying out round-the-clock enforcement duties in Hong Kong's waters. Based on risk assessments, C&ED flexibly deploys its fleet and manpower for the rummaging of vessels, cargo examination, coastal patrol and corresponding surveillance operations in different waters. As the relevant operational details concern enforcement deployment, it is inappropriate to disclose them.

(2) C&ED attaches great importance to the safety of its officers in their execution of duties. C&ED maintains close liaison with the Marine Department in respect of law enforcement on the sea, and reviews from time to time the establishment and equipment of its fleet, command facilities and manpower arrangements, etc., with a view to protecting the safety of officers whilst strengthening the effectiveness of law enforcement. For example, the Command Centre at Customs Marine Base, Stonecutters Island, equipped with a new Customs Radar Monitoring System, came into operation in November 2018. It has strengthened the ability of officers to grasp the situation on the sea and make operational planning and deployment, thereby enhancing marine enforcement effectiveness and safety. In addition, C&ED procured four new High Speed Pursuit Craft in 2019 to replace old vessels of the same type. The new vessels, with improvements to speed and maneuverability, are equipped with night vision systems to enhance the safety of C&ED's officers who take part in surveillance and tracking operations at night.

On the other hand, C&ED arranges suitable training and drills for officers deployed for marine operations on a regular basis in order to

enhance the safety factors of sea operations and meet the relevant legal requirements. Such training and drills include personal survival technique courses, drills of personnel overboard, firefighting, etc.

(3) From December 2019 to May this year, C&ED intercepted a total of 1 964 vessels during its marine operations. Among the interceptions, 31 sea smuggling cases were detected, and 147 persons arrested. After investigation, 72 persons had been prosecuted, among whom 48 are pending mention hearing, four are being remanded pending advice from the Department of Justice, and 20 were convicted and sentenced, with imprisonment ranging from two to 14 months. In some of the cases, the goods concerned were confiscated.

Smuggling is a serious offence. Under Section 18 of the Import and Export Ordinance, i.e. offence of importing or exporting unmanifested cargo, which applies to all goods, the maximum penalty for conviction on indictment is a fine of \$2 million and imprisonment for seven years. The maximum penalty for conviction on indictment of the most serious smuggling offence is life imprisonment and an unlimited fine. To enhance the deterrent effect, C&ED will, subject to the circumstances of individual cases, appeal to the court for enhancing the sentence and confiscating crime proceeds of the smuggling offence in accordance with the Organized and Serious Crimes Ordinance (Cap. 455). In handing down the sentence, the court will consider all matters related to the case, including the gravity of the offence, whether the convicted person is a repeated offender, etc.

(4) To effectively combat sea smuggling activities, C&ED has been maintaining close liaison with relevant law enforcement agencies, such as the Hong Kong Marine Police, the Mainland Customs and the China Coast Guard, to enhance intelligence exchange. Joint operations with the Hong Kong Marine Police are carried out as appropriate. C&ED also reviews from time to time, together with the Mainland Customs and relevant agencies, the effectiveness of various enforcement measures to combat smuggling activities between the two places; and will actively explore other viable strategies that can effectively suppress such activities.

[LCQ5: Rent adjustment for public rental housing](#)

Following is a question by the Hon Luk Chung-hung and a reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (June 24):

Question:

Under the prevailing rent adjustment mechanism for public rental housing

(PRH), PRH rent is reviewed once every two years and adjusted according to changes in tenants' household income. It has been reported that the Hong Kong Housing Authority (HA) is currently conducting such a review and, based on the calculation using the data obtained therefrom, PRH rent has to be increased by 9 per cent this year. There are comments that as the review takes into account the income data up to the end of last year only, the review outcome cannot reflect the situation that tenants' income has dwindled due to the economic downturn in recent months. In this connection, will the Government inform this Council:

(1) whether it has assessed the impacts on the tenants and the consumption sentiments in society which will be brought about by the HA's increasing PRH rent pursuant to the mechanism, albeit the economic downturn; if so, of the details; if not, the reasons for that;

(2) whether the HA will consider offsetting the increase in PRH rent for the current year by granting additional rent waiver, so as to alleviate the financial burden on tenants; and

(3) whether the HA will review afresh the PRH rent adjustment mechanism to rectify the deficiency of the mechanism that time-lagged data is used?

Reply:

President,

It has been a long-established policy for the Hong Kong Housing Authority (HA) to set the rent of public rental housing (PRH) at reasonable and affordable levels.

We note that there have been extensive discussions in the community on the PRH rent review this year. We have just issued an information paper to the Legislative Council (LegCo)'s Panel on Housing yesterday on the outcome of the 2020 PRH rent review and will further brief the LegCo's Panel on Housing and listen to Members' views at its meeting on July 6.

The existing PRH rent adjustment mechanism is stipulated under section 16A of the Housing Ordinance which came into effect on January 1, 2008, and the HA shall adjust the PRH rent in strict accordance with the relevant mechanism. According to the above provision, the HA shall conduct a rent review every two years and adjust the PRH rent as soon as practicable. The HA shall adjust the rent based on the change in the income index between the first and second periods covered by the review. The income index is compiled by the Commissioner for Census and Statistics. Depending on the change in the income index between the first and second periods, the rent can be increased or reduced: there is a 10 per cent cap in the case of rent increase, while there is no lower limit in the case of rent reduction.

The current PRH rent adjustment mechanism is the outcome of the HA's extensive discussions and public consultation over five years (from 2001 to 2006), and was established through legislation. The mechanism provides an

objective basis for the HA to determine when PRH rent should be adjusted and by how much, taking into account tenants' affordability. It also helps promote the long-term sustainability of the PRH programme. In fact, owing to the 10 per cent cap on rent increase under the existing rent adjustment mechanism, the cumulative increase in household income of PRH tenants has far exceeded the cumulative increase in PRH rent. The income of PRH tenants has increased by 106.2 per cent over the 12-year period from 2007 to 2019; but the PRH rent has increased by 68.1 per cent cumulatively over the same period. Currently, the ratio of average PRH rent to the average household income of PRH tenants is about 9 per cent.

While the HA must adjust PRH rent in accordance with the said established mechanism, the legislation also allows room for HA to provide rent waiver to PRH tenants when necessary. According to section 17 of the Housing Ordinance, the HA may remit tenants' rent for such period as it thinks fit. In fact, for the PRH rent reviews conducted according to the existing PRH rent adjustment mechanism since 2010, the HA's Subsidised Housing Committee granted one-month rent waiver to PRH tenants in the 2010 and 2012 rent reviews respectively to alleviate tenants' financial burden due to the rent adjustment in view of the prevailing economic environment.

In view of the tough economic environment, the Government has allocated funding to the HA twice to pay rent for lower income PRH tenants for a total of two months. One payment was granted in January 2020 as one of the Financial Secretary's helping measures announced in 2019; and the other payment is to be granted in July 2020 as a relief measure under the 2020-21 Budget. This shows that in addition to the rent waiver provided by the HA under section 17 of the Housing Ordinance, the Government also provides rent assistance to PRH tenants from time to time in view of special social circumstances.

Besides, the HA has further put in place a short-term relief measure in May 2020. Upon receiving applications from tenants who cannot settle their rent payments on time due to financial hardship, the HA will consider withholding the issuance of Notice-to-Quit (NTQ) to such tenants from May to October 2020. The HA has also put in place an established mechanism to provide rent assistance to tenants with temporary financial difficulties.

According to the PRH rent adjustment mechanism, the rent adjustment for the 2020 rent review is +9.66 per cent. The global and local economic environment is worsening and the economic outlook is becoming more uncertain amid the Covid-19 pandemic. Under the current economic situation, we understand that there have been calls for the HA to consider shelving the current rent review, freezing the rent, or providing rent waiver to PRH tenants so as to ease their financial burden.

At the later stage of the PRH rent review, when we were aware of the review outcome which shows that the PRH rent will have to be adjusted upwards according to the mechanism, my team and I have been considering appropriate measures to alleviate the financial burden of the rent adjustment on PRH tenants. Upon repeated deliberations, to strike a balance between the PRH

tenants' affordability and the healthy and sustainable development of the HA's finance, we have decided to recommend the HA's Subsidised Housing Committee to provide a rent waiver of two months, so as to offset the financial burden of rent adjustment on PRH tenants. This arrangement will result in a total deficit of about \$2,500 million for the HA in the current and the next financial years.

President, in view of the impact of the pandemic on the overall socio-economic environment and PRH tenants, the above arrangement is a carefully considered special measure to assist PRH tenants in alleviating their financial difficulties in a timely manner. I will personally invite Subsidised Housing Committee members to actively consider and accept the above arrangement and formulate relevant implementation details.

Thank you, President.

AFCD to highlight varieties at Local Organic Watermelon Festival (with photos)

The Agriculture, Fisheries and Conservation Department (AFCD) today (June 24) introduced three highlighted varieties of organic watermelons for the Local Organic Watermelon Festival.

The three highlighted varieties of watermelons, namely Hami Yellow Flesh, Super Sweet Black Angel 168 and Diana, were introduced from Japan, Australia and Taiwan respectively by the AFCD in recent years as part of the department's promotion of environmentally friendly cultivation practices through organic farming. Being able to adapt well to the local environment and summer climate, while promising good yields of quality fruit of suitable sizes for small to medium-sized families, these varieties have been well received by both farmers and consumers.

Hami Yellow Flesh is oblong in shape and features green skin with stripes and yellowish orange flesh with a sweetness of around 10 degrees Brix (degrees of Brix denote the units for measuring sucrose content in solution). Super Sweet Black Angel 168 is spherical with green striped skin, and its bright crimson-coloured flesh is very juicy with a sweetness of around 12 degrees Brix. Diana is oblong in shape and the intense red flesh encased under its bright yellow striped skin has a sweetness of around 11 degrees Brix. The sweetness of local organic watermelon is usually between 8 and 12 degrees Brix.

The AFCD has been promoting quality crop varieties and providing

technical guidance to organic farmers on growing watermelons and other crops with a view to strengthening the sustainability of local agriculture. In order to help farmers expand their sales network and share their harvests with members of the public, the AFCD has continued to invite all regular local organic farmers' markets to join the Local Organic Watermelon Festival this year. Local organic watermelons as well as other seasonal farm produce will be sold in each farmers' market starting from mid-June. Members of the public are welcome to shop at these markets to support local farming. In addition, members of the public can order from the Vegetable Marketing Organization via the "Local Fresh" mobile application or purchase organic watermelons from certified organic farmers listed in the Hong Kong Organic Resource Centre Certification Limited website (www.hkorc-cert.org/tc/service_list.php?cid=19). Local organic watermelons and other seasonal farm produce are only available for a limited time while stocks last.

For opening dates and times of the organic farmers' markets in late June and July, please see the annex. Please maintain personal and environmental hygiene and social distancing during visits. Visitors should properly dispose of used masks and waste.

For more information about the Local Organic Watermelon Festival, please visit the AFCD website (www.afcd.gov.hk) or Facebook page (www.facebook.com/afcdgovhk/) .

