

**CONTROLLING OFFICER'S REPLY**

**DEVB(PL)315**

**(Question Serial No. 5790)**

Head: (82) Buildings Department  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Buildings and Building Works  
Controlling Officer: Director of Buildings (HUI Siu-wai)  
Director of Bureau: Secretary for Development

Question (Member Question No. 347):

1. Regarding the handling of unauthorised building works (UBWs) cases involving social celebrities' properties, the Buildings Department (BD) has explained to the Office of the Ombudsman the "special procedures" implemented by BD. In this connection, please provide the following information (broken down into five categories, namely (1) the Chief Executive, Secretaries of Bureaux and officials under the accountability system; (2) permanent secretaries and heads of departments; (3) Executive Council members; (4) Legislative Council members; and (5) influential people in the community):
  - i. the numbers of complaint cases received;
  - ii. the numbers of follow-up cases;
  - iii. the numbers of cases with investigations or follow-up actions completed;
  - iv. the numbers of cases confirmed not illegal;
  - v. the numbers of cases confirmed illegal;
  - vi. the numbers of cases with advisory letters issued;
  - vii. the numbers of cases with statutory warning notices issued;
  - viii. the numbers of cases with statutory removal orders issued;
  - ix. the numbers of cases of non-compliance with removal orders for one to three months, four to six months, seven to nine months, ten to twelve months, and twelve months or above after the specified time;
  - x. the numbers of prosecution cases;

- xi. the numbers of conviction cases; and
- xii. the expected completion dates for cases handled in accordance with the “special procedures”.

2. Regarding the Ombudsman’s criticism that BD often delays in handling UBWs cases, has the Department reviewed its staffing provision and related policies and considered increasing its manpower in the coming year to handle the work? If yes, what are the details and estimated additional expenditure? If not, what are the reasons for that?

Asked by: Hon. CHAN Ka-lok, Kenneth

Reply:

(1) In handling unauthorised building works (UBWs), the Buildings Department (BD) has been following the principle of acting in accordance with the law and being impartial to all in taking appropriate actions pursuant to the Buildings Ordinance (BO) and the prevailing enforcement policy. BD will, as a matter of established practice since mid-2011, accord priority to carrying out site inspection for cases reported by members of the public or by the media involving senior Government officials and community celebrities with the objective of ascertaining as soon as possible whether the suspected UBWs exist so as to clear any public concerns (the established practice). After on-site inspection, BD will impartially carry out appropriate enforcement action in accordance with BO and the prevailing enforcement policy against any UBWs found, and will not be particularly stringent or lenient in its enforcement action because the owner is a senior Government official or community celebrity.

Statistics on UBWs cases involving senior Government officials and community celebrities handled by BD in accordance with the established practice as at 15 March 2014 are tabulated below –

Number of Cases	1	2	3	4	5	Total
	CE/Secretaries of Bureaux/ Officials under accountability system	Permanent Secretaries and Heads of Departments	Executive Council members	Legislative Council members	Influential people in the community	
<b>i</b> Reports received	15	2	6	25	1	46 <sup>(1)</sup>
<b>ii</b> Reports handled	15	2	6	25	1	46 <sup>(1)</sup>
<b>iii</b> Cases with investigations completed	15	2	6	25	1	46 <sup>(1)</sup>

Number of Cases		1	2	3	4	5	Total	
		CE/Secretaries of Bureaux/ Officials under accountability system	Permanent Secretaries and Heads of Departments	Executive Council members	Legislative Council members	Influential people in the community		
<b>Breakdown on item i above:-</b>								
iv	Cases where the reported UBWs were not found during BD's inspection	3	1	0	4 <sup>(2)</sup>	0	8	
	Cases where the owner of the property or the director of the company owning the property were subsequently found not to be the senior Government official or community celebrity concerned	3	0	1	12 <sup>(2)</sup>	0	15 <sup>(3)</sup>	
v	Cases where the owner of the property or the director of the company owning the property were confirmed to be the senior Government official or community celebrity concerned and the reported UBWs were ascertained to exist after BD's inspection	9	1	5	11	1	25 <sup>(4)</sup>	
<b>Details on item v above:-</b>								
vi	Cases with advisory letters issued	7	1	4	7	1	20 <sup>(5)</sup>	
vii	Cases with statutory warning notices issued	2	0	0	2	0	4	
viii	Cases with statutory removal orders issued	1	0	2	4	1	8	
ix	Non-compliance since the expiry of statutory removal orders	(1-3 months)	0	0	0	0	0	
		(4-6 months)	0	0	0	0	0	
		(7-9 months)	0	0	0	1 <sup>(6)</sup>	0	1
		(10-12 months)	0	0	0	0	0	0
		(12 months or above)	0	0	1 <sup>(7)</sup>	0	1 <sup>(6)</sup>	2
x	Prosecutions	0	0	0	0	0	0	
xi	Convictions	0	0	0	0	0	0	

**Remarks :-**

- (1) *3 community celebrities are/were both Executive Council and Legislative Council members. Hence, the actual no. of cases is 46 (i.e. 49 - 3).*
- (2) *In 2 cases, the owner of the property or the director of the company owning the property was subsequently found not to be the senior Government official or community celebrity concerned and the reported UBWs were not found during BD's inspection.*
- (3) *1 community celebrity is/was both Executive Council and Legislative Council member. Hence, the actual no. of cases is 15 (i.e. 16 - 1).*
- (4) *2 community celebrities are/were both Executive Council and Legislative Council members. Hence, the actual no. of cases is 25 (i.e. 27 - 2).*
- (5) *Under the established procedures, if there are actionable UBWs after inspection, BD will issue an advisory letter to the owner advising him to rectify the irregularities as soon as possible. In a few cases, no advisory letter was issued as, shortly after BD's inspection, the owner had appointed an authorised person to co-ordinate the rectification works. In one case, the subject building was included in a large-scale operation of BD and, in accordance with the established procedures, a statutory order was issued upfront without the issue of an advisory letter.*
- (6) *The relevant owner has made an appeal to the Appeal Tribunal under the Buildings Ordinance and the appeal proceedings are in progress.*
- (7) *Removal works is in progress.*

Among the 25 cases where the owner of the property or the director of the company owning the property was confirmed to be the senior Government official or community celebrity concerned and the reported UBWs were ascertained to exist after BD's inspection (i.e. item v in the table above), in 16 cases the UBWs concerned have been removed, while the remaining nine cases are at various stages of follow-up.

- (2) The Government attaches great importance to building safety in Hong Kong. Based on the premise of effective use of resources, BD will ensure building and public safety by adopting a risk-management principle in setting its enforcement priorities.

BD is committed to implementing a series of improvement measures to enhance efficiency, including adjusting work priorities and streamlining work procedures. In addition, 215 new posts will be created in BD in 2014-15, of which 193 posts, comprising 58 professional staff, 110 technical staff and 25 supporting staff, will be engaged for enhancing the Department's building safety and maintenance enforcement programme, including handling of UBWs cases. Additional resources will also be provided in 2014 for forming dedicated backlog clearance teams in order to clear the outstanding orders in a systematic manner.