

## **LEGCO QUESTION NO. 12 (Written Reply)**

Asked by: Hon Emily LAU

Date of meeting: 18 February 2004

Replied by: Secretary for Housing,  
Planning and Lands

### **Question:**

On 10 December last year, in reply to a supplementary question raised by a Member in respect of my question on the Green Island Cement Company Limited, the Secretary for Housing, Planning and Lands advised that following investigation of the case, The Ombudsman was of the view that the Lands Department ("LD") had made mistakes, and had put forward a series of recommendations for improvement, all of which had been accepted by LD. In this connection, will the Executive Authorities inform this Council of:

- (a) the mistakes made by LD as identified by The Ombudsman, and whether any officials have been held responsible for such mistakes; if so, of the details;
- (b) the recommendations made by The Ombudsman to LD; and
- (c) the details and progress of the implementation of such recommendations by LD?

### **Reply :**

President,

In 2001, the Ombudsman received a complaint from a resident of Laguna Verde in Hung Hom against a number of Government departments. The subject of the complaint was the noise and dust nuisances caused by the operation of a concrete batching plant nearby. The complainant alleged, among other things, that Lands Department (Lands D) failed to take action against the operation of the concrete batching plant. Having

investigated the case, the Ombudsman concluded that the above complaint against Lands D was substantiated.

The specific information requested in the three parts of the question is as follows –

- (a) At the time of the complaint, Lands D had in operation a list of Lease Enforcement Actionable Priorities. The list set out the enforcement priority for breaches mostly related to industrial undertakings in residential or non-industrial buildings. The case in question was not included in the aforementioned list. However, the Ombudsman viewed that this should not preclude Lands D from taking action against cases not included in the list. The Ombudsman viewed that Lands D's lack of action on the breach of lease conditions of the subject case since 1992 would undermine Government's credibility and its future course of action. However, the Ombudsman did not identify any government official to be held responsible for the situation.
- (b) The Ombudsman recommended Lands D to take the following actions:
  - (i) to rectify the breach of lease conditions by the concrete batching plant;
  - (ii) to write to the complainant to explain the action being taken; and
  - (iii) to consider whether there is a need to review its policy on lease enforcement priorities.
- (c) In response to the Ombudsman's three recommendations, Lands D has taken appropriate follow-up actions as follows -
  - (i) Having consulted the Kowloon City District Management Committee and with their support, Lands D decided to take lease enforcement action against the plant in May 2001. As the concrete batching plant had not ceased operation after being warned, Lands D re-entered the lot in June 2002 under the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126).

In September 2002, the plant's operator applied to the court against Lands D's re-entry action, and requested

Government compensation for the loss incurred by the company. Government is contesting the operator's application. The case is pending hearing. According to legal advice, Government cannot physically take possession of the lot in question until the court case has been heard and judgment handed down.

- (ii) District Lands Officer/Kowloon West wrote to the complainant in September 2001 explaining the actions being taken by Government against the concrete batching plant. Since then, the complainant has been kept informed of the progress of the case.
- (iii) Lands Department has completed its review of lease enforcement priorities. A new Priority List and Criteria for Upgrading and Downgrading of Lease Enforcement Cases have been introduced since August 2003.

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