

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

Asked by: Hon Bernard CHAN

Date of meeting: 9 June 2004

Replied by: Secretary for Housing,  
Planning and Lands

### **Question:**

It is reported that the owner of a commercial building in Central is suspected to have breached the lease conditions by allocating for its own use 80% of the parking spaces in the building's public car park while providing only a hundred or so rentable parking spaces for the public. However, it is difficult for the Government to impose a fine on the building owner due to the absence of penalty clauses in the relevant lease. In this connection, will the Government inform this Council:

- (a) of the number of inspections conducted in commercial buildings over the past three years to ensure compliance with lease conditions, and the number of buildings where breaches were identified during those inspections;
- (b) how it investigated and followed up the breaches mentioned in item (a), and whether, as in the case of the above building, the Government is unable to punish the other owners of buildings where breaches were identified; and
- (c) whether it will consider amending the lease conditions of the above building for more effective execution of the relevant conditions?

### **Reply :**

President,

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

- (a) Considering the nature of the problem and resources available, Lands Department (Lands D) only acts on complaints in respect

of breaches of lease conditions in commercial buildings. Over the past three years, 94 complaints were received in respect of breaches of lease conditions in 63 commercial buildings with 252 inspections conducted.

- (b) In the aforesaid cases, upon detection of breaches of lease conditions, Lands D issued verbal or written warnings to the property owners requesting rectification of the irregularities. All breaches were subsequently found rectified.

As regards the commercial building in Central referred to in this question, upon finding the breach of the lease condition in respect of the provision of hourly public parking spaces, Lands D took immediate action to request the owner to rectify the breach. The irregularity was rectified shortly afterwards.

If lease conditions are blatantly breached and not rectified to Government's satisfaction, consideration could be given to re-enter the lot as a remedy.

- (c) Land lease is a form of legal contract. Once the land lease has been executed, without the consent of the contracting parties (i.e. Government and the lessee), Government cannot unilaterally modify the conditions in the lease. The same consideration also applies to the building quoted in this question. As mentioned above, breaches of lease conditions found in the building as quoted or in other commercial buildings have been rectified through the existing lease enforcement arrangements.

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