

Summaries of Direct Investigations Completed

Buildings Department (“BD”)

Case No. OMB/DI/316

“Special Procedures” of BD for Handling Unauthorised Building Works Cases Involving Celebrities

(Investigation declared on 4 November 2013 and completed on 17 January 2014; full report available at www.ombudsman.hk)

Background

Since mid-2011, BD, which is responsible for dealing with unauthorised building works (“UBW”), had been using a set of special procedures for handling UBW cases involving celebrities (“celebrity cases”). Those procedures (“special procedures”) were meant for answering public queries as soon as possible by conducting site inspection and investigation speedily “on the same day of receiving a UBW report”, or “within a few days at the latest”, to ascertain the existence of the alleged UBW items. On completion of its investigation, BD will take further actions in accordance with its general policy and procedures for handling UBW cases, i.e. it will not be particularly stringent or lenient in its actions just because a celebrity is involved.

2. As the public had expressed concern about the Administration’s handling of celebrity cases, The Ombudsman initiated a direct investigation to identify any inadequacies in the “special procedures”.

Our Findings and Comments

Too Slow and Passive in Announcing the New Procedures

3. We considered it justified for BD to adopt the “special procedures” so that it could quickly address queries from the public and the media about celebrity cases. Nevertheless, the “special procedures” are, after all, different from the procedures for handling ordinary UBW cases. The Administration should have promptly apprised the public of the details and rationale after deciding to adopt those procedures. It should not have waited over half a year, and until being asked by the media, before disclosing that a set of “special procedures” was already in place for dealing with celebrity cases. The Administration’s announcement of the “special procedures” was indeed too slow and passive.

Lacking Written Guidelines on the New Procedures

4. By the date we completed this investigation, BD had already implemented the “special procedures” for more than two years and dozens of cases had been handled with those procedures. However, BD had never produced any written guidelines on them. Without such written guidelines, different officers might have different understanding of the work requirements, thereby prone to discrepancies in their ways of handling matters.

Often Delaying Enforcement Actions

5. In most celebrity cases, BD had managed to conduct a site inspection on the same day of receiving a UBW report, or within a few days at the latest, in accordance with the “special procedures”. However, there were often delays in its subsequent enforcement actions. In some cases:

- (1) no advisory letters urging the owners to commence rectification works were issued for more than six months after the UBW items had been confirmed;
- (2) no statutory orders were issued more than one year after the grace period specified in the advisory letters; and
- (3) warning letters preceding prosecutions were only issued to the owners more than six months after the deadlines stated in the statutory orders.

6. The delays observed above were also commonly found in other UBW cases, not just those involving celebrities. Indeed, this has an impact on public safety.

Recommendations

7. The Ombudsman made the following recommendations to BD:

- (1) to take reference from this study and, when implementing new measures in future, announce the details and the reasons as soon as possible;
- (2) to document the “special procedures”, setting out the objective, rationale and working guidelines for staff to follow; and
- (3) to probe into the reasons for frequent delays in handling UBW cases and try to find a solution to the problem.