

Executive Summary

Direct Investigation Operation Report

Combating Unlawful Occupation of Government Land

Introduction

Land resources in Hong Kong are valuable and limited. The Lands Department (“LandsD”), responsible for all land matters in Hong Kong, is empowered under the Land (Miscellaneous Provisions) Ordinance (Cap. 28) (“LMPO”) to take enforcement action against unlawful occupation of government land.

2. We note that in recent years, LandsD has implemented a number of measures to step up its efforts against unlawful occupation of government land and improve enforcement effectiveness. These measures include amending the LMPO to raise penalties, tightening the criteria for regularisation applications, setting up a Special Duties Task Force to tackle large-scale occupation cases, consolidating the enforcement manpower at District Lands Offices (“DLOs”), and adopting new technologies such as drones and personal digital assistants to enhance enforcement efficiency.

3. However, unlawful occupation of government land still occurs from time to time and remains a matter of public concern, with some cases involving persistent and repeated occupation. Previously, we became aware that structures and tents had been erected on the walkway off a pedestrian subway in Tin Shui Wai (“the Site”), together with a large quantity of miscellaneous articles. The area occupied involved unleased government land under LandsD’s purview and a slope maintained by the Highways Department (“HyD”). Apart from unlawful occupation of government land, the occupation obstructed the walkway and posed environmental hygiene and safety risks. Yet no government department took any follow-up action.

4. In light of the above, we examined how LandsD, the Food and Environmental Hygiene Department (“FEHD”) and HyD handled the case, as well as their work, coordination, regulatory measures and overall effectiveness in tackling unlawful occupation of government land and related problems. LandsD, being responsible for managing and regulating unallocated and unleased government land, is the lead department in addressing such cases. Although unlawful occupation of government land does not fall under the jurisdiction of FEHD or HyD, both departments, in accordance

with their statutory functions, will take appropriate action in cases that concurrently involve environmental hygiene or public roads and associated road facilities. Based on our findings, we have the following comments and recommendations on the departments' case handling and enforcement work.

Our Findings and Comments

(I) Addressing Land Occupation Problems More Proactively and Vigorously

5. After inspection, the DLO concerned preliminarily classified the case as “non-priority” and referred it to FEHD for follow-up on problems regarding environmental hygiene and miscellaneous articles, indicating that the two departments had carried out a joint clearance operation in 2022 and could arrange another if necessary. As LandsD is the lead authority in addressing land irregularities, we consider the DLO's response not clear and specific enough. The DLO should take a more proactive role in coordinating with other departments and following up on the case. In particular, when referring the case to FEHD, the DLO should make it clear that FEHD must notify it of any hygiene nuisances subsequently identified at the Site, so that the DLO can consider reprioritising the case and coordinating joint operations.

(II) Strengthening Investigation and Evidence Collection

6. A few days after the DLO posted the statutory notice, our officers inspected the Site and found tents, tarpaulins and electric lamps connected by wires at the end of the walkway, suggesting a possible link between the occupiers and the adjacent car park. The DLO, however, stated that it had not noticed the wires or lamps. Although we are not in a position to question the DLO's observations, we find that it failed to maintain a comprehensive record of the occupation conditions.

7. We consider that once LandsD staff have confirmed that a case involves unlawful occupation, they should immediately collect and preserve essential evidence to ascertain the occupier's identity, regardless of the case priority. Failure to do so may hinder future prosecutions or recovery of demolition costs. LandsD should, therefore, remind DLO staff to remain vigilant during enforcement and document on-site conditions in detail, and strengthen staff training in investigation and evidence collection.

(III) Enhancing Ongoing Monitoring and Timely Adjustment of Case Priorities

8. We note that after determining case priorities, the DLO previously lacked an effective mechanism to regularly monitor changes in land occupation, so as to adjust enforcement priorities in a timely manner. In this case, for example, the DLO received a further complaint in December 2024 and, after inspection, classified the case as “non-priority”. By then, however, the occupied area and the irregularities had already expanded and become more serious. When the DLO received a further complaint in September 2025, it promptly followed up and initiated enforcement action in collaboration with other departments. Yet between February and September 2025 (before the September complaint), it had not adequately monitored changes in the case, such as whether additional structures had been erected or public safety risks had arisen, to assess whether any revision to the enforcement priority was required. In our view, LandsD should explore feasible measures to enhance the follow-up monitoring of such cases.

9. We are aware that LandsD’s land enforcement data system has incorporated data integration and analytical functions, enabling management staff to gain a clearer picture of overall land control work and review enforcement priorities. We expect these improvements to facilitate more flexible allocation of inspection resources, thereby ensuring ongoing case monitoring and timely adjustment of enforcement priorities.

(IV) Making Another Referral If Circumstances Change

10. In certain complaint cases, FEHD frontline staff identified unauthorised structures during site inspections and suggested to their supervisors that the cases be referred to the relevant departments for follow-up, but FEHD ultimately did not proceed with such referrals. FEHD explained that referrals are generally intended to inform LandsD and other departments of the situation so that follow-up action may be taken. Since the DLO was already aware of the occupation problem at the Site prior to FEHD’s inspections, FEHD considered a repeated referral unnecessary. However, we note that several months had elapsed between the time when, according to FEHD, the DLO became aware of the occupation problem and the time of FEHD staff’s inspections, during which FEHD discovered the unauthorised structures and suggested referral.

11. Taking into account FEHD’s explanation and the fact that no serious environmental hygiene issues were identified at the Site after multiple inspections, we find the Department’s decision understandable. That said, referrals serve both to notify

other departments of problems and to keep them apprised of changes over time, allowing them to consider appropriate actions. We believe that if FEHD, in the course of its routine duties, observes changes in the scale of land occupation or environmental hygiene conditions at the site, it should inform the DLO of these developments, which would allow the latter to consider at an early stage whether to raise the enforcement priority.

(V) Enhancing Inter-departmental Collaboration

12. According to FEHD, no environmental hygiene problems or obstructions to cleaning were identified during its inspections at the Site, and therefore no Notice to Remove Obstruction was issued under the Public Health and Municipal Services Ordinance. However, based on the complaint records and our site inspections, items placed at the Site were likely to collect water, which could pose potential hygiene risks. While deferring to FEHD's professional judgement in matters of environmental hygiene, we also acknowledge public concerns about the possible hygiene nuisances arising from the large quantity of items placed there. We recommend that FEHD continue to instruct its staff and contractors to monitor the Site for potential hygiene risks and, depending on the environmental hygiene conditions and whether other departments' responsibilities are involved, consider making timely referrals to relevant departments so that they may decide whether to raise enforcement priority or arrange joint operations.

13. We also notice that during previous inspections and maintenance of the relevant slope, HyD staff and contractors did not report any suspected unlawful occupation at the Site. This indicates that their routine inspections were not sufficiently comprehensive, or that they were not adequately alert to matters falling within other departments' responsibilities.

(VI) Maintaining Proper Work Records

14. Upon reviewing FEHD's follow-up records, we noted that the Department had not properly maintained work records. Given that FEHD always indicates in its responses to complaints that contractors will be instructed to step up inspections and cleaning, the Department bears a responsibility to keep proper records of subsequent actions and outcomes for future verification or follow-up. We deem it essential for FEHD to strengthen supervision and require frontline staff and contractors to maintain appropriate records relating to complaints, so as to ensure transparency and accountability.

(VII) Enhancing Vigilance and Awareness of Responsibilities During Inspections

15. We found that HyD, after its initial inspection, noted that the structures and refuse were outside the slope's wire fencing. However, it overlooked the stone-paved protective surface and the drains beyond the fencing, which also fall under its remit, and the concrete platform and steps built thereon. We consider it unsatisfactory for the Department to have mistakenly concluded that these matters were outside its jurisdiction and referred the case to other departments. In our view, HyD should remind its staff to remain vigilant and pay closer attention to whether the site involves facilities under its remit. If in doubt, HyD should clarify responsibilities at an early stage to enable timely intervention.

(VIII) Inconsistent Standards in Road Facility Inspections and Reporting by Maintenance Contractors

16. While this direct investigation operation focuses on combating unlawful occupation of government land, we also found that HyD's maintenance contractors had inconsistent practices for slope inspections and reporting, which raised doubts about whether the scope of such inspections was systematic and comprehensive. We consider that since HyD has already established specific standards and requirements for routine inspections and basic maintenance of road facilities, it should have required its contractors to follow those standards when inspecting slopes and submitting reports. We believe that with inspections covering the entire slope, contractors would be able to identify at an early stage any unlawful occupation of or damage to HyD's road facilities and, where necessary, refer such cases to relevant departments for follow-up.

Our Recommendations

17. Overall, The Ombudsman has made the following recommendations to LandsD, FEHD and HyD:

LandsD

- (1) continue to properly monitor the Site, and take decisive enforcement action if the problem of unlawful occupation recurs;

- (2) continue to review the effectiveness of the land enforcement data system, which has been in operation since late September 2025, including whether it enables DLO management to monitor and analyse local occupation trends and formulate strategic inspection and enforcement arrangements, and provides reference and training support for frontline staff; where necessary, consider introducing more functions for data integration and analytical applications in a timely manner;
- (3) explore more extensive use of technology, such as drones and robotic dogs, to assist with routine inspections (particularly regular follow-up inspections of cases not categorised as top priority), analysing and comparing changes in occupation status as well as proactively detecting irregularities, thereby enhancing enforcement efficiency;
- (4) for cases not categorised as top priority and where practicable, consider giving prior warning on-site by posting a notice specifying that the site is government land and that LandsD staff are empowered under the LMPO to take enforcement action against those who direct, engage in and carry out the construction of structures and/or unlawful occupation;
- (5) continuously strengthen training for DLO frontline staff in investigation and evidence collection, emphasising the importance of carefully documenting on-site conditions and occupation status during enforcement, to ensure their rigorous and effective performance of duties;
- (6) enhance staff understanding and training on their leading role and responsibilities in tackling land occupation and coordinating inter-departmental operations; in cases involving the mandates of different departments, remind case officers that when making referrals, they must clearly explain how the follow-up outcomes of other departments may affect the DLO's case prioritisation and subsequent enforcement actions, while urging other departments to actively respond and cooperate;
- (7) regularly review elements from past successful cases of prosecuting occupiers and/or recovering demolition costs, including enforcement

details, methods and techniques for identifying occupiers and collecting evidence, and continue to provide staff training to enhance enforcement effectiveness, while further refining the checklist for investigation and evidence collection;

- (8) continue to step up publicity and education to raise public awareness of preventing unlawful occupation of government land and ensure that the public clearly understand the legal liabilities and penalties, including fines and imprisonment, for erecting structures on government land or not complying with orders under the LMPO, and step up publication of convicted cases and penalties to serve as a deterrent;

FEHD

- (9) continue to closely monitor environmental hygiene conditions at the Site and, as circumstances require, step up cleaning and follow-up under the Public Health and Municipal Services Ordinance;
- (10) remind frontline staff and cleaning contractors to report cases, as circumstances require, to their supervisors during site inspections and cleaning work for referral to the relevant departments;
- (11) maintain proper work records;

HyD

- (12) remind staff to, when conducting site inspections in response to complaints, pay closer attention to the condition of road facilities under their maintenance, and carefully assess whether the complaints and related issues fall within their remit;
- (13) remind contractors to, during routine inspections and basic maintenance of slopes under HyD's jurisdiction, inspect slopes and submit reports in strict compliance with contractual requirements, and carefully verify slope boundaries to ensure comprehensive coverage;
- (14) clearly instruct staff and contractors to, during routine maintenance inspections, report any issues requiring follow-up by other government

departments to their supervisors for referral to the relevant departments;
and

All three departments

- (15) share the lessons learned from this case with frontline staff to deepen their understanding of inter-departmental collaboration and how to address cases involving unlawful occupation of government land and related issues, thereby encouraging a “one-government” mindset.

Office of The Ombudsman

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