

MANAGEMENT OF SQUATTER AND LICENSED STRUCTURES

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1. From mid-1940s to late 1970s, mainly due to the influx of Mainland immigrants, thousands of people erected squatter structures on undeveloped and unleased government land or private agricultural land. In 1982, the Housing Department (HD)'s territory-wide survey (the 1982 Squatter Survey) revealed that there were 1,049 squatter areas comprising 578,000 squatter structures in Hong Kong. During the Survey, each surveyed squatter structure (SS structure) was assigned a squatter survey number. In 1984 and 1985, the HD's territory-wide squatter occupancy survey registered the personal particulars of 477,184 persons residing in SS structures. Since April 2006, the Lands Department (Lands D) has taken over the squatter control (SC) responsibilities from the HD. According to the Lands D, mainly due to the Government's clearance operations, the number of squatter areas had decreased to 772 and SS structures to 388,497 as of March 2016.

2. Under the Lands D's SC Policy, new squatter structures and unauthorised extensions of squatter structures are not allowed to be erected on government land or private agricultural land after the 1982 Squatter Survey, and SS structures are allowed to remain in existence on a "temporary" basis, provided that the location, dimensions, building materials and use of each structure are the same as those recorded in the 1982 Squatter Survey, and until they are cleared for development, safety or environmental reasons, or until they are phased out through natural wastage. Repairs of SS structures and rebuilding of domestic SS structures using temporary building materials in the New Territories areas are allowed so long as government approval is first obtained. Unauthorised squatter structures erected or rebuilt after the 1982 Squatter Survey and SS structures not complying with the SC Policy are subject to the Lands D's enforcement actions, such as requiring the occupants to carry out rectification works, cancelling the squatter survey numbers and demolishing the pertinent structures.

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3. Under the Land (Miscellaneous Provisions) Ordinance (Cap. 28 — the Cap. 28 Ordinance), on payment of a prescribed fee, the Lands D may issue a Government Land Licence (GLL) permitting a licensee to erect structures of specified dimensions, for specified purposes and for a specified period of time on a piece of unleased government land. A GLL is not transferable, and the Lands D may cancel a GLL if there is a breach of any licence conditions. Prior to mid-1970s, the Government had issued GLLs for erection of some domestic and non-domestic structures on government land. Since then, the Lands D has not issued new GLLs. As of March 2016, 15,214 GLLs (comprising 10,481 domestic and 4,733 non-domestic GLLs) were in force. The structures covered under GLLs are referred to as licensed structures in this Audit Report. The Audit Commission (Audit) has recently conducted a review to examine the Government's management of squatter and licensed structures (S&L structures).

Monitoring of squatter and licensed structures

4. The seven Squatter Control Offices (SCOs) of the Lands D had a total of 347 staff as of March 2016. They were responsible for monitoring and patrolling squatter structures to ensure their compliance with the SC Policy. The seven SCOs kept information in individual case files on SS structures that did not comply with the SC Policy and the follow-up actions taken, and no centralised database to record the information was readily available for effective monitoring by the Lands D's management. Under a tri-colour system adopted for SCO routine-patrol purposes, squatter areas in the territory were classified into red, yellow and green areas in descending order of vulnerability to new squatting activities. Of the 388,497 SS structures as of March 2016, 4,170 SS structures (1%) were located in red areas under the tri-colour system. As all red patrol areas were located on Hong Kong Island and in Lei Yue Mun, Audit selected the SCO/Hong Kong and Lei Yue Mun (HK&LYM) of the Lands D for carrying out a review of the SCO's SC work (paras. 2.4, 2.6 to 2.8, 2.10 and 2.38).

5. *Non-compliant SS structures not detected.* In December 2016, Audit visited a village located on Hong Kong Island which was classified as a red patrol area, and found that 50 structures might not have complied with the SC Policy. Subsequent to the site visit, the suspected cases were referred to the Lands D for investigations. As of January 2017, the Lands D's investigations revealed that the structures of 5 cases located on private land were not SS structures. For the remaining 45 cases: (a) the SS structures of 19 cases were confirmed to be not complying with the SC Policy. Of the 19 cases, 12 non-compliant cases had been

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noted by the Lands D before Audit's site visit and enforcement actions on these structures were in progress, the other 7 cases were new non-compliant cases; (b) the SS structures of 5 cases did not involve non-compliance with the SC Policy; and (c) investigations of the remaining 21 cases were still ongoing and the Lands D had not confirmed as to whether or not they complied with the SC Policy (para. 2.11).

6. Audit's review of 2 of the 7 new non-compliant cases mentioned in paragraph 5(a) revealed that, in one case, the total area of two SS structures had expanded from 690 square feet (ft²) to 800 ft² (a 16% increase), and the height of the two structures had increased from 11 feet (ft) and 9 ft respectively to 27 ft (on average a 170% increase). In another case, the total area of two SS structures had increased from 230 ft² to 460 ft² (a 100% increase), and the height of the two structures had increased from 5 ft and 6 ft respectively to 12 ft (on average a 118% increase). Additionally, the use of the structures had been changed from storage to domestic, and the building materials had been changed from wood to concrete/wood. Furthermore, Audit's review of 1 of the 12 non-compliant cases of which the Lands D's follow-up actions were in progress as mentioned in paragraph 5(a) revealed that the Lands D's investigation was made in response to a public complaint. In this case, the height of an SS structure had increased from 11 ft to 19 ft (a 73% increase). In all the three cases reviewed by Audit, the SCO's routine patrols had not detected the significant irregularities of the SS structures (para. 2.12).

7. *Non-compliant SS structures mainly identified through complaints or referrals.* From January 2015 to September 2016, SC staff of the seven SCOs had identified 939 confirmed cases of non-compliance with the SC Policy. However, of the seven SCOs, only one (namely SCO/New Territories East (1)) maintained information on the source of identifying non-compliant SS structures, of which 181 (88%) of the 206 cases originated from public complaints or referrals from other government bureaux or departments (B/Ds), and only 25 cases (12%) were detected during SC patrols. Moreover, according to the SCO/HK&LYM's Case Monitoring Report of October 2016, of the 35 cases of non-compliant SS structures with enforcement actions in progress: (a) 28 cases (80%) originated from public complaints (including media enquiries) or B/D referrals; and (b) the remaining 7 cases (20%) were detected during SC patrols (paras. 2.15, 2.16 and 2.18).

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8. Audit examination of 4 of the 28 cases mentioned in paragraph 7(a) revealed that some of the SS structure occupants had claimed hardship in rectifying the non-compliances with the SC Policy, and: (a) as of February 2017, a de-registered SS structure was being re-occupied but, mainly due to unclear responsibilities among different Lands D units, enforcement actions had not been taken on the structure since July 2015; (b) repeated control actions taken on a non-compliant SS structure in 2013 and 2014 had failed to deter the recurrence of unauthorised works and extension of the structure; (c) the height of two SS structures had increased from 11 ft and 7 ft respectively to 18 ft (on average a 100% increase), and despite repeated actions taken from November 2015 to October 2016, the irregularities had not been rectified; and (d) despite the cancellation of squatter survey numbers and issuance of demolition notices in August/September 2016 on three SS structures due to their non-compliance with the SC Policy, demolition works had not commenced as of January 2017 (para. 2.19).

9. ***Ineffective squatter structure monitoring system.*** The Lands D's seven SCOs with 312 operation staff conducted patrols of the squatter areas on a routine basis. Audit selected two patrol teams responsible for patrolling two patrol areas in the SCO/HK&LYM for review. From January 2015 to September 2016 (comprising 432 working days), the two patrol teams had respectively conducted patrols to the two patrol areas on 257 and 208 working days respectively. Audit examination revealed that only 2 of the 465 (257 + 208) daily patrol reports recorded irregularities found during the patrols, and the patrol teams often spent a short time at each of the 49 designated check-points in the two patrol areas. Moreover, the SCOs did not maintain a centralised database to record the time of inspecting each SS structure, the irregularities observed and the follow-up actions taken, and the information was kept in individual case files. Therefore, there is no assurance that SS structures have satisfactorily complied with the SC Policy (paras. 2.20 to 2.28, 2.38 and 2.40).

10. ***Licensed structures not complying with licence conditions.*** The Lands D's 12 District Lands Offices (DLOs) are responsible for monitoring licensed structures to ensure their compliance with the licence conditions. The DLOs kept information in individual case files on licensed structures that did not comply with the licence conditions and the follow-up actions taken. In January 2017, Audit visited 30 licensed structures located on an outlying island and noted that the structures of two cases might not have complied with the licence conditions. Audit examination of their case files revealed that, in one case, despite a warning letter issued in February 2005 to a licensee requiring him to demolish an unauthorised

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rooftop structure constructed on a licensed structure, after 12 years in January 2017, the unauthorised structure had not been demolished. In another case, up to January 2017, despite the death of the licensee of a licensed structure made known to the DLO/Islands in November 2011, and in the absence of an application and approval of a transfer of the GLL concerned, the Lands D had not taken the necessary enforcement actions (paras. 2.46 and 2.47).

11. *Lack of inspection programmes and inspection information on licensed structures.* Pursuant to the Lands D's instructions, each licensed structure should be inspected at least once a year, and the inspection interval may be changed subject to not less than once every three years after considering work priorities. However, the 12 DLOs did not compile inspection programmes for inspecting licensed structures, and they did not maintain a centralised database to record the time of inspecting each licensed structure, the irregularities observed and the follow-up actions taken. Therefore, there is no assurance that licensed structures have satisfactorily complied with the licence conditions (paras. 2.48 and 2.49).

Rates, government rent and licence fees on squatter and licensed structures

12. *Omissions in charging rates and government rent on S&L structures.* Under the Rating Ordinance (Cap. 116), subject to certain exemptions, rates are chargeable on squatter structures erected on private agricultural land and on licensed structures. In addition, under the Government Rent (Assessment and Collection) Ordinance (Cap. 515), subject to certain exemptions, government rent is chargeable on squatter structures erected on private agricultural land. However, Audit noted that the Lands D had not provided the Rating and Valuation Department (RVD) with information on all the 262,128 SS structures erected on private agricultural land and all the licensed structures covered under 15,214 GLLs as of March 2016 for the latter to assess and charge rates and government rent as appropriate (paras. 1.6, 1.14, 3.2 to 3.4 and 3.7).

13. Regarding SS structures erected on private agricultural land, owing to the fact that the RVD's database did not maintain information on the squatter survey numbers of SS structures (which did not normally bear proper addresses for rates and government rent assessment purposes), and that data matching between records of the RVD and the Lands D had not been carried out, there is no assurance that

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rates and government rent have been properly charged on all pertinent SS structures. Regarding licensed structures, Audit noted that, of the total 15,214 GLLs, as of March 2017, the RVD's database only maintained the rates assessment records of structures covered under 6,659 GLLs (44%). Audit's sample-check of licensed structures covered under 30 GLLs (1%) of the 3,326 GLLs under the monitoring of the DLO/Islands revealed that the RVD had not assessed and charged rates on the licensed structures covered under 18 (60%) GLLs. According to the RVD, these 18 cases related to premises located in remote areas involving relatively low rateable values (paras. 3.6, 3.8 and 3.10).

14. ***Lack of review and revision of GLL fees since 1972.*** Audit noted that licence fees for licensed structures had not been revised since the enactment of the Cap. 28 Ordinance in 1972. Audit also noted that the licence fees for licensed structures were very low. For example, the licence fee for a domestic licensed structure located in the New Territories was only \$0.3 per square metre a year (para. 3.19).

Clearance of squatter and licensed structures

15. Occupants of S&L structures affected by the Government's development clearance operations may be re-housed to public rental housing (PRH), subject to meeting certain eligibility criteria. From 2012 to 2016, 5,606 structures had been cleared under the Government's development clearance operations. Among these operations, a works project (Project A) involved clearance of the largest number of 1,669 (30% of 5,606) structures, and \$211 million had been approved for Project A clearance. Audit selected Project A for examination. Under Project A, 147 households were provided with various re-housing arrangements and/or ex-gratia allowances (paras. 4.4, 4.5, 4.7 and 4.8).

16. ***Household not meeting PRH re-housing criteria referred to HD for allocation of PRH flat.*** In one case, Audit noted that, while the household did not meet one of the requirements for re-housing to PRH (namely, residing in an affected structure for two years immediately before the announcement of the clearance under Project A), the Lands D forwarded the case to the HD which eventually allocated a PRH flat to the household (para. 4.10).

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17. *Need to monitor and report progress of upgrading works for public slopes affecting S&L structures.* As of February 2017, of the 1,582 government man-made slopes posing landslide risks to S&L structures, the Civil Engineering and Development Department (CEDD) had not commenced upgrading works for 940 (59%) slopes. Moreover, as of January 2016, while 199 squatter structures were prone to landslide risks posed by natural terrains, the CEDD had not conducted related natural terrain hazard studies to identify required mitigation measures (paras. 4.25 and 4.27).

18. *Need to strengthen actions to upgrade private slopes posing landslide risks to S&L structures.* Under the Buildings Ordinance (Cap. 123), the Buildings Department may issue a Dangerous Hillside Order (DHO) to a private-slope owner requiring him to carry out slope upgrading works within a specified period. However, as of January 2017, 210 DHOs on private slopes posing landslide risks to S&L structures had not been satisfactorily complied with. Of these 210 DHOs, 34 (16%) had been outstanding for 10 to 21 years (paras. 4.28 and 4.30).

Audit recommendations

19. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has recommended that the Government should:**

Monitoring of S&L structures

- (a) **take appropriate enforcement actions on non-compliant SS structures in a timely manner (para. 2.42(a));**
- (b) **take measures to prevent recurrence of delays in taking enforcement actions due to unclear responsibilities among different Lands D units (para. 2.42(c));**
- (c) **based on available staff resources, formulate an inspection programme for every inspection team covering all SS structures within an inspection area over a certain period of time (para. 2.42(g));**

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- (d) **conduct a review of the effectiveness of the systems for monitoring S&L structures and consider implementing improved systems for monitoring these structures (paras. 2.42(j) and 2.54(e));**
- (e) **take effective measures to ensure that licensed structures comply with licence conditions (para. 2.54(a));**

Rates, government rent and licence fees on S&L structures

- (f) **take actions to charge rates and government rent on pertinent S&L structures, and recover rates and government rent on such structures for which charging has been omitted in the past (para. 3.12(b));**
- (g) **expedite actions on conducting a review of the GLL fee levels (para. 3.25(a));**

Clearance of S&L structures

- (h) **take measures to ensure that only eligible households affected by a clearance operation are referred to the HD for PRH re-housing (para. 4.14(a));**
- (i) **monitor and periodically inform the Legislative Council of the progress of implementing upgrading works for government man-made slopes and natural terrains posing landslide risks to S&L structures (para. 4.33); and**
- (j) **strengthen actions on private slopes for which the required upgrading works specified in DHOs have not been satisfactorily carried out over a long period of time (para. 4.34).**

Response from the Government

20. The Government agrees with the audit recommendations.