

Synopsis of Cases under Formal Investigation by The Ombudsman

New cases received in the 3rd quarter 2000

Case 1 : Unauthorised canopy extension at Tui Min Hoi Village, Sai Kung.
OMB 2000/1423 - 1428, 1731 of 31.7.2000

The complainant lodged a complaint to The Ombudsman against the following Government departments –

Lands Department (District Lands Office/Sai Kung),
Housing Department(HD),
Buildings Department,
Highways Department,
Transport Department and
Home Affairs Department (Sai Kung District Office)

for

1. Delay in and not taking proper action against the unauthorized canopy extensions at Tui Min Hoi Village, Sai Kung;
2. delay in and not taking proper action against illegal parking along the public footpath at Tui Min Hoi Village, Sai Kung; and
3. not keeping him informed of the development.

For item 1, the complaint is against the unauthorized extensions of both Squatter Control (SC) surveyed structures (handled by HD) and licensed structures (handled by Lands Department). That being the case, a joint operation conducted by concerned departments initiated by District Lands Officer/Sai Kung (DLO/SK) was deemed necessary as it was primarily land matters and not squatting activities.

Having received the complaint referral from District Office/Sai Kung (DO/SK) on 2 January 1999, HD requested DLO/SK on 19 January 1999 to arrange a joint operation as soon as possible and to keep the complainant informed of the progress. It was understood that, due to strong resistance from the local villagers, DLO/SK required more time to prepare for an

operation. The case was therefore kept under regular review by Squatter Control/Sai Kung Office (SC(SK)) and action would be re-activated as soon as DLO/SK agreed to arrange a joint operation.

In response to a fresh referral from DO/SK in May 2000, HD carried out a demolition operation on 16 June 2000. All the illegal structures and extensions under the purview of HD were demolished except one very substantially built iron-framed canopy which was later cleared by the occupier himself on 28 June 2000. A joint operation initiated by DLO/SK was later carried out on 15 August 2000 to demolish all the unauthorized structures.

For item 2, the allegation is outside the purview of HD.

For item 3, the complaint was first referred to HD and other departments on 2 January 1999. Since Lands Department is the responsible department to handle land matters on developed area, the complaint was brought to the attention of DLO/SK and HD was waiting for instructions for joint operation under Lands Department's auspices. HD has always been ready to deal with those SC surveyed canopies and provide manual labour during joint operation.

A reply, with copy to DLO/SK was sent to the complainant on 19 January 1999 in compliance with HD performance pledge. Complainant was also requested to contact SC(SK) in case he required further information. It was all along presumed that DLO/SK who had been informed in writing on 19 January 1999 would keep the complainant informed of their demolition plan.

SC(SK) has kept close contacts with the complainant to inform him of the actions taken by HD, e.g. letters were written to him on 19 January 1999, 17 June 2000 and 30 June 2000 and three interviews with him were arranged in June 2000.

Reply furnishing information required by The Ombudsman was issued on 22 August 2000. As at the end of September 2000, response from The Ombudsman was still awaited.

Case 2 : Complaint against the HD Management for abuse of power and

misleading staff in the Voluntary Departure Scheme
(5) in OMB 2000/2138

One HD staff lodged a complaint with The Ombudsman against the HD Management for :

(a) distributing what he regarded semi-blackmails to staff in the course of introducing the Voluntary Departure Scheme(VDS) that:

- (i) for those who opted to remain in HD, that they would not have any promotional prospects; and
- (ii) they had to take up unconditionally any additional duties left behind by officers departing under the Voluntary Departure Scheme.

(a) Misleading interested staff to form companies under the Management Buy-out (MBO) option during the MBO briefings and seminars before July 2000 into believing that the Department would not have a quota in outsourcing Estate Management and Maintenance(EMM) service contracts through the MBO Option. The subsequent change in the MBO rules in July 2000 thwarted their plans in securing MBO contracts and led to their financial loss.

The Department had not threatened or blackmailed the remaining staff as alleged, but merely conveyed a sincere message to staff who wished to stay behind that they would have to face less favourable promotion prospects and assume expanded roles as a result of staff departure under the VDS. The Department had never misled the staff as alleged. It had been made explicitly clear from the start that staff can submit proposals to take on EMM related services but no mention had ever been made that automatic approval would be given. Replies furnishing relevant publications and documents required by the Ombudsman were issued on 24 October 2000.