

**CONTROLLING OFFICER'S REPLY**

**FHB(FE)020**

**(Question Serial No. 0152)**

Head: (49) Food and Environmental Hygiene Department

Subhead (No. & title): (-) Not specified

Programme: (2) Environmental Hygiene and Related Services

Controlling Officer: Director of Food and Environmental Hygiene (Ms Irene YOUNG)

Director of Bureau: Secretary for Food and Health

Question:

Section 104A(1)(b) of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) provides that a person must first obtain written permission from the Director of Food and Environmental Hygiene (the Director) before he could display bills and posters on any government land. Section 104C of the Ordinance stipulates that the Authority has the right to remove the bills or posters and may recover the cost of removal from the persons displaying the bills or posters as a civil debt. In May 2021, the Court of Final Appeal in the case of “Chee Fei Ming substituted by Pun Lin Fa v Director of Food and Environmental Hygiene and another” (FAMV 42 & 43/2016) held that the construction of display or affixation of bills or posters under section 104A required bills or posters to be displayed “with a degree of permanence and habitual regularity”, and that the bills or posters did not have to be “attached or adhered” to government land in order to be caught by the statutory scheme. In this connection, please advise this Committee of:

the respective numbers of complaints received, warning letters issued and prosecutions instituted against display of bills or posters on government land without the permission stipulated under section 104A(1)(b) of the Ordinance in the past 5 years;

the number of removal actions taken against bills or posters pursuant to the power conferred under section 104C of the Ordinance as well as the manpower and expenditure involved in the past 5 years;

the number of cases with actions taken to recover removal cost from the persons displaying the bills or posters and the amount successfully recovered in the past 5 years; and

the number and details of the removal actions taken against the bills or posters since the said determination handed down by the Court of Final Appeal as per the table below:

Date	District (by 18 districts)	Participating department(s)	Number of persons involved

Asked by: Hon LEE Tsz-king, Dominic (LegCo internal reference no.: 2)

Reply:

Under section 104A(1) of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance), it is against the law for a person to display or affix a bill or poster on any government land except with the permission of the Authority. The Food and Environmental Hygiene Department (FEHD) may take enforcement actions to remove the publicity materials concerned pursuant to sections 104A(1) and 104D of the Ordinance, and issue fixed penalty notices (FPNs) at \$1,500 to the offenders or prosecute the beneficiaries of the publicity materials pursuant to the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570). The respective numbers of complaints received, warning letters, demand notes for recovery of removal cost, FPNs issued and prosecutions instituted as well as the removal cost recovered in the past 5 years are tabulated as follows:

Year	Number of complaints	Number of warning letters issued	Number of demand notes for recovery of removal cost	Removal cost recovered (\$)	Number of FPNs issued	Number of prosecutions
2017	8 124	169	1 450	470,678	3 169	158
2018	6 024	311	1 409	498,555	3 714	224
2019	10 309	143	1 993	719,946	3 647	279
2020	6 377	37	840	279,706	3 455	83
2021	5 824	57	882	384,265	3 209	29

FEHD does not keep a separate breakdown of the other information sought.

As soon as the Court of Final Appeal had handed down its determination on the said case in May 2021, FEHD conducted joint operations with the Lands Department and the Hong Kong Police Force to remove the publicity materials displayed on government land without permission. Prosecution proceedings were instituted against 8 persons who had allegedly contravened section 104A(1)(b) of the Ordinance. Information on the actions taken is tabulated as follows:

Date	District
27 May 2021	Central & Western, Mong Kok, and North
28 May 2021	Central & Western, Wan Chai, Islands, and Yau Tsim
30 May 2021	Wan Chai
6 June 2021	Yau Tsim

FEHD does not keep the other information sought.

- End -