Executive Summary
Research report on abuse of small house policy by selling Ding Rights

- **The 2015 small house development scam was just a tip of an iceberg:** in December 2015, 11 NT Indigenous Villagers were sent to jail for having deceived the Lands Department in order to obtain approvals to build small houses, while what they only wanted was to sell their "ding" rights to developers who turned them into Spanish villas for profits. One could realise the pervasiveness of similar scams by visiting the many NT villages, although its illegality was repeatedly stated by the government.

- **The abuse must be curbed**: Since 1972, the Small House Policy has caused many problems thanks to the loopholes by which the developers exploit through recruiting villagers who exercise their exclusive "ding" rights. Such practice breaches the original policy intent, not to mention the alleged illegality. However the government appears to be reluctant on reforming the policy.

- **Database on "Ding" house villas**: Government data on the abuse of the policy is incomplete and scattered. The public, although aware of the rampant abuse, cannot state the exact nature and seriousness of the problem due to the absence of relevant data. This would not help realising policy changes. To give a head start, Liber Research Community has completed a comprehensive database on "Ding" house villas, depicting the number of suspected abuse cases. Link to Database: https://goo.gl/6DTvFn (In Chinese only)

- **1 in every 4 small houses abused**: The research team has found at least 9 878 small houses that were built through suspected frontman scheme, through the use of a combination of map tools, paying site visits, analysing judgments of civil court cases, and performing land registry searches. These abuse cases accounts for 23% of all the 42 131 small houses approved since 1972. In other words, 1 in every 4 small houses are suspected to have been built through illegal means. Yuen Long District tops the list with the most number of abuse cases (4 495, 46%), followed by Tai Po District (1 864, 19%) and Northern District (1 205, 12%). All of the concerned small houses span across a land area of 224 hectares.
  [Please refer to the Digest of the facts and figures at the end of this document]

- **General trend**: It is noted that the policy is abused systematically, in several cases the "ding" house villas concerned comprise of 100+ small houses each; in some villages, the "ding" house villas occupy the entire village, wiping out the original rural community.

- **Case studies**: From the database, the research team selected a few abuse cases for in-depth analysis. The following five phenomena were noted:
  - *Systematic abuse by developers*: Out of the five largest "Ding" villas, four were developed by notable developers in rural NT, which has proved that the policy is being systematically abused for profit-making;
  - *Lack of deterrence* : The Lands Department has not played its role to effectively scrutinize small house applications to deter abuse, nor the government has followed up on the possible criminal nature revealed in the judgments of numerous civil court cases concerning small house transactions.

- *Abuse is still rampant after the court case:* unfortunately the 2015 court case did not curb the abuse. The research team identified multiple sites undergoing large scale construction of "ding" house villas after the alleged were found guilty.
- *Violating and circumventing existing laws*: some developers have abused the "party wall" arrangement by removing the wall between two adjoining small houses, turning them into a single large house for higher profits, but this may violate the Building Ordinance. Some "ding" house villa development also circumvented the control of Town Planning Ordinance on "flats" as those small houses are exempted from its scrutiny but were turned into flats after they have been built.
- *Spreading of small houses to Country Park enclaves*: the Government has not been screening small house demand forecasts submitted by village heads diligently and allowed the expansion of small house zones in country park enclaves, thereby permitting the abuse.

- **Selling small houses is not a "right":** The research team has traced the evolution of the Small House Policy since its implementation in a bid to study the loophole and how it is being exploited. It is noted that an important eligibility prerequisite was omitted upon policy adoption, making the policy no longer exclusive to "inadequately housed" villagers. This has practically made every indigenous villager, no matter he is adequately housed or not, become eligible for applying for a small house as if it is a right, thus opening it up to exploitation by those who do not need a small house. The government did not clarify the omission and regularized the transfer of small house rights few years later.

- **Insiders interview**: The research team has beefed up the research by interviewing an insider of the small house business and a former Land Executive who was responsible for approving small house applications.

- **Policy recommendations**: The research team makes the following policy recommendations:
  - *Medium-term measures*
    - With reference to a similar measure taken in 1977-1978, suspend all small house applications received from districts/villages where abuse cases have been found and established;
    - Follow up and scrutinize thoroughly the suspected abuse cases of the "ding" house villas recorded in the database,
    - Follow up and scrutinize whether the civil court cases relating to small house development indeed involve deceiving the government to obtain small house grants **[Please see the list of court cases at the end of the document]**.
  - *Short-term measures*
    - Re-introduce the Non-transferrence clause in the oath to be taken during small house application so as to re-criminalize the abuse of the policy;
    - According to original policy intent, conduct need-based assessment on small house applicants. Only those cases that are not adequately housed could be approved;
    - According to original policy intent, conduct financial assessment on application for selling small houses to outsiders. Only those are in dire financial situation could obtain approval for selling their small houses;

- Increase manpower of the Lands Department to scrutinize small house; applications and applications for land lots divisions, the latter being a telltale sign of possible abuse;
- Scrutinize thoroughly the Small House demands forecasts submitted by village heads;
- Require all partitioning requests of small house into flats to pass through the screening of Town Planning Board as required by the Town Planning Ordinance; and;
- Cancel the “party wall” arrangement to curb the violation of Building Ordinance.

Digest of the facts and figures of the Database on "Ding" house villas

Full-database: *https://goo.gl/6DTvFn* ***(In map format, Chinese version only)***

Number of small houses that were built through suspected frontman schemes (as at Dec 2017):

Ranking	Districts (by District Land Offices)	Total no. of small houses approved from 1972- 2017[1] (a)	No. of "Ding" house villas built by suspected frontman schemes (b)	No. of small houses involved (% of total cases) (c)	Abuse percentage by District (d)=(c)/(a)
1	Yuen Long	14 981	356	4 495 (46%)	30%
2	Tai Po	8 492	133	1 864 (19%)	22%
3	Northern	4 925	135	1 205 (12%)	24%
4	Tuen Mun	3 018	105	1,066 (11%)	35%
5	Sai Kung	4 975	90	927 (9%)	19%
6	Sha Tin	2 005	21	217 (2%)	11%
7	Islands	2 858	7	59 (<1%)	2%
8	Tsuen Wan & Kwai Tsing	877	5	45 (<1%)	0.5%
	Total	**42 131**	**852**	**9 878**	**23%**

Top 10 Indigenous villages with the most number of abuse cases:

Ranking	Village names	No. of "Ding" house villas built by suspected frontman schemes	No. of small houses involved
1	Hang Tau (Sheung Shui, Northern District) 坑頭（北區上水鄉）	27	299
2	Sai Tau Wai (in Wang Chau, Yuen Long District) 西頭圍 （元朗區屏山鄉）	10	226

[1] Latest available figure up to September 2017, retrieved from Lands Department through the Code on Access to Information (November 2017)。

3	Tai Po Tau (Tai Wo, Tai Po District) 大埔頭 （大埔鄉）	3	218
4	Shui Chiu San Tsuen (Sap Pat Heung, Yuen Long District) 水蕉新村 （元朗區十八鄉）	7	218
5	Tsing Chuen Wai (near Hung Shui Kiu, in Tuen Mun District) 青磚圍 （屯門鄉）	20	214
6	Tsz Tong Chuen (Kam Tin, Yuen Long District) 祠塘村 （元朗錦田鄉）	11	169
7	Lin Fa Tei (Pat Heung, Yuen Long District) 蓮花地（元朗區八鄉）	17	158
8	Tai Hang (Tai Po District) 泰亨（大埔鄉）	14	156
9	Siu Hang (Tuen Mun District) 小坑村 （屯門鄉）	11	137
10	Lung Yeuk Tau (Fanling, Northern District) 龍躍頭 （北區粉嶺鄉）	16	135

Top 10 “Ding” house villas built by suspected frontman schemes

Ranking	Name of villas	Locations	No. of small houses involved	Area (Hectares)
1	The Wonderland 華樂豪庭	Tai Po Tau (Tai Wo, Tai Po District) 大埔鄉大埔頭村	143	4.6
2	Hillwoods 曉門	Shui Chiu San Tsuen (Sap Pat Heung, Yuen Long District) 元朗十八鄉水蕉新村	139	3.3
3	Kwan Lok Sun Chuen 鈞樂新村	Sai Pin Wai (Sap Pat Heung, Yuen Long District) 元朗十八鄉西邊圍	131	2.4
4	Hilltop Garden 山頂花園	Pun Shan Chau (Tai Po District) 大埔鄉半山洲	98	2.2
5	Ting Fook Villas 定福花園	Sai Tau Wai (Yuen Long District) 元朗屏山鄉西頭圍	98	1.4
6	Prestige 地利黃金閣	Sai Tau Wai (Yuen Long District) 元朗屏山鄉西頭圍	79	1.4
7	Serenity Villa 太湖山莊	Tai Po Tau (Tai Wo, Tai Po District) 大埔鄉大埔頭	68	1.2
8	Kadoorie Villas 加多利園	Sheung Chuk Yuen (San Tin, Yuen Long District) 元朗新田鄉上竹園	64	2.8
9	Chun Wah Villas Phase III 振華花園三期	Ma Tin (Sap Pat Heung, Yuen Long) 元朗十八鄉馬田	62	1.1
10	The Home Resort 巒山壹號	Sha Kong Wai (Ping Shan, Yuen Long) 元朗屏山鄉沙江圍	60	2.2

The 40 civil court cases relating to transfer of "Ding" rights that may involve criminal acts :

	Date	Case no.	Parties	Village concerned
1	24 April 2001	HCMP 7250/1999	BEST SHEEN DEVELOPMENT LTD. v. THE OFFICIAL RECEIVER AND TRUSTEE OF THE PROPERTY OF LAI THOMAS, A BANKRUPT	Tso Wo Hang, Sai Kung
2	22 May 2001	CACV 20/2001	MADAM CHUNG MUI TECK AND OTHERS v. HANG TAK BUDDHIST HALL ASSOCIATION LTD. AND ANOTHER	Hin Tin, Sha Tin
3	17 January 1997	HCA 3979/1994	SUNG WAI KIU AND ANOTHER v. WONG MEI YIN	Yung Shue O, Tseung Kwan O
4	28 September 2009	HCA 1746/2005	TIU SUM FAT AND OTHERS v. SHUN SING DEVELOPMENT LTD AND OTHERS	Tung Tsz, Tai Po
5	5 January 2017	HCA 2741/1998	ARTA PROPERTIES LTD. v. LI FU YAT TSO AND OTHERS	Lin Fa Tei, Yuen Long
6	21 May 2002	HCA 1459/1991	LEE YUN SAU v. D.H. SHUTTLECOCKS LTD.	Cham Chuk Wan, Sai Kung
7	16 January 2017	HCA 104/2017	LEE DAI LOI AND OTHERS VS WAN HOK LIM AND OTHERS	San Tau Kok, Tai Po
8	14 August 2006	HCA 3074/2001	FU KAI WA AND OTHERS v. LUK NGAI LING IRENE	Chai Kek, Tai Po
9	17 November 2004	HCA 193/2002	CHEUNG CHI FAI v. WAN HANG PING	Lam Tsuen Sun Tsuen, Tai Po
10	17 February 2010	HCA 2052/2006	LAU TING TAI v. CHUNG CHUN KWONG AND OTHERS	Unknown
11	21 May 2009	HCA624/2007	TSANG CHUN WAI v. HING LUNG HOLDINGS LIMITED LEE CHEE SING	Lo Tsz Tin, Tai Po
12	8 December 2015	HCA 811/2010	KAN WAI CHUNG AND OTHERS v. HAU WUN FAI AND OTHERS	Unknown

13	14 April 2014	HCA 729/2011	TANG TENG AND OTHERS v. CHEUNG TIN WAH AND ANOTHER	Shui Tsan Tin, Yuen Long
14	3 November 2009	HCA 666/2007	CHAU YAU v. CHAN CALVIN AND ANOTHER	Wong Yi Au, Tai Po
15	22 February 2012	HCA 409/2008	BEST STAR HOLDINGS LTD v. LAM CHUN HING AND OTHERS	Chung Uk Tsuen, Lam Tsuen, Tai Po
16	26 April 2013	HCA 2203/2006	全景投資有限公司 AND OTHERS v. 程練傳 AND OTHERS	Sha Lan, Tai Po
17	16 May 2014	HCA 16693/1999	WAH HING STRATEGY COMPANY LTD v. TANG WAI HUNG	Lin Fa Tei, Yuen Long
18	16 February 2012	HCA 640/2011	LAWIN (H.K.) LTD v. NG YAU FONG YVONNE	Tong Min, Tai Po
19	24 May 2006	HCA1670/2005	COUNTRY RICH DEVELOPMENT LTD v. YAU CHI WING EDGAR	San Uk Ka, Tai Po
20	3 June 2003	HCA 4559/2002	LAU KWOK YIN v. CHEONG TIT PING	Wong Nai Tau, Sha Tin
21	24 December 2004	HCA 1883/2002	POON CHAN LIN v. LAW CHEE KONG AND OTHERS	Hin Keng, Sha Tin
22	25 April 2005	HCA 2251/2002	ROCK VAST INVESTMENTS LTD v. NATURARY H DEVELOPMENT LTD	Mong Tseng Wai, Yuen Long
23	26 September 2014	HCA 265/2012	HO SHUK MING v. FONG KWOK SHAN, CHRISTINE AND OTHERS	Unknown
24	29 September 2017	HCA 568/2007	CHUNG TIN PUI, AS MANAGER OF CHUNG MAN YIU TSO v. LI PAK SAU AND OTHERS	Chai Kek, Tai Po
25	22 May 2006	DCCJ 5617/2005	WONG WAI LUNG AND ANOTHER v. BONFIELD DEVELOPMENT LTD AND ANOTHER	Po Sam Pai, Tai Po

26	16 December 2006	HCA 2500/2013	LI (OR LEI) TING KIT TSO WITH LEE CHO TUNG AND LEE WING CHEONG AS MANAGERS v. CHEUNG TIN WAH AND ANOTHER	Shui Tsan Tin, Yuen Long
27	12 February 2010	HCA1517-1521/2005	SINO FAVOUR DEVELOPMENT LTD AND ANOTHER v. LAU FOOK KEUNG AND OTHERS	Unknown
28	27 March 2015	HCA 1412/2011	YIP WAI HONG v. YIP KAI TONG AND ANOTHER	Hang Tau, Sheung Shui
29	16 February 2016	DCCJ 2780/2014	KUIT SAMUEL Y v. KUIT SHU YIP BERNARD	Sam Chung, Sai Kung
30	13 February 2014	HCMP 7711/1999	THE KWANGTUNG PROVINCIAL BANK v. CHUNG SUN KWAN	Lam Tsuen San Tsuen, Tai Po
31	30 March 2012	CACV 263/2010 & 281/2010	LAU KWAI KIU v. BIAN XINTIAN AND ANOTHER	Lok Lo Ha, Sha Tin
32	26 October 2010	HCA 390/2006	WONG SAI PONG v. WONG KIM POR	Unknown
33	4 March 2005	HCA 1192/1999	WORLDPART INDUSTRIAL LTD v. TSO HO SAN	Unknown
34	8 November 2000	HCMP 5708/1998	NG MAN FAI MICHAEL AND ANOTHER v. WORLDPART INDUSTRIAL LTD. AND ANOTHER	Ping Che
35	20 April 2011	DCCJ 1286/2008	EURO KING DEVELOPMENT LTD v. HO YU KUEN	Yuen Kong, Yuen Long
36	17 April 2007	HCA 7032/1999	CHAU SIU WOON AND ANOTHER v. CHEUNG SHEK KONG AND OTHERS	Unknown
37	21 July 2016	HCMP 26/2015	CHUNG KIN KWONG v. ACCUPOWER LTD	Wang Toi Shan, Yuen Long
38	18 May 2015	HCMP 2990/2014	CHEUNG CHI KUI v. LI SIU KWONG	Tsek Yue Wu, Sai Kung
39	17 July 2003	DCCJ14764/2000	KWOK CHOR SHAN v. EMPIRE PROPERTIES DEVELOPMENT CONSULTANTS LTD	San Tau Kok, Tai Po

40	16 February 2001	HCA 18234/1998	WONG FAI v. RANK CHANCE DEVELOPMENT LTD. AND ANOTHER	Hang Tau, Sheung Shui