

Legislative Council
Panel on Planning, Lands and Works

**Property Acquisition by the
Land Development Corporation and
Land Resumption by the Government**

Introduction

At the Legislative Council Panel meeting held on 6 November 2000, Members requested the Administration to provide a paper comparing –

- (a) the acquisition offers of the Land Development Corporation (LDC);
- (b) the compensation terms payable by the Government under the current land resumption policy; and
- (c) the proposed compensation package to be offered to property owners and tenants affected by land resumption for Urban Renewal Authority (URA) projects.

2. This paper outlines the property acquisition policy of the LDC, the current compensation policy of the Government for resumed land and the options being examined in the Government's review on ex gratia allowances for property owners and tenants affected by land resumption.

Background

3. The land assembly process for LDC projects involves an initial property acquisition stage and, in nearly all cases, a land resumption stage.

4. Under section 15 of the Land Development Corporation Ordinance (Cap. 15), the LDC is required to take all reasonable steps to acquire properties by negotiations with the owners within a project area. The LDC may request the Secretary for Planning and Lands (SPL) to make a recommendation to the Chief Executive in Council to resume under the Lands Resumption Ordinance (Cap. 124) any properties which

the LDC has been unable to acquire. However, SPL shall not make such a recommendation unless he is satisfied that the LDC has taken all reasonable steps to otherwise acquire the properties, including negotiating for the purchase of the properties on terms that are fair and reasonable.

5. The Managing Board of the LDC has to determine an acquisition policy for the purchase of properties for a project or group of projects. The acquisition principles of the LDC broadly follow the compensation arrangements for land resumption by the Government. However, the LDC's acquisition principles are more flexible and are relatively more generous in some aspects.

6. The owners who would not sell their properties to the LDC and whose properties are subsequently resumed would receive the land resumption compensation terms offered by the Government.

7. The Urban Renewal Authority Ordinance (Ord. No. 63 of 2000) was enacted in June 2000 to provide a new legal and institutional framework to expedite urban renewal. Under section 29 of the Ordinance, the URA may request SPL to make a recommendation to the Chief Executive in Council for resumption of land within a project area without going through the initial property acquisition stage. The Administration has made a commitment to review the current ex gratia allowances before bringing the Ordinance into operation. We are currently reviewing the ex gratia allowances for owners and tenants affected by urban renewal projects. It is intended the new ex gratia allowances would also be applicable to all other non URA-related land resumption.

8. The Administration has consulted Legislative Council Members, political parties and interested groups (including property owners and tenants) on the review of ex gratia allowances. Various proposals have been put forward. We are now considering these options.

Comparison

9. A table summarizing LDC's acquisition principles, the existing compensation arrangements for land resumption, and the various options under consideration in the Administration's review on ex gratia allowances is at the Annex. The key issues of the review are outlined below.

Domestic Properties – Home Purchase Allowance

10. An outstanding issue concerning compensation for domestic property owners is the building age of the replacement flat to be used for the calculation of the Home Purchase Allowance (HPA). The current HPA policy, which is based on a replacement flat of a building age of 10 years, was approved by the Finance Committee of the Legislative Council in April 1997. At present, both the Government and the LDC are following this HPA policy. During the resumption of Second Reading debate on the Urban Renewal Authority Bill, the Administration offered to improve the HPA so as to enable owner-occupiers to buy an 8 to 10 years' old replacement flat. However, some Members asked that a different basis be used for calculating the cost of the replacement flat. Various options have been proposed, including –

- (a) an 8 to 10 years' old replacement flat;
- (b) a 7 years' old replacement flat;
- (c) a 5 years' old replacement flat;
- (d) a 1 to 5 years' old replacement flat; or
- (e) a brand new replacement flat.

11. Owners in the urban renewal target areas have requested the Administration to review the number of flats that would be eligible for the HPA. They have also asked the Administration to review the ex gratia allowance for partly self-occupied and partly tenanted flats and the ex gratia allowance for fully tenanted flats. The details of the proposals which have been put forward are set out at the Annex.

Commercial Properties – Ex Gratia Allowance

12. The concerns of owner-occupiers and tenants of commercial properties are mainly related to whether there is adequate compensation to enable them to relocate their business. This payment is apart from the open market value (OMV) of the properties which the owners will receive. Although both owner-occupiers and tenants are legally entitled to claim business loss for disturbance, many of them find it difficult to produce documentary evidence to substantiate such loss. When compared with owner-occupiers and tenants of domestic properties who are entitled to the HPA and rehousing respectively, the amount of ex gratia allowance for owner-occupiers and tenants of commercial properties is relatively modest.

13. The existing ex gratia allowance for commercial properties is based on a formula for calculating the costs of removing a business, including rental cost for the removal period, removal costs, decoration costs, stamp duty, legal fees and estate agent's fees. It has been suggested that the commercial worth of a property could be better represented by means of the rateable value (RV). As an alternative to the formula, the ex gratia allowance for owner-occupiers and tenants of commercial properties could be calculated in terms of a multiplier of RV. The various options which have been put forward for compensating owner-occupiers include –

- (a) OMV plus the existing ex gratia allowance;
- (b) OMV plus 3 times RV; or
- (c) OMV plus 4 times RV.

14. The options put forward for compensating commercial tenants are –

- (a) the existing ex gratia allowance;
- (b) 2 times RV; or
- (c) 3 times RV.

15. It has also been suggested that there may be a case for paying a solatium, in the form of the amount of RV of the properties, to owners of tenanted commercial properties for the loss and distress they may experience because of land resumption.

16. The details of the various options are set out at the Annex.

Proposed Loan Scheme for Affected Business Operators

17. The ex gratia allowances proposed for owner-occupiers and tenants of commercial properties may not fully cover the financing needs of all commercial operators if they wish to continue their business. Under section 12 of the Urban Renewal Authority Ordinance, the URA may consider the needs of displaced business operators when implementing a project, and if necessary, lend money to enable them to operate the business as a going concern. To cater for business operators who require financing to relocate their business, a loan scheme similar to the Special Finance Scheme for Small and Medium Enterprises is proposed for both owner-occupiers and tenants of commercial properties. The details of such a loan scheme would have to be worked out. The Administration will consult the Panel when the details have been drawn up.

Proposed Flat-for-flat Scheme

18. Some Legislative Council Members and flat owners have asked the Administration to consider introducing a flat-for-flat scheme for owner-occupiers of domestic properties. The proposal is that an owner-occupier, who owns only one flat, should be offered the option to exchange the resumed flat for a new flat built to the standard of a Sandwich Class Housing Scheme flat of the Hong Kong Housing Society. This would be in lieu of cash compensation. The Administration is examining this proposal.

Industrial Properties – Ex Gratia Allowance

19. The LDC has not acquired or requested the Government to resume any industrial properties in the past. Furthermore, the need to resume industrial properties is unlikely to arise in the first few years of URA's operation. As the review on the ex gratia allowance for industrial properties involves complex issues, the Administration intends to conduct a comprehensive review on the allowance and to report to the Panel with proposals in due course.

The Way Forward

20. We welcome Members' views on how the ex gratia allowances should be revised. We will fully take into account the views of Members and those of owners and tenants before finalizing our proposals. We aim to make a submission to the Finance Committee early next year.

Planning and Lands Bureau
December 2000

**Comparison between Property Acquisition
by the Land Development Corporation
and Land Resumption by the Government**

I Domestic Properties (Owners)

	LDC's Acquisition Principles	Existing Compensation for Land Resumption	Options
Owner-occupiers	OMV of the property plus an HPA to enable the owner-occupier to purchase a 10 years' old replacement flat ^{Note 1}	OMV of the property plus an HPA to enable the owner-occupier to purchase a 10 years' old replacement flat	<ul style="list-style-type: none"> (a) 8-10 years' old replacement flat (b) 7 years' old replacement flat (c) 5 years' old replacement flat (d) 1-5 years' old replacement flat (e) Brand new replacement flat
Number of flats eligible for full/partial HPA	Number of flats eligible for full/partial HPA capped at two	Number of flats eligible for full/partial HPA capped at two	<ul style="list-style-type: none"> (a) Maximum of 2 flats eligible for full/partial HPA (b) Maximum of 3 flats eligible for full/partial HPA (c) 2 flats eligible for full HPA, all other tenanted flats eligible for 50% HPA (d) All flats eligible for full HPA

	LDC's Acquisition Principles	Existing Compensation for Land Resumption	Options
Owners living in part of the flat and letting out part of it	Full HPA for self-occupied area and 50% HPA for tenanted area	Full HPA for self-occupied area and 50% HPA for tenanted area	<ul style="list-style-type: none"> (a) Full HPA for self-occupied area and an SA at 50% HPA for tenanted area (b) Full HPA for self-occupied area and an SA at 75% HPA for tenanted area (c) Full HPA for both the self-occupied and tenanted area
Fully tenanted flats	50% HPA for first tenanted flat, no HPA for any subsequent tenanted flats	50% HPA for first tenanted flat, no HPA for any subsequent tenanted flats	<ul style="list-style-type: none"> (a) An SA at 50% HPA for the first tenanted flat and no SA for any subsequent tenanted flats (b) An SA at 50% HPA for the first tenanted flat, at 25% HPA for the second tenanted flat and no SA for any subsequent tenanted flats (c) An SA at 100% HPA for the first tenanted flat and no SA for any subsequent tenanted flats (d) An SA at 50% HPA for all tenanted flats

II Domestic Properties (Tenants)

	LDC's Acquisition Principles	Existing Compensation for Land Resumption	Options
Tenants opting for rehousing	Rehousing plus a removal allowance	Tenants are offered rehousing and an ex gratia allowance ^{Note 2}	No change
Tenants opting for cash compensation	The cash compensation is based on the rate of statutory compensation under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) ^{Note 3} , plus an incentive element to encourage tenants to move out early.	N/A	For those who have reasons not to accept rehousing, the URA should offer cash compensation which is no less than the statutory compensation under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) ^{Note 3} .

III Commercial Properties

	LDC's Acquisition Principles	Existing Compensation for Land Resumption	Options
Owner-occupiers	OMV of the commercial property plus 35% of the OMV	OMV of the commercial property plus an ex gratia allowance ^{Note 2}	(a) OMV plus the existing ex gratia allowance (b) OMV plus 3 times RV ^{Note 4} (c) OMV plus 4 times RV
Owners of Tenanted Commercial Properties	OMV plus 20% of the OMV	OMV of the commercial property	(a) OMV of the commercial property (b) OMV plus the amount of RV

	LDC's Acquisition Principles	Existing Compensation for Land Resumption	Options
Tenants	3-5 times Government's ex gratia allowance for commercial properties	Commercial tenants are paid an ex gratia allowance ^{Note 2}	(a) Existing ex gratia allowance (b) 2 times RV (c) 3 times RV

Note 1 LDC has all along followed the Government's HPA policy. For the Tsuen Wan and Kennedy Town projects, LDC offered a 5 years' old replacement flat on an exceptional basis.

Note 2 The ex gratia allowance is calculated based on a formula consisting of the rental cost for the removal period, removal costs, decoration costs, stamp duty, legal fees and estate agent's fees.

Note 3 The following table shows the formula for the calculation of cash compensation as stipulated under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) –

<u>Rateable Value (RV)</u>	<u>Statutory Compensation</u>
\$0-\$30,000	7 times RV
the following \$30,001-\$60,000	5 times RV
the following \$60,001-\$90,000	3 times RV
the following \$90,001 and above	1 times RV

Note 4 The rateable value of a property is the reasonable annual rental value of that property as assessed by the Rating and Valuation Department annually. It is a reliable measure of the commercial worth of a property.

Legend

LDC	:	Land Development Corporation	URA	:	Urban Renewal Authority
OMV	:	Open Market Value	SA	:	Supplementary Allowance
HPA	:	Home Purchase Allowance	RV	:	Rateable Value