

From the Desk
of
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Legislative Council
Finance Committee
Legislative Council Building
6 Jackson Road
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8th March, 2001

RE: Additional Submission on Compensation arrangement for owners affected by land resumption for Urban Renewal Authority projects/ Proposal ex gratia allowances for property owners and tenants affected by the resumption of land.

Dear members,

Our association is a board-based organization which help analyze redevelopment situations in Hong Kong and how it affects owners, tenants, property rights, the society and their respective rights and help to ease problems related to the redevelopment. Besides owners affected by redevelopment in Hong Kong, our association's officers consists of qualified professionals and academics interested in the area of planning and redevelopment in Hong Kong. In April of 2000 we submitted our comments to the Subcommittee on the Urban Redevelopment Bill about the neglect of the Urban Renewal Authority Bill in its form as of the Consultation paper on the URA Bill during the October 1999 printing.

After our earlier written submission on the 28th February and our deputation on March 1 in front of the Panel on Planning, Lands and Works of Legco, we have the following observations and suggestions **to achieve a compromise** between the government and members while **closing many loopholes that exist in the current practice.**

Our further observations:

1. The government supports centralized planning using a 7-year replacement flat as compensation irrespective of whether the specific redevelop project produce any increase in usable floor area or not.
2. The change of compensation policy from using a 3-year replacement to a 10-years old replacement flat has been seen as a failure as measured by the increase dissatisfaction by owners, public opinion and the number of judicial review against the government since the change of the LDC policy using a 10-years-old replacement flat.

3. The inception of the Urban Renewal Authority was announced in the Chief Executive's 1997 annual policy speech. The URA is supposed to have been in operation since 1998 using the compensation package that is being discussed.
4. Owners affected by the unfinished LDC projects are suffering because of the change of compensation policy and the delay operation of the URA. Many of the affected owners have NOT been paid by the government while their properties have been resumed between 1998 and 2001.
5. Association like the Hong Kong Society of Urban Society and Hong Kong Institute of Real Estate Administration acknowledged that, given other factors being equal, an old flat in a low density area should be compensated more than a flat in a high density area. In other words, a flat in a 4-6 stories building should have a higher value than a 12-stories building which the FAR is fully utilized.
6. District Councillors and associations representing owners would like to have a compensation package that uses a 5 years-old replacement flat as compensation for owners affected by the URA.
7. Our association's observation that the government and the LDC's current practice often uses a 'less desirable' area as the comparable than the location of the affected owners. The value of a 5 years-old replacement flat in a 'lesser' area would be less than a 7 years-old replacement flat in the same or better area.
8. The free market often provides a higher value for owner's flat before the LDC and/or the government gets involved.
9. The government or the URA should NOT be viewed as exploiting property owners by providing a lesser value to owners than the free market.
10. The Land Resumption Ordinance is a very intrusive way of taking away of private properties. Article 105, 120, 121 of the Basic Law clearly put protection of private properties as very important. "Real Value" which includes the redevelopment potential, should be compensated to affected owners without undue delay.
11. The spirit of the LDC Ordinance requires the LDC to use ALL reasonable steps to otherwise acquire the properties, including negotiating for the purchase of the properties on terms that are fair and reasonable. The practice by the LDC and the Secretary has been seen as far from using ALL reasonable steps and any negotiation by owners affected.

Our suggestions:

1. The compensation package should use a **5 to 7 years replacement flat** depending whether the affected properties are in a low-density building or a high-density building. When there is an increase in Floor Area Ratio (FAR) between the old building and the planned one, owners should be compensated using a 5-years-old replacement while unprofitable projects or owners in a project which yields no increase in floor area be compensated using a 7-years-old replacement flat.
2. Currently affected owners in the unfinished LDC projects who have not been compensated by the government should be included in the new compensation package.

3. For protection of affected owners and to avoid of high variance of valuations as perceived by owners and URA, the valuation of the replacement flat should be of the **same locality or better**. This will reduce possible disagreement between owners and URA.
4. Once the project is planned, the owners should have a right to decide when to sell their properties to the authority at any time, therefore reducing their uncertainties and damages while waiting for the URA to provide them with a formal offer.
5. There should be a third party organization with power to 'check and balance' the URA during the execution of each and every projects.

It is only with a system that is set up correctly that the system will work. Many owners have been affected by centralized redevelopment projects. It is absolutely possible, and actually inevitable that such a good system will smoothen out of the problems we have already learned from the LDC's problems. It is with that sprit that our association submits the above inputs.

We request to be informed of any hearings or any input sessions with enough time notifications so that our members can be informed and be responsive to the further process.

Thank you for the opportunity in providing the inputs.

Sincerely,
David D L
David Lai
Chair, IOAFT