

立法會
Legislative Council

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by the Administration)

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Legislative Council
Panel on Planning, Lands and Works

Minutes of special meeting
held on Thursday, 6 June 2002 at 10:45 am
in the Chamber of the Legislative Council Building

Members present : Dr Hon TANG Siu-tong, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon LAU Wong-fat, GBS, JP
Hon Abraham SHEK Lai-him, JP

Member attending : Hon Andrew WONG Wang-fat, JP

Members absent : Hon LAU Ping-cheung (Deputy Chairman)
Hon WONG Yung-kan
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP

Public officers attending : **Items I and II**
Mr John C TSANG
Secretary for Planning and Lands

Mr Thomas TSO
Deputy Secretary (Lands and Planning)
Planning and Lands Bureau

Mr Gary Y S YEUNG
Principal Assistant Secretary (Lands)
Planning and Lands Bureau

Mr J S CORRIGALL
Deputy Director (Specialist)
Lands Department

Mr C C LUK
Principal Land Executive (Village Improvement & Lease
Enforcement/Land Control Section)
Lands Department

Attendance by invitation : Heung Yee Kuk New Territories

Mr PANG Hang-yin, JP
Vice-Chairman

Mr KAN Fook-yee
Adviser

Mr YIP Moon-wah
Co-opted Councillor

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Mrs Queenie YU
Senior Assistant Secretary (1)6

Purpose of the special meeting

The Chairman advised that the purpose of the special meeting was for the Panel to discuss with the Administration and Heung Yee Kuk New Territories (HYK) on two issues raised by HYK at the meetings with LegCo Members on 13 February 2001 and 29 January 2002, namely the ex-gratia zonal compensation system (EZCS) for land resumption in the New Territories (NT) and the suspension of the village expansion area projects. He welcomed representatives of the Administration and HYK to the meeting.

Declaration of interest

2. The Chairman declared that he was an Executive Member of HYK.
3. Mr LAU Wong-fat declared that he was the Chairman of HYK.

I. Review of the ex-gratia zonal compensation system for land resumption in the New Territories

(LC Paper No. CB(1)1909/01-02(01) — Paper provided by the Administration

LC Paper No. CB(1)1933/01-02(01) — Submission from Heung Yee Kuk

LC Paper No. CB(1)1909/01-02(02) — Extract from minutes of the meeting held between LegCo Members and Councillors of Heung Yee Kuk on 13 February 2001

LC Paper No. CB(1)1909/01-02(03) — Extract from minutes of the meeting held between LegCo Members and Councillors of Heung Yee Kuk on 29 January 2002)

Presentation of views by HYK

4. Mr YIP Moon-wah, Co-opted Councillor of HYK briefed members that the EZCS, which had been in operation since 1978, was reviewed in 1985. Following the review, the original seven compensation zones were revised to four, as follows:

Zone

A New Town Development Areas, and those areas that are affected by essential projects with territory-wide significance.

Compensation rate

Basic rate plus 20%.

B	Areas which may be brought under urban development in the near future, either by extensions to the adjoining layout areas due to their proximity to such areas or by reason of their known potential for urban development.	75% of basic rate for agricultural land. Valuation plus 75% of basic rate for building land.
C	Areas in which no urban development is planned and which are unlikely to be affected by later extension to layout areas, but where resumptions are required sometimes for purposes directly connected with urban layout development and sometimes for local improvement schemes.	50% of basic rate for agricultural land. Valuation plus 50% of basic rate for building land.
D	Areas not included in other zones.	30% of basic rate for agricultural land. Valuation plus 30% of basic rate for building land.

Mr YIP pointed out that as a result of the Government's capital investments in infrastructural facilities in NT in the past decade and the substantial amendments made to the Town Planning Ordinance in 1990 and 1991, the general planning concept for NT had been changed. The original EZCS, which was based on the location of sites and their potential for development, no longer suited the present day circumstances. HYK considered that a comprehensive review of the EZCS, including the boundary of the four zones and the calculation of the respective compensation rates, should be conducted. To tie in with the development in NT, HKY proposed that the four compensation zones be revised to three zones, as follows:

<u>Zone</u>	<u>Compensation rate</u>
A New Town Development Areas.	120% of basic rate.
B Areas affected by interim development permission areas.	100% of basic rate.
C Other areas.	80% of basic rate.

5. Mr KAN Fook-ye, Adviser of HYK added that HYK considered that there was a pressing need for the Administration to review the definition of Zone B, as more and more areas in NT would be brought under urban development in the near future.

Briefing by the Administration

6. The Secretary for Planning and Lands (SPL) advised that the Planning and Lands Bureau (PLB) had been maintaining close communication with HYK on matters of mutual concern through regular meetings of the SPL — HYK Liaison Committee chaired by him. Three meetings had so far been held in the current year. The issues discussed by the Liaison Committee included the EZCS and the suspension of village expansion area projects. SPL highlighted that the EZCS was introduced in 1978 as a simplified alternative compensation arrangement to the more elaborate statutory compensation claims procedures under the Lands Resumption Ordinance (LRO) (Cap.124). The objective of the system was to provide the affected land owners with an alternative arrangement to settle compensation matters with the Government quickly. As the EZCS had been operating smoothly, the Administration did not see the need to revise at the present stage the current four compensation zones and the compensation rate for each zone. SPL further pointed out that the Government was currently in litigation of two cases on compensation issue under the LRO, which were expected to be heard by the Court of Final Appeal (CFA) in December 2002. Any review of the EZCS before a CFA ruling would be inappropriate.

Discussion

Calculation basis for compensation rates

7. In response to Mr Andrew WONG Wang-fat's enquiry on the calculation basis for the compensation rates of the EZCS, the Deputy Director (Specialist) of Lands Department (DDL(S)) advised that the formula for calculating the basic rate for compensation for resumed land in NT was recommended by the Sir Y K KAN's Report of the Working Group on New Territories Urban Land Acquisition in 1977 and adopted by the Government. The development values for different areas in NT were built in the formula. Mr WONG asked for the calculation basis for the compensation rates for the four zones (i.e. basic rate plus 20%, 75% of the basic rate, etc.). DDL(S) explained that the structure of the compensation rates was graded down from Zone A to Zone D to reflect the relative land values and development potential in the respective zones. For example, the closed area of the border would be classified as Zone D. Mr YIP Moon-wah, Co-opted Councillor of HYK however pointed out that the compensation rates for different areas within the border varied.

8. Mr LAU Wong-fat pointed out that as far as he knew, the compensation rate for Zone A, i.e. the basic rate plus 20%, was calculated on the basis of the development potential of the land in question. As regards the compensation rates for Zone B and Zone C, they were calculated on the basis of the proximity of the sites in question to urban areas. In view of the different interpretations of urban areas and the changing planning concept over the years, HYK considered that the zoning of lands for compensation should be reviewed.

9. Mr James TO Kun-sun enquired about the justifications for the compensation rates for the three zones proposed by HYK. Mr YIP Moon-wah, Co-opted Councillor of HYK said that the proposed rates were merely preliminary suggestions from HYK. The actual rate for each zone should be subject to further discussion with the Administration. HYK's main concern was that it was time for the Administration to conduct a review of the EZCS to ensure that it was a reasonable compensation system which could reflect the changes in development that had taken place over the years in three aspects namely, land premia, planning concept and provision of infrastructural facilities in NT.

10. Mr Abraham SHEK Lai-him enquired about the differences in compensation of land resumption by the Government in NT and urban areas. The Principal Assistant Secretary (Lands) of PLB (PAS/PLB(L)) advised that there was no major difference between the two. LRO had provisions on compensation for land resumed by the Government. To speed up the resumption process, the EZCS was introduced for the resumption of land in NT as a simplified alternative arrangement under which the affected land owners would be offered compensation according to the predetermined zonal rates. As some elements of the development potential of each zone were taken into account in setting the predetermined zonal rates irrespective of the land lease restrictions, the compensation received by the affected land owners under the EZCS was generally more generous than those made under statutory claims based on valuation.

Review of EZCS

11. Mr KAN Fook-ye, Adviser of HYK urged the Administration to review the existing four zones under the EZCS. If the Administration insisted on retaining the existing four zones, it should at least conduct an objective review of the justifications adopted for setting the compensation rates for the four zones. In response, SPL reiterated that the EZCS was only an alternative arrangement to the statutory compensation claim procedures. If the affected land owners did not accept the ex-gratia zonal compensation, they could make a statutory claim in accordance with LRO. Mr YIP Moon-wah, Co-opted Councillor of HYK pointed out that unless the compensation offered under the EZCS was reasonable, the affected land owners would have to make a statutory claim. This would defeat the purpose of introducing the EZCS.

12. Mr LAU Wong-fat considered that as the EZCS had been in operation for more than two decades, it was time for the Administration to conduct a review of the system. The Government should also honour its undertaking made by the former Regional Secretary (New Territories) of the City and New Territories Administration in 1983 to delete section 12(c) of LRO when villagers were persuaded to accept the EZCS. At the request of the Chairman, DDL(S) undertook to check and confirm after the meeting on whether the Government had made such an undertaking.

13. Referring to paragraph 11 of the paper provided by the Administration, SPL added that as the Government was currently in litigation of two cases regarding the interpretation of section 12(c) of LRO, it was inappropriate for the Administration to discuss the provisions and review the EZCS before a CFA ruling was made. Mr Andrew WONG did not consider it justified for the Administration to postpone the review for this reason. Mr James TO however considered that the CFA ruling on the interpretation of section 12(c) of LRO might be of useful reference to the Administration. The Chairman asked whether the Administration would review the EZCS after the litigation of the two cases had been completed. SPL said that it would depend on the CFA ruling. A review would be conducted if the CFA ruled against Government's interpretation of section 12(c).

14. Responding to the Chairman, PAS/PLB(L) advised that the zonal rates were reviewed half-yearly and the zonal boundaries were normally reviewed annually. Noting that there had been cases in which the land on either side of the same road fell within different compensation zones, Mr Abraham SHEK was concerned whether the Administration would consult HYK on the review of the zonal boundaries. In his view, a zonal plan acceptable to both the Government and HYK would benefit the planning for land development in the long run. DDL(S) advised that the Administration would ensure that the areas within a specific zone matched the definition of the zone. DDL(S) said that he had undertaken to review the boundary of the current zonal plan in the relevant working group dealing with land resumption matters. Nevertheless, the review was put on hold as the Government was currently in litigation of the two cases mentioned in paragraph 10 of the paper.

Cost implication

15. Mr Abraham SHEK enquired about the cost implication of HYK's proposed three zones and whether the proposal would speed up the land resumption process for development and achieve savings in the long run. PAS/PLB(L) reiterated that the Administration did not see the need to review the EZCS at the present stage and that if the affected land owners did not accept the compensation offered under the system, they could make a statutory claim in accordance with the provisions of LRO. The Chairman enquired about the statistics on the number of cases that had been referred to the Lands Tribunal in the past three years. DDL(S) undertook to provide the information after the meeting.

(*Post-meeting note:* The information provided by the Administration in response to members' requests stated in paragraphs 12 and 15 above was issued to members vide LC Paper No. CB(1)2575/01-02 on 27 September 2002.)

- II. Issues relating to the suspension of the village expansion area projects**
(LC Paper No. CB(1)1909/01-02(04) — Paper provided by the Administration
LC Paper No. CB(1)1933/01-02(02) — Submission from Heung Yee Kuk
LC Paper No. CB(1)1909/01-02(05) — Extract from minutes of the meeting held between LegCo Members and Councillors of Heung Yee Kuk on 29 January 2002)

Presentation of views by HYK

16. Mr PANG Hang-yin, Vice-Chairman of HYK considered that the long-standing problems relating to the village expansion area (VEA) projects needed to be resolved. According to the Administration, VEA projects had been suspended pending the completion of the review of the Small House Policy (SHP). Under the SHP, male indigenous villagers aged 18 or above descended through the male line from one of the recognized villages in NT might apply building a small house for once in their life time. As the SHP had given rise to a number of problems since its introduction in 1972, HYK considered that the Government did the right thing to initiate the review in 1999. Nevertheless, it was unfair to the villagers as the scope and completion date of the review had not been disclosed by the Administration. Mr PANG pointed out that over 700 applicants were still waiting for the Government to allocate lands for building their houses under a VEA project and a total of 11 VEA projects were put on hold.

17. Mr PANG Hang-yin, Vice-Chairman of HYK further said that according to the information obtained from the Lands Department (LD), land resumption and site formation for a VEA project had been suspended in May 1999 because of the strong objection raised by squatters against the Government's clearance operation at the VEA project site. It had then become a common approach of the Government to withhold the project in question when objection views were received. Mr PANG considered that unless the Government decided to abandon the SHP, it should focus on how the issues relating to the SHP or the VEA Scheme, such as the occupation of VEA project sites by squatters, could be resolved. He pointed out that failure to clear the VEA project sites had given the squatters a false impression that they were allowed to live there on a long-term basis and made it more difficult for the Government to clear the sites. As far as he knew, many squatters had been residing in the sites for decades and did not have to pay rents and rates. HYK urged the Administration and LegCo Members to bring justice to the indigenous villagers concerned.

Briefing by the Administration

18. SPL referred members to the paper provided by the Administration on the background for introducing the VEA Scheme in 1981 and the difficulties encountered by the Government in implementing the Scheme. At the meetings of SPL — HYK Liaison Committee on 3 April and 23 May 2002, representatives of HYK had been informed that the Administration would consider the viability of implementing those VEA projects which were at an advanced stage of planning before the completion of the SHP review. As a final decision had yet to be made, it was not appropriate to disclose which project(s) would be selected for implementation. SPL assured members that HYK would be informed once a decision was made.

19. Referring to paragraph 5 of the submission from HYK to the Panel, SPL clarified that at the SPL — HYK Liaison Committee meeting on 3 April 2002, he had undertaken to consider the merits of those VEA projects which were at an advanced stage of planning to see if there was any scope to continue processing them before the completion of the SHP review. Details of the discussion had been recorded in the minutes of the meeting and were confirmed at the following meeting on 23 May 2002 without amendments. To facilitate members' understanding of the issue, SPL said that he would provide the Panel with a copy of the minutes of the two meetings.

(Post-meeting note: The relevant minutes of the meetings of SPL — HYK Liaison Committee provided by the Administration were circulated to members vide LC Paper No. CB(1)2275/01-02 on 12 July 2002.)

Discussion

Timetable for the review of Small House Policy

20. Ir Dr Raymond HO sought clarification on the timetable for the SHP review. In his view, the Administration should streamline the complicated and time-consuming procedures involved. SPL said that the review was ongoing and covered a number of complex issues. Whilst appreciating the complex issues involved, Ir Dr HO considered it necessary for the Administration to draw up a timetable for the review. The Chairman shared his view.

Outstanding VEA projects

21. Mr PANG Hang-yin, Vice-Chairman of HYK said that of the 11 VEA projects currently suspended for implementation by the Administration, land resumption for at least one project at Pai Tau Village in Shatin had been completed for two years. As such, the project should be given priority for implementation. On the other hand, priority should also be accorded to the VEA projects that had already commenced preparatory work for land resumption. As far as he knew, residents

affected by three to four VEA projects had been notified in writing by the Government on land resumption. The Chairman considered that the villagers involved in these VEA projects would have a reasonable expectation that their projects would be accorded priority for implementation.

22. SPL reiterated that the Administration would consider the merits of individual VEA projects which were at an advanced stage of planning to see if there was any scope to implement them before the completion of the SHP review. Even if the Administration decided that any of the VEA projects should be proceeded, the implementation of the project was subject to the relevant land resumption being approved by the Executive Council and the availability of funding for the project. Responding to the Chairman, SPL said that there were a few VEA projects at an advanced stage of planning but it was inappropriate for the Administration to disclose their location at the present stage.

23. Referring to the submission from HYK, Mr Andrew WONG sought confirmation from the Administration on whether the 4 outstanding VEA projects at Pai Tau, Sheung Wo Che, Ha Mei San Tsuen and Yuen Long Kau Hui were in the advanced stage of land resumption process. SPL considered it inappropriate for him to make any confirmation at the present stage. At the request of members, PAS/PLB(L) undertook to provide an information paper on the progress of land resumption and site formation in respect of the 11 outstanding VEA projects listed in the attachment to the submission from HYK.

(Post-meeting note: An information paper on "Progress of Proposed Village Expansion Area Projects" provided by the Administration was circulated to members vide LC Paper No. CB(1)2520/01-02 on 13 September 2002.)

Right of indigenous villagers

24. Referring to paragraph 8 of the paper provided by the Administration, Mr Andrew WONG considered that the construction of small houses initiated by indigenous villagers should not be confined to "within 300 feet radius of a recognized village, or the extended area of a recognized village" by the Government. In his view, the resumption of private land for public works projects had affected the indigenous villagers' right to build small houses. The Chairman requested the Administration to consider Mr WONG's views.

Admin

Concluding remarks

25. The Chairman requested the Administration to take note of the views of members and HYK expressed at the meeting.

III. Any other business

26. Mr PANG Hang-yin, Vice-Chairman of HYK expressed disappointment at the low turnout of Panel Members at the special meeting. The Chairman and Ir Dr Raymond HO apologized for the situation. They explained that as various committee meetings had been scheduled in June and July for the committees to deal with the unfinished business before the end of the current legislative session in mid-July, Members might have difficulties to attend all the meetings.

27. There being no other business, the meeting ended at 12:45 pm.

Legislative Council Secretariat

21 October 2002