

**LegCo Panel on Planning, Lands and Works
Special meeting on 6 June 2002**

**Ex-gratia Zonal Compensation System for
Land Resumption in the New Territories**

Purpose

This paper sets out the ex-gratia zonal compensation system for land resumption in the New Territories (NT) and the Administration's response to Heung Yee Kuk (HYK)'s request for a review of the system.

Background

2. Government may acquire private land by resumption for public purposes such as public works projects. Resumption proceedings may be instituted under the provisions of the Lands Resumption Ordinance (LRO) (Cap. 124) or other relevant Ordinances, depending on the purposes for which the land is resumed, e.g. land resumed for the construction of railways is carried out under the Railways Ordinance

3. LRO has provisions on compensation for land resumed and procedures for making statutory claims. To speed up the land resumption process, an ex-gratia zonal compensation system for resumption of land in the NT has been in operation since 1978 as a simplified alternative arrangement to the more elaborate statutory compensation claim procedures. The system has been reviewed on a number of occasions, the last time in 1996.

The ex-gratia zonal compensation system

4. Under this system, land in the NT is divided into four zones based on the degree of development of the areas concerned. Different compensation rates are offered for the different zones as shown on the Zonal Plan for Calculation of Compensation Rates. The four zones and

their respective compensation rates are as follows:

Zone	Definition	Compensation
A	New Town Development Areas (namely areas within the New Town boundaries as shown on gazetted outline zoning plans for new towns), and those areas that are affected by essential projects with territory-wide significance.	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 + 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 + 50% of basic rate for building land.
D	Areas not included in other zones.	30% of basic rate for agricultural land. Valuation + 30% of basic rate for building land.

5. The Zonal Plan is available for inspection in the NT District Lands Offices. The zonal rates are revised half-yearly and the zonal boundaries are normally reviewed annually.

6. If owners affected by land resumption do not accept the ex-gratia zonal compensation, they can make a statutory claim in accordance with the provisions of the Ordinance.

HYK's request

7. HYK has requested for a review of the zonal compensation system and suggested changing the present four ex-gratia compensation zones into three, as follows:

- (a) New Town Development Areas with compensation rate calculated at 120% of basic rate;
- (b) Areas Affected by Interim Development Permission Areas with compensation rate calculated at 100% of basic rate; and
- (c) Other Areas with compensation rate calculated at 80% of basic rate.

The Administration's response

8. As explained in paragraph 3 above, the zonal compensation system provides the affected land owners an alternative arrangement to settle compensation matters with Government quickly. It can save the affected land owners the trouble and time of making the statutory compensation claims. Compensation received by the affected land owners under the zonal compensation system is generally more generous than those made under statutory claims based on valuation. The reason is that the use of private land is bound by the conditions of the land lease concerned. In NT, most private land is agricultural land. Therefore the statutory compensation which the affected land owners can receive is the market value of the land for the use as specified in the land lease (i.e. mostly agricultural land).

9. Under the zonal compensation system, some element of the development potential of each zone is taken into account irrespective of the land lease restrictions, generally making the ex-gratia zonal rates more generous than open market value. Statistics show that of the 8,750 agricultural lots resumed since April 1995, only 99 (1.1%) cases have been settled at rates above the zonal rates without referral to Lands Tribunal. A further 135 (1.5%) cases have been referred to the Lands Tribunal.

10. For Members' information, Government is currently in litigation of two cases regarding the interpretation of section 12(c) of the Lands Resumption Ordinance which states -

“(c) no compensation shall be given in respect of any expectancy or probability of the grant or renewal or continuance, by the Government or by any person, of any licence, permission, lease or permit whatsoever:

Provided that this paragraph shall not apply to any case in which the grant or renewal or continuance of any licence, permission, lease or permit could have been enforced as of right if the land in question had not been resumed.”

11. The litigation relates to claims to the Lands Tribunal arguing for compensation to include “hope value”. The cases are expected to be heard by the Court of Final Appeal (CFA) in December 2002. Any review of the system before a CFA ruling would be inappropriate.

Planning and Lands Bureau
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