

LegCo Panel on Planning, Lands and Works

Information requested by Members at the special meeting held on 6 June 2002

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

(A) Statistics on cases which had been referred to the Lands Tribunal in the past three years

In the past three years, 23 agricultural land compensation cases in the New Territories had been referred to the Lands Tribunal.

(B) Confirmation on whether the former Regional Secretary (New Territories) of the City and New Territories Administration had agreed in the 1980s to delete section 12(c) of the Lands Resumption Ordinance (Cap. 124)

The former Regional Secretary (RS(NT)) wrote to the Heung Yee Kuk (HYK) on 14 June 1983 regarding the preparation of amendments to the Crown Lands Resumption Ordinance (Cap. 124), subject to the approval of the Executive Council. A copy of the letter together with the draft paper prepared by the then City and New Territories Administration is at Annex A. The minutes of meeting on 20 June 1983 relating to the discussion of the paper is at Annex B. It can be seen from the documents that at that time, RS(NT) proposed to HYK that:

- (a) section 12(c) of Cap. 124 be deleted;
- (b) a statutory system of compensation on a willing buyer/willing seller basis be introduced; and
- (c) the ex-gratia compensation system be deleted at the same time.

The deletion of section 12(c) was conditional upon the agreement to proceed with the other two proposals at (b) and (c) above. However, HYK subsequently did not agree with proposal at (c) above. As both sides insisted on their position, agreement had not been reached. The Administration decided not to pursue the above proposals further.

Chinese Letter

Ref. CNTEA/L/CON/24/1 VIII

Letter to : Chairman & Vice-Chairmen
N.T. Heung Yee Kuk
47 Cumberland Road
Kowloon Tong

Date : 14th June, 1983

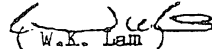
Dear Sirs,

Crown Land Resumption Ordinance

Following ExCo's decision on land exchange entitlements, an assurance has been given to you (Reference : my letter to you dated 9.2.83 on land exchange entitlement) that the preparation of such amendments to the Crown Lands Resumption Ordinance as are necessary to permit compensation to be assessed under the Ordinance on the basis of what a willing buyer would pay to a willing seller in the open market, would be put in hand with a view to the earliest possible submission to ExCo for consideration and, if approved, subsequent introduction into the LegCo. Since then, a number of meetings have been held within Government to consider how such amendments could be made. The attached paper sets out the results of these meetings.

It is the Administration's wish to seek your advice on the attached paper before proceeding further. I propose that the paper should be discussed on Monday, 20.6.83 immediately after the meeting of the Working Party on Small House Policy.

Yours faithfully,


(W.K. Lam)

for Regional Secretary, New Territories

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WKL:11

收回官地條例

簡介

當局就換地權益作出決定後，鄉議局曾獲保公
當局將着手修訂收回官地條例，以便可以根據公
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其後政府內部曾舉行多次會議，考慮如何修訂
，本文件所載者為此等會議之結果。

繼續推行特惠補償制度

特惠補償制度及以買賣雙方願意接受之價格為
基礎之法定補償制度，倘同時推行，將有所困難，
土地市場因素，發展區內絕大多數之土地交易
，情形尤其如此。

施行換地權益制度，特利益補償收回
土地之價格及價值，故有強力之理由
，特利益補償收回
土地之價格及價值，故有強力之理由
，特利益補償收回

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 似事通制
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 論大之此
 之在於因
 制度，給
 金制，為
 現前價者
 惠自估判
 特根據行
 成根進處
 贊(甲)免
 (乙)目
 之釋

後糾
 或日
 點率
 地價
 在補
 所之
 其等
 論同
 不得
 對會
 將度
 權制
 業補
 途定
 用法

徵求鄉議局之意見

公之銀
 作基礎
 土地法
 收回辦
 回格價
 在收補
 府同現
 政方惠
 便雙方
 買之
 例賣前
 條以目
 地行消
 定實取
 收回而
 收可以
 訂時，
 修訂，
 若用途
 共用法
 議局意
 下如何。

Annex B

Brief notes of a meeting held at
11.40 am on 20.6.83 at CNTA HQ on
Crown Lands Resumption Ordinance

Present

Mr. I.F.C. Macpherson	RSNT (Chairman)
Mr. J.R. Todd	D of L
Mr. H.H.T. Barma	DRSNT
Mr. LAU Wong-fat, MBE, JP	Chairman, NTHYK
Mr. LIU Ching-leung	Vice-Chairman, NTHYK
Mr. TSANG Lin	Vice-Chairman, NTHYK
Mr. CHAN Yat-san, MBE, JP	NTHYK
Mr. Stephen Wong, MBE, JP	NTHYK
Mr. TANG Chi-leung	NTHYK
Mr. J.K. Wilson	DOYL
Mr. W.K. Lam	PASNT
Mr. Eddie Leung	SLO/HQ
Mr. Stanley Wong	AS(G)NT (Secretary)

In Attendance

Mr. C.M. Mo	GLA/Lands Dept.
Mr. K.Y. Tang	CLE/Lands Dept.
Mr. F.Y. Kan	NTHYK
Mr. Cherk Hor-dong	NTHYK

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Mr. Todd recapitulated the main points of the discussion paper circulated before the meeting. Upon repeal of S.12(c) of the Ordinance, it was Government's intention to introduce a statutory system of compensation on a willing buyer/willing seller basis. It would be difficult to maintain this system alongside with the existing ex-gratia system because the latter would tend to set the base price of land, especially in areas within layouts where almost all land transactions were Government resumption. The original purpose of the Letter B system was to allow land owners to share in the potential development value of their land. As the proposed statutory system would also take full account of hope value, there did not seem to be a need for an ex-gratia system. However, before a decision was made, Government would like to consult the Kuk first.

2. In response to a comment by Mr. CHAN Yat-san that if the profit-earning potential of a shop could be taken into account by the statutory system there would be no need for an ex-gratia system, Mr. Todd said that this element was already covered by provisions under the existing system. Furthermore, amendments would soon be made to allow compensation for disturbance and professional fees incurred, in accordance with ExCo's decision that no one should lose out as a result of land resumption.

3. Mr. Todd added that the disadvantage to Government was that the new system would require individual valuation taking up more staff-time. Land owners might also be affected as payment might be delayed as a result of referring cases to the Lands Tribunal for settlement.

4. Mr. F.Y. Kan commented that Government's move to allow hope value to be accounted was in the right direction. However, he was concerned that the new system might not be able to reflect the potential building value of agricultural land. If agricultural land were to be valued by the Lands Tribunal on its agricultural potential only, which would be likely if the ex-gratia system was to be abolished thus cutting the final link between agricultural value and hope value, then the statutory compensation awarded would be minimal. What the Kuk wanted was a new compensation system which could reveal in full the potential building value of agricultural land.

5. Mr. Todd remarked that the Lands Tribunal would always base its decision on the value of the land as if it was sold in the open market. He concluded by putting the following options to the Kuk :-

- (a) maintaining the existing ex-gratia system;
- (b) replacing the existing ex-gratia system with a statutory system; and

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(c) introducing a dual system (i.e. ex-gratia system plus statutory system) which would only apply to owners of Old Scheduled Lots, as long as the landowners demonstrated a continuing demand for the ex-gratia system. In all other cases, only the statutory system would apply.

6. The Kuk agreed to consider the proposals and let the Administration know their views in due course.

7. Meeting adjourned at 12.10 pm.