

Panel on Development

Land (Compulsory Sale for Redevelopment) Ordinance Information Note

Development Panel paper no. CB(1)605/07-08(03) contained the Government's proposal to invoke relevant sections in the Land (Compulsory Sale for Redevelopment) Ordinance (LCSRO) to make subsidiary legislation to specify a percentage lower than 90% but not less than 80% of the total undivided shares of a lot for classes of lots as an application threshold for compulsory land sale. Taking into account views expressed during a public consultation exercise, the two classes of lots we intend to designate for an application threshold of not less than 80% of the total undivided shares of a lot are –

- (a) a lot with “all units but one” acquired; or
- (b) a lot with all buildings aged 40 or above.

2. To facilitate Members to better understand the operation of the LCSRO, we have prepared the note at Annex, highlighting the key points of operation of the LCSRO based on the provisions of the Ordinance.

3. Since the LCSRO came into operation in June 1999, a total of 47 applications were received by the Lands Tribunal as at end-December 2007. Among which, ten applications were granted; one application was rejected; 19 applications were suspended or withdrawn for various reasons; and 17 applications were being processed.

Development Bureau
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Land (Compulsory Sale for Redevelopment) Ordinance

Based on the provisions of the Land (Compulsory Sale for Redevelopment) Ordinance (LCSRO), the following highlights the key points of operation of the Ordinance. The numbers in square brackets denote the section number of the Ordinance.

1. Application to Lands Tribunal

1.1 Majority owner(s)-

- (a) own not less than 90% of undivided shares in a lot (for the calculation of the percentage of undivided shares of an owner, any undivided shares in respect of common parts of the lot will be excluded); or [s3(1) & s3(7)(a)]
- (b) own an average of not less than 90% of undivided shares in two or more lots connected by a staircase for common use by the occupiers [s3(2)(b)].

1.2 Majority owners to- [s3(3)]

- (a) serve a copy of the application on each minority owner [s3(3)(a)];
- (b) register a copy under the Land Registration Ordinance (LRO) [s3(3)(b)];
- (c) post a notice in Chinese and English on a conspicuous part of the building/lot [s3(3)(c)(i)];
- (d) advertise a notice in one Chinese and one English newspaper [s3(3)(c)(ii)]; and
- (e) serve a copy on any minority owners who cannot be found in a manner specified by Lands Tribunal within a specified time [s3(4)].

1.3 Applications to be accompanied by a valuation report which should be [s3(1)(a)]

- (a) prepared not earlier than 3 months of the application submission [Schedule 1]
- (b) setting out assessed market value of each property on the lot- [Schedule 1]
 - (i) on a vacant possession basis;
 - (ii) as if the lot cannot be made the subject of an application for an order for sale; and
 - (iii) not to take into account the redevelopment potential of the property or the lot.

2. Determination of Application

2.1 Lands Tribunal to -

- (a) hear and determine a minority owner's dispute over the value of any property as assessed in the application. [s4(1)(a)(i)]
- (b) ensure absentee minority owners' property as assessed in the application is fair and reasonable (and when compared with the value of the majority owners' property). [s4(1)(a)(ii)]

2.2 Lands Tribunal shall not make an order unless, after hearing the objections of the minority owners concerned, it is satisfied that – [s4(2)]

- (a) redevelopment of the lot is justified (whether or not the majority owner proposes to or is capable of undertaking the redevelopment)- [s4(2)]
 - (i) due to the age or state of repair of the existing development on the lot; or
 - (ii) on one or more grounds, if any, specified in regulations [s4(2)(a)];
- (b) the majority owner has taken reasonable steps to acquire undivided shares on terms that are fair and reasonable [s4(2)(b)].

2.3 Lands Tribunal to appoint in the order a sale trustee and specify the remuneration for the trustees' services (to be paid by the majority owner). [s4(1)(c) & s4(11)]

3. Publication of the Order Granted

3.1 Majority owners to- [s4(4)]

- (a) serve a copy of the order on each minority owner[s4(4)(a)];
- (b) serve a copy on Director of Lands[s4(4)(b)];
- (c) advertise a notice in 1 Chinese and 1 English newspaper [s4(4)(c)];
and
- (d) serve a copy on any minority owners who cannot be found in a manner specified by Lands Tribunal within a specified time [s4(5)].

3.2 Trustees to cause a copy of the order of sale and Schedule 3 (redevelopment to be completed within 6 years or any further period as approved by Lands Tribunal) to be registered under the LRO. [s7(1) & Schedule 3]

4. Selling of Lots

- 4.1 By auction (to the highest bidder) or other form as unanimously agreed by all owners (the whereabouts of each minority owner are known) and approved by the Lands Tribunal. [s5(1)(a)&(b) & s5(5)(a)]
- 4.2 If the lot is not sold within 3 months immediately following the date on which the order is made or within such further period of 3 months as the Lands Tribunal may specify on application, the order shall be deemed to be of no effect. [s5(4)]
- 4.3 Conditions in accordance with which a lot shall be sold by auction [Schedule 2]-
- (a) an advertisement to be published in not less than 1 Chinese and 1 English newspaper for not less than once in each of the 3 weeks immediately preceding the date on which the auction is to be held, stating, among others, the date, time and place of the auction.
 - (b) the lot shall be sold subject to a reserve price which takes into account the redevelopment potential of the lot on its own (or where 2 or more lots are the subject of the auction, on their own) AND approved by the Lands Tribunal.
- 4.4 Conditions to which the purchaser and his successors are subject [Schedule 3] -
- (a) there shall be redevelopment of the lots and the redevelopment shall be completed and made fit for occupation within six years after the purchaser becomes the owner;
 - (b) such further period, if any, the Lands Tribunal may allow on application.
- 4.5 Majority and minority owners may assign their rights before there is a purchaser [s7(5)(a)]
- 4.6 An order of sale may be deemed to be of no effect before there is a purchaser if all the owners agree that they do not want the lot to be sold [s5(2)].
- 4.7 Where there is a purchaser, the sales proceeds as well as the expenses of the auction (or other means of sale) shall be apportioned among all owners on a pro-rata basis (according to the value assessed in the valuation report attached to the application or any subsequent amendments to the assessments as approved by the Lands Tribunal). Where there is no purchaser, the majority owner shall bear the expenses of the auction [s10(1)(a)&(b) and Part 3 of Schedule 1].

5. Compensation to Tenants

- 5.1 The Lands Tribunal shall not take into account any provision of the Landlord and Tenant (Consolidation) Ordinance (LTO) relating to the right of a tenant whose tenancy is terminated or is sought to be terminated in determining an application for an order of sale [s4(3)].
- 5.2 The Lands Tribunal may order that compensation be paid to a tenant for termination of tenancy [s4(6)].
- 5.3 The Lands Tribunal may take into account the following in determining the compensation -
 - (a) by reference to any of the provisions of the LTO, and whether with or without modifications [s8(3)(b)];
 - (b) the tenants' representations [s8(4)(a)];
 - (c) the benefits afforded to the tenant (i.e. only required to deliver vacant possession six months after the purchaser becomes the owner of the lot (mense profit)) [s8(1)(b)(ii) & s8(4)(b)].
- 5.4 No compensation payable to the tenant in relation to any lease entered into on or after the date on which the order for sale of the lot concerned was made [s8(5)].
- 5.5 Lease covers both oral or written agreement [s8(6)].
- 5.6 Upon the purchase of the lot, each ex-owner will be responsible for paying the compensation to their own "ex-tenants" occupying the lot [s8(3)]. The trustee will deduct the compensation amount specified by the Lands Tribunal from the sales proceeds before releasing the residual to the owners [s11(2)(c)]. The trustee shall not pay more than half of the compensation to the tenant before the tenant has delivered vacant possession [s11(4)].
- 5.7 Notwithstanding the terms of any lease or provisions of LTO, the Lands Tribunal may specify in directions -
 - (a) termination of tenancies immediately upon the purchaser becomes the owner [s8(1)(b)(i)]; and
 - (b) tenant to deliver vacant possession upon expiry of 6 months immediately following the day the purchaser becomes the owner [s8(1)(b)(ii)].

5.8 The purchaser of the lot shall, not later than 14 days after the day he became the owner of the lot, cause a notice, as specified in Schedule 4 and in Chinese and English, to be served on the tenant by leaving the notice with an adult occupier [s8(2)].

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