



致全體立法會發展事務委員會各委員及全體議員：

七月十六日立法會發展事務委員會召開公聽會，以了解市民及團體意見。其中有市民及團體提及本集團於「希雲街 32-50 號」之收購項目，並作出一些與事實不符之言論，本司現作出澄清：

- 希雲街為 32-50 號包括五幢八層高舊樓，每幢十六個單位。冼浩然先生及其家族成員在希雲街原擁有兩個地下單位及一個住宅單位，分別位於整個重建項目中央位置之兩幢舊樓內(即 42 號之地下及二樓單位及 44 號之地下單位)。兩個地下單位經營食油及醬油工場、倉儲及門市，其中除帶來氣味及衛生問題，食油更為易燃物，在住宅樓下作工場及倉儲，實在為居民帶來火警威嚇。因污染、消防及衛生問題，曾有多次被附近居民多次向消防署及環保署投訴 (有關投訴可向消防署及環保署查詢)。

- 44 號地下單位已經由土地審裁處引用 545 條例拍賣，該業主所得約為 850 萬元。現列出希雲街其他單位過去買賣價如下，以作比較：

買賣日期	地址	成交價 HK\$)
2007.04.26	32 號地下	7,990,000
2007.04.26	46 號地下	7,990,000
2007.04.10	40 號地下	7,990,000
2006.09.18	36 號地下	4,780,000
2006.08.10	38 號地下	3,600,000

上述第一至三項為我司之收購價，比 2006 年的買賣價已高出約一倍。而 44 號地下之拍賣價所得，更比其他成交價高。由此可見拍賣並沒有另冼先生賤賣資產。

- 土地審裁處判 44 號地下原業主要負擔大部份頌費，實因該方在審判過程中作太多無理糾纏並嚴重浪費雙方以至法庭人力、物力及時間。(現呈上該法庭判詞，以資証明，請參閱第 108-110 段。)
- 希雲街 50 號地下兩位共權業主之其中一位是死於癌病(83 歲)，並非如冼先生所說為我司收購所氣死。
- 作為整個項目 80 個單位之最後兩個單位(即 42 號之地下及二樓單位)，冼先生不賣並曾表示如要賣，最少要也索價 9 位數字(即過億港元)，以至這個將會改善希雲街衛生環境之重建項目陷於停頓，實在另本司感到遺憾。



本司從事市區重建工作數十年，與無數業主協商收購，多次收樓均受到大部份業主歡迎，有感其中小部份業主當初以總總借口不賣，原來最終只是爲了要索取比別人取得更高售價(失蹤業主除外)；甚至有人一心要成爲最後釘子戶以向重建發展商勒索天價。

以重建發展商立場而言，是極不願意引用 545 條例整合業權。首先，在引用條例前，重建發展商必然已買下八至九成業權。而向土地審裁處申請引用條例，整個過程還要在買下八至九成業權後，多花前後最少兩年時間方可整合業權，在這兩年時間內，重建發展商因有較多業權在手上，利息成本比釘子戶或無理業主都要重得多；加上香港物業市場波幅大，時間拖得越長，發展商承受風險越高。爲此，一般重建發展商都很遷就小業主，就算出較高價錢也希望盡快以協商形式統一業權。這一點正爲釘子戶及無理業主所利用，往往開天價苛索。如有釘子戶及無理業主擁有超過一成業權，重建發展項目往往因此被卡著而等待經年。

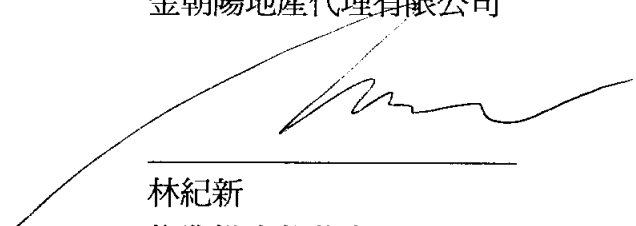
有見及此，本司是支持 545 條例把土地審裁處受理門檻下調，以把釘子戶或小部份業主無理之過度苛索交由香港法庭主持及伸張公義。香港法庭以公正、公開及持平著稱，三審制度確保裁決合理公正。而土地審裁處委任專業測量師審議雙方估值論據，作出有充份理據爲基楚之專業估值判斷，比無需理據的開天利價更具說服力及公平。

大家也知道香港立法會通過影响全港七百萬人民利益的法例，也無須八成議員同意方能通過。而經修例後的 545 條例，就算五十年舊樓有八成業主同意，也只能算是合資格交給土地審裁處受理之門檻，不代表就把重建決定下來，可說比決定全港市民權益之立法還艱難。相反，只要有兩成業主不同意，另外八成業主的重建或出售意願反被小數人仕剝削。可見舊區重建之路，仍是難行。

此致

執事先生啓

金朝陽地產代理有限公司



林紀新

物業投資部董事

2009 年 7 月 18 日

LDCS 5000 OF 2007

IN THE LANDS TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
LANDS COMPULSORY SALE APPLICATION NO. 5000 OF 2007

BETWEEN

FINEWAY PROPERTIES LIMITED	Applicant
and	
SIN HO YUEN VICTOR, THE	Respondent
ADMINISTRATOR OF THE ESTATE OF	
SIN YAT	

Coram: Deputy Judge YIU, Presiding Officer and Mr. W. K. LO, Member of the Lands Tribunal

Dates of Hearing: 2 – 6, 10, 11 June, 8-12, 15, 16 December, 2008 & 9-12 February 2009

Date of Judgment: 20 March, 2009

J U D G M E N T

The Application

1. This is an application made under the Land (Compulsory Sale for Redevelopment) Ordinance, Cap. 545 (“the Ordinance”) for an order of compulsory sale of all the undivided shares of and in Sub-Sections 3 & 4 of Section E of Inland Lot No.2147 (“the Lot”). The Applicant is the owner of 93.75% of the undivided shares of the Lot. The Respondent having the rest of the undivided shares is the owner of Ground Floor, 44 Haven Street, Hong Kong.

2. The Respondent mainly challenges the valuations of the existing use value

(“EUV”) and the redevelopment value (“RDV”) of the Lot. Apart from that, the Respondent also opposes the application on the grounds that the redevelopment is not justified and the Applicant has not taken reasonable steps to acquire all the undivided shares in the Lot.

3. On the Lot, there is a Building situated at Nos.44-46 Haven Street, a cul-de-sac branching off the eastern side of Leighton Road in Causeway Bay. It is a residential block consisting of 8 storeys with 2 flats at each floor and 2 shops at Ground Floor totalling 16 units. The Building was completed in 1958 with the occupation permit issued on 16th May 1958 and was 49 years of age by 2007 when the present application was made.

Valuation issues to be decided by the Tribunal

4. We first have to determine the valuation issues that could not be resolved by the parties, namely,

- (i) the EUV of the shop units of the Building including the EUV of the Respondent’ s Unit, G/F of 44 Haven Street, Hong Kong,
- (ii) the EUV of the domestic units of the Building, and
- (iii) the RDV of the Lot over which the Building stands.

Summary of the experts’ valuation of the EUV of the units

5. The Applicant’ s expert, Mr. Charles Chan (“Mr. Chan”) has produced a valuation report dated 27 July 2007, which set out the EUV of all the units in the Building as at 27 July 2007. In Mr. Chan’ s Supplemental Report dated 7 December 2007, he revised the EUV of the units he additionally inspected and set out his opinion of the EUV of all the units (see TRB(I)/81 and TRB(I)/89). Similarly, the Respondent’ s expert, Mr. Wong Chi Wai (“Mr. Wong”) set out the EUV of all the units in his report of 28 November 2007. He subsequently made adjustments reflecting the state and estimated costs of repairs, providing his valuations of the EUV of all units as at 30 July 2007 in his report of 14 May 2008 (see TRB(IV)/1306).

6. We set out in the attached Appendix I the EUV of all units in the Building as estimated by Mr. Chan and Mr. Wong. In summary, the total estimated EUV of the domestic and the shop units of the Building are as follows:

	Mr. Chan	Mr. Wong
Total EUV of the domestic units	\$28,890,000	\$35,581,265.80
Total EUV of the shop units	\$7,180,000	\$20,463,856.84
Total EUV of the Building	\$36,070,000	\$56,045,122.64

7. The Applicant in the written Closing Submission submitted that there were two

special features in the EUV assessments in this case:

- (i) the large magnitude of the differences, especially in the EUV of the shops, between the experts, suggested that it would be difficult to explain this difference “by the usual difference in opinion between 2 valuation experts” , and
- (ii) the parties were “disinclined to dispute the domestic EUV assessed by the expert of the opponent” .

Determination of the EUV of all units in the Building

8. Under section 10 of the Ordinance, the apportionment between the majority owner and the minority owners of the Lot shall be on the basis as specified in Part 3 of Schedule 1 of the Ordinance. Under the Schedule, the proceeds are to be apportioned on the basis of the EUV as stated in the Applicant’ s Notice of Application. Therefore, if there is a dispute between the parties on the EUV of the units in the Building on the Lot, the Tribunal has to determine the values.

9. As pointed out by the Applicant in the written Closing Submission, despite of the differences in the EUV assessments of the domestic units in the Building, the Tribunal’ s site inspection was only confined to the shops units of the Building and the shop comparables. Also, in view of the parties’ positions of not opposing the domestic EUV as assessed by the experts employed by the other sides, there was no cross-examination on the adjustments of the comparables and the assessments of the domestic EUV made by Mr. Chan and Mr. Wong.

10. Therefore, the Applicant submitted that, because both parties chose not to contest the EUV assessments of the domestic units of the other side and “the main function of the EUV assessments was to ensure that a fair and reasonable proportion among all the units is maintained for the distribution of expenses and proceeds among the units” , the Tribunal should “evaluate the general reliability of the experts and their assessments to decide to prefer and adopt in total the assessments (shop & domestic) of one expert and reject those of the other”

11. On the other hand, the Applicant submitted, if the Tribunal should conduct its own assessment on the shop EUV, the Tribunal would have no reliable way of assessing:

- “(a) whether to adopt the domestic EUV assessments of Chan or those of Wong OR come up with its own domestic EUV assessments and, if the latter, on what basis and
- (b) whether the Tribunal’ s own assessed shop EUV would be fair and reasonable when compared to those of the domestic units to be adopted by the Tribunal.”

12. We do not agree the reasoning of the Applicant’ s submission as summarized above. The Tribunal, in assessing the EUV of the units in the Building when there is a

dispute between the parties, is discharging the judicial function as laid down in the Ordinance. And, needless to say, all the experts giving evidence in the Tribunal, including Mr. Chan and Mr. Wong, were experts of the Court. We therefore do not think that the obvious stand taken by either party, i.e., the preference to adopt the domestic EUV valuation of the other side's expert will have any effect on our decision.

13. Firstly, we find that both parties and their experts hotly contested the EUV of the shops in the Building as assessed by the experts employed by the other side. However, there was adequate information for the Tribunal to determine the disputes between the two experts. As such, there was no reason that the Tribunal should not handle this valuation matter in the usual manner, i.e. to assess the EUV of the shops instead of accepting the valuation of either expert en-bloc. Next, after assessing the EUV of the shops ourselves, we will then be in a better position to decide whether Mr. Chan or Mr. Wong was a more reliable expert in so far as the assessment of the EUV of the domestic units in the Building is concerned. We will then also have to decide whether we will adopt the EUV of the domestic units of the Building as assessed by one expert, or we will assess the EUV ourselves.

14. For the above reason, we shall first consider the EUV of the shop units in the following section.

Determination of the EUV of the shop units in the Building

15. Both experts valued the EUV of the shops on direct comparison approach. However, despite of the very large number of shop comparables both experts had between them considered, they had only 1 common comparable, namely Comparable A1/C4 (i.e. G/F of 9 Haven Street).

16. Mr. Chan considered that a total of 12 shop transactions were suitable comparables, referenced Comparables A1 to A12. These include 5 comparables in Haven Street, 6 in Tai Hang area and 1 in the Causeway Bay area nearby. He set out his analysis and adjustments of comparables at page TRB(I)/31. On the other hand, Mr. Wong listed out in Appendix V of his report at TRB(IV)/1325 (as amended and shown as Table R5B attached to the Respondent's written Closing Submission) a total of 13 comparables of which 6 were located in Haven Street and the nearby Leighton Road or Caroline Hill Road, 6 in Tai Hang area and 1 in Causeway Bay area nearby.

17. Mr. Chan at the end estimated that the appropriate unit rate for the estimation of the EUV of the shops of the Building was \$52,000 per sq. m. (see TRB(I)/31) whereas Mr. Wong's respective estimated unit rate was \$142,000 per sq. m. (see Table R5B of the

Respondent).

18. Mr. Chan elaborated at considerable length in his various supplemental reports that apart from the common comparable, all the other comparables of Mr. Wong should not be considered as suitable comparables mainly for the reasons:

- (i) they are either located in far superior locations at or near Leighton Road, at Caroline Hill Road or Wun Sha Street at Tai Hang, or
- (ii) the comparables were affected by the site assembly exercise which suggested that the sale prices include an element of hope value (i.e. reflecting redevelopment value of the site concerned), or
- (iii) the comparables were transacted at prices very close to some obviously unsuitable comparables but far above that of the suitable comparables such as, for example, the above said common comparable as a result of which a valuation expert should use his judgment to discard the comparables after consideration of all the suitable comparables and making adjustments as a whole.

19. Mr. Wong gave evidence that he had actually considered a far greater number of shop transactions (referenced Comparables R1 to R22, see TRB (IV)/1320-1323) but he decided at the end that only the comparables he quoted in TRB(IV)/1325 were the suitable comparables. During the trial, he produced Exhibit R2(1), R2(2) and R2(3) in which,

- (i) he quoted in details all the comparables he had considered including the comparables identified and used by Mr. Chan and
- (ii) the respective reasons he got for discarding those comparables that he considered to be inappropriate. He disputed the opinion of Mr. Chan in rejecting all his comparables other than G/F of 9 Haven Street. However, likewise, he rejected all of Mr. Chan's comparables except their common comparable, G/F of 9 Haven Street.

20. Some of the salient details of all the shop comparables respectively identified by Mr. Chan and Mr. Wong as suitable comparables were set out in Appendix II attached at the end of this Judgment. For ease of reference, they were shown as comparables A1 to A12 (of Mr. Chan) and comparables C1 to C10 (of Mr. Wong) using the same references of the 2 experts.

21. After careful consideration, we have decided to adopt 4 of Mr. Chan's 12 shop comparables as the most suitable comparables in the direct comparison approach for the purpose of estimating the EUV of the shops in the Building as at the relevant date of 27 July 2007. This is now shown in Appendix III attached at the end of this Judgment. All the comparables were located in Haven Street, but excluding those located near or at the other end of Haven Street. This is because essentially we consider that Haven Street, being a cul-de-sac has the characteristics quite typical of other cul-de-sacs. The ground floor units in the Building are very much inferior, in so far as the pedestrian flow and the trading potential are concerned, when compared with shop units at the other end of the street, near or at its junction with Leighton Road. As we have visited the subject shops and the

comparables during our site inspection, what we have observed on site reinforces our opinion and led to our above decision.

22. We shall next set out below our grounds for rejecting some of Mr. Chan' s shop comparables on the ground that they are not as suitable as the comparables we have agreed to adopt. Similarly, we shall set out below our grounds for rejecting all except one of Mr. Wong' s shop comparables.

Choice of suitable shop comparables

23. All the comparables considered by the 2 experts as suitable comparables could be grouped under the following categories:

- (i) those that are located at Haven Street, close to the Building;
- (ii) those that are located at the other end of Haven Street, away from the Building, including those located at Leighton Road or the nearby Caroline Hill Road;
- (iii) those that are located at the other part of Causeway Bay area nearby; and
- (iv) those that are located at Tai Hang area. They will be considered below under these categories.

Shop comparables at Haven Street that are close to the Lot

24. After careful consideration of the evidence adduced by both experts, we conclude that the best comparables are those located at Haven Street, close to the Building. In fact, both experts agreed in principle that those were the best comparables too but Mr. Wong opined that some of those (i.e. his Comparable R7 and R8 as shown in TRB(IV)/1321, respectively marked and known as Comparable A6 and A5 by Mr. Chan, as shown in Appendix III) had to be rejected because they were purchased by the Applicant for site assembly purpose. As a result, Mr. Wong agreed that the common Comparable A1/C4 was the only suitable comparable at Haven Street.

25. For ease of comparison, the sale prices and the unadjusted unit rates of the above said 3 comparables and Mr Wong' s Comparable C4b, as well as the valuation of Mr. Wong for the 2 shops in the Building are summarized in the table below.

Comp. Ref.	Source	Address	Date of sale (or valuation)	Sale price (or valuation)	Unadjusted unit rate (/sq. m.)
A1/C4	Market sale	G/F., 9 Haven St.	09/03/2007	\$4,800,000	\$116,959
-/C4b	Market sale	G/F., 11 Haven St.	06/11/2007	\$6,666,000	\$148,331
A5/R8	Market sale	G/F., 36 Haven St.	18/09/2006	\$4,780,000	\$71,253

A6/R7	Market Sale	G/F., 38 Haven St.	10/08/2006	\$3,600,000	\$51,046
Subject Lot	Mr. Wong's EUV valuation	G/F., 44 Haven St.	30/07/2007 (date valuation) of	\$10,225,143.42 (valuation)	--
Subject Lot	Mr. Wong's EUV valuation	G/F., 46 Haven St.	30/07/2007 (date valuation) of	\$10,238,713.42 (valuation)	--

26. Mr. Wong could not explain why the Tribunal should exclude Comparables A6/R7 and A5/R8 along Haven Street that are close to the Building as relevant comparables. Even though the Applicant had purchased these 2 Comparable properties as part of their land assembly exercise, there was no evidence or no suggestion that these 2 transactions included the redevelopment potential of the buildings of which they form parts.

27. There is no provision in the Ordinance that any purchase by a majority owner or by a minority owner has to be excluded for consideration as market evidence. The Ordinance only stipulates that in estimating the EUV of the properties in the building in the lot which is the subject matter of an application under the Ordinance, the market value of each property should be assessed on the basis of,

- (a) on a vacant possession basis;
- (b) assessed as if the lot could not be made the subject of an application for an order for sale; and
- (c) not taking into account the redevelopment potential of the property or the lot (see Schedule 1, Part 1 of the Ordinance).

28. Moreover, having compared the actual transacted prices of these 2 comparables and the final estimated values of the shops in the Building in the Lot as assessed by Mr. Wong, it is abundantly clear that their transacted prices could not have included any redevelopment potential. This is because firstly, according to Mr. Wong, his EUV valuation of the 2 shops in the Building could not have included any redevelopment potential of the Lot in order to comply with the provisions of the Ordinance as set out in Schedule 1, Part 1; and secondly, since Mr. Wong's EUV valuation of the 2 shops in the Building exceed the actual transacted prices of these 2 comparables by such a large extent, these 2 comparables could not have included any redevelopment potential as well. Therefore, even though these 2 comparables were part of the land assembly exercise of the Applicant, their transacted prices could not have been higher due to the land assembly.

29. Of the other comparables at Haven Street close to the Lot of Nos. 44 and 46 Haven Street, Mr. Wong only included Comparable C4 (G/F., 9 Haven Street) and Comparable C4b (G/F., 11 Haven Street) as the suitable comparables (see Appendix III). As we have

said before, Comparable C4 is the same as Mr. Chan' s Comparable A1, the only common comparable. Other than that, Mr. Chan disagreed to adopt Comparable C4b on the ground that it was transacted after the intention to acquire all the units in various buildings in Haven Street was made known, in March 2007, to the public by the Applicant. We will deal with this issue later.

30. Other than Comparables C4 and C4b, Mr. Wong opined that all the other comparables at Haven Street close to the Lot should all be rejected because either they were purchased by the Applicant for site assembly purposes (i.e. Comparables R9, R10, R11, R12 and R13), or they did not comply with the "like with like principle" as they were located at various parts of a shopping arcade with no direct street frontage (i.e. Comparables A4/R5, R4 and R6), or it was sold at an unreasonably low price (i.e. Comparable A3/R3). They were the following transactions:

Comp. Ref.	Address	Date of Sale	Sale price	Mr. Wong's reason for exclusion
A3/R3	G/F., 13 Haven St.	25/01/07	\$2,100,000	Sold at unreasonably low price, close to the sales of comparables inside a shopping arcade (i.e. Comparables A4/R5 and R6)
A4/R5	G/F., 15A Haven St.	24/11/06	\$1,700,000	Located inside a shopping arcade with no street frontage; not "like with like"
-/R4	Shop 32, G/F., Haven Court, 134 Leighton Road	01/11/06	\$450,000	Located at the end of a shopping arcade with no street frontage; not "like with like"
-/R6	G/F., 33A Haven St.	09/08/07	\$3,600,000	Located at the end of a shopping arcade with no street frontage; not "like with like"
-/R9	G/F., 40 Haven St.	10/04/07	\$7,990,000	The Applicant's site assembly
-/R10	G/F., 46 Haven St.	16/04/07	\$7,990,000	The Applicant's site assembly
-/R11	G/F., 34 Haven St.	24/08/07	\$8,000,000	The Applicant's site assembly
-/R12	G/F., 32 Haven St.	26/04/07	\$7,990,000	The Applicant's site assembly
-/R13	G/F., 48 Haven St.	27/04/07	\$6,999,800	The Applicant's site assembly

31. Mr. Chan agreed with Mr. Wong to reject all the above comparables, except two (Comparable A3/R3 and A4/R5), although for different reasons. For Comparable A4/R5, Mr. Chan opined that it could be adopted as a comparable with suitable adjustments made to reflect the disadvantage that it had no street frontage. We disagree with Mr. Chan in this respect. We agree with Mr. Wong that the location inside an arcade is very different from street frontage shop such as the 2 shops in the Building so that all the arcade shop comparables should be discarded. Therefore, we abandon both Comparable A4/R5 as well

as 2 other shops with no street frontage, Comparable R4 and R6.

32. However, for Comparable A3/R3, we agree with Mr. Chan that this should not be discarded on the ground as put up by Mr. Wong. In addition, we agree with Mr. Chan that its unit rate, whether before or after adjustments is not unreasonably low when compared with the other suitable comparables finally adopted by the Tribunal (see the analysis at Appendix III).

33. Regarding the timing of the site assembly by the Applicant, we accept the factual evidence of Mr. Kwan Chi Ming, the Applicant's representative regarding the site assembly efforts of the Applicant in the Haven Street locality (that is, in respect of properties including Nos. 32-50 Haven Street, Lei Wen Court, Lei Kwa Court, Lei Ha Court, Caroline Hill Court and Haven Court). Mr. Kwan stated that during January and February 2007, the Applicant made known to the unit owners of the above said properties the Applicant's intention of site assembly by general offers made to the unit owners. His evidence was not challenged at all in cross-examination.

34. We further agree that Mr. Kwan's evidence, as submitted by the Applicant, fully supported Mr. Chan's analysis (as set out in his 2nd Supplemental Report at TRB(I)/161-164 and 167) that there were "2 diverse price ranges for transactions of shops in the locality of Haven Street before and after March 2007 and Mr. Chan's conclusion that "(a) the post-March 2007 transactions were embedded with hope value for redevelopment and should not be used to assess the EUV of the suit shops and (b) the pre-March 2007 transactions should be used." To illustrate his conclusion, Mr. Chan actually produced a table (see TRB(I)/184) listing out in chronological order the dates of transactions, the sale prices and the unadjusted unit rates, etc. of all the shop sales at Haven Street, Caroline Hill Road and Leighton Road (from 20 April 2006 for Comparable R1 to 6 November 2007 for Comparable C4b).

35. Alternatively, put simply in terms of lump sum figures, the transaction prices of the 5 "post-March transactions", i.e., Comparables R9 to R13, range from \$6,999,800 to \$8,000,000. These should be contrasted with the lump sum transaction prices of the 2 "pre-March transactions", i.e., Comparables A5/R8 and A6/R7 (dated 18/9/2006 and 10/8/2006 respectively) that are located very close to these 5 transactions, in the range of \$4,780,000 and \$3,600,000 (see Appendix III). Also, the general price level of these 2 "pre-March comparables" are very close to the other 2 "pre-March transactions" in Haven Street, i.e., Comparables A1/C4 and A3/R3 (see Appendix III).

36. Therefore, we agree with Mr. Chan that the hope values for redevelopment are

definitely embedded in the price level of Comparables R9 to R13 as they were all transacted after March 2007 (with the first transaction at 10 April 2007 for Comparable R9, and the last transaction at 24 August 2007 for Comparable R11). As such, we agree with Mr. Chan to exclude Comparables R9 to R13, as well as Comparable C4b (see Appendix II) as suitable comparables on the ground that they were embedded with redevelopment value, but not to exclude, as suggested by Mr. Wong, Comparables A6/R7 and A5/R8, as suitable comparables on the simple ground that the Applicant acquired these 2 comparables.

Comparables located at Haven Street further away from the Lot or located at Leighton Road or Caroline Hill Road

37. Mr. Wong identified a few other comparables at Haven Street at or near to its junction with Leighton Road, at Leighton Road or the nearby Caroline Hill Road. They were known as Comparables C1, C2, C3, C4a, R1 and R2. They are summarized below:

Comp. Ref.	Address	Date of sale	Sale price	Remarks
C1	Shop 17, G/F., Lei Shun Court, 106-126 Leighton Road, 1-5 Haven Street	13/03/2006	\$3,000,000	Shop close to junction with Leighton Road
C2	Shop 4 & Shop 15, G/F., Lei Shun Court, 106-126 Leighton Road, 1-5 Haven Street	25/04/2006	\$7,200,000	Shop fronting Leighton Road
C3	Shop Nos. 1 & 2, G/F., Haven Court, 136-138 Leighton Road	25/01/2007	\$11,280,000	Shop fronting Leighton Road
C4a	G/F., 13 Caroline Hill Road	16/05/2007	\$7,900,000	Shop fronting Caroline Hill Road
R1	G/F., 15 Caroline Hill Road	20/04/2007	\$2,300,000	Shop fronting Caroline Hill Road
R2	Shop 3-10 and 12, G/F., Units A& B, 1/F., Haven Court, 134 Leighton Road	23/01/2007	\$20,500,000	Sale comprises shops fronting Leighton Road and 2 domestic units

38. Mr. Wong considered the above comparables, with the exception of Comparables R1 and R2 as suitable comparables. However, Mr. Chan rejected Comparables C1, C2, C3 and C4a on the ground that they were located at superior location than the Lot, as witnessed by their adjusted units rates (see Appendix III), all of which were a few times higher than

those identified to be suitable comparables at Haven Street (see Appendix II). We accept Mr. Chan' s analysis and finding. We agree that it is sheer common sense that a comparable fronting at Leighton Road or close to Leighton Road or at Caroline Hill Road should be discarded as they are so much different from the Lot, which is located near the far dead-end of Haven Street. Similarly, any comparable which adjusted unit rate is close to the above said comparables should be discarded as it is obviously out of line. We will not comment further on Comparables R1 and R2 as both experts agreed that both were not relevant comparables.

Comparables located at Tai Hang area

39. Mr. Chan identified 6 comparables of ground floor shops at Tai Hang area to be suitable comparables for the valuation of the EUV of the shops in the Building. They were known as Comparables A2, A8, A9, A10, A11 and A12 (see our summary at Appendix III). Similarly, Mr. Wong identified 6 comparables of other ground floor shops at Tai Hang to be suitable comparables. They were known as Comparables C5, C6, C7, C8, C9 and C9a (see Appendix III). Of these 6 comparables used by Mr. Wong, 3 were located at King Street (i.e. C5, C6 and C9a) whilst the other 3 (i.e., C7, C8 and C9) were located at Wun Sha Street.

40. Mr. Chan rejected all the comparables at Wun Sha Street as identified by Mr. Wong on the ground that as the street was superior to Haven Street in terms of pedestrian flow and trading potential, the shops there including the comparables commanded a much higher level of rental than shops in the Building, hence requiring substantial downward adjustments if the comparables were adopted. We agree with Mr. Chan on this observation of the differences between Wun Sha Street and the Lot, as well the area of Haven Street close to the Lot where the comparables adopted by the Tribunal (see Appendix III) are located.

41. Also, in respect of Mr. Wong' s other comparables at Tai Hang area, Mr. Chan opined in his Rebuttal Report at TRB(I)/110 that Comparables C5 and C6 were obviously out of line with those comparables at Haven Street that did not include elements of redevelopment value. Mr. Chan concluded that Comparables C5 and C6 were embedded with hope value for redevelopment. As for Comparable C9a, Mr. Chan similarly opined that its sale price was obviously out of line with those suitable comparables at Haven Street (see Appendix III). We also agree with Mr. Chan' s above observation and analysis.

42. More importantly, we are of the view that since Tai Hang area as a whole is so far away from Haven Street, the shop transactions in the area do not accurately reflect the

market values of the shops in Haven Street at the relevant valuation date of 27 July 2007, the date of the Applicant's Application. So far as the market values of the shops are concerned, we do hold the view that since location is obviously of paramount importance and that adjustments for location are very subjective in nature so that if the Tribunal finds that there is a sufficient number of suitable comparables that are close in location to the shops in the Building in this valuation exercise, it will be much better for the Tribunal to just use the latter comparables, rather than extending the geographical area of the comparables. For the above reason, we find that in the valuation of the EUV of the shops in the Building, it will suffice to restrict ourselves to the best suitable comparables at Haven Street and discard all other comparables, including all those at Tai Hang area.

Comparables located at the other part of Causeway Bay area nearby

43. Mr. Chan identified one comparable at Shelter Street (Comparable A7 at Appendix III) in another part of Causeway area nearby whilst Mr. Wong identified another comparable at Shelter Street (Comparable C10 at Appendix III). The former was transacted at an unadjusted unit rate of less than half of that of the latter.

44. Although Shelter Street is much closer to Haven Street than the whole of Tai Hang area, it is still quite different from Haven Street in so far as the pedestrian flows and trading potential are concerned. We also have the opportunity of viewing these streets at the time of our site inspection at the beginning of the hearing. As such, we hold the same view as set out above that we should restrict ourselves to the suitable comparables at Haven Street since the adoption of this approach will not necessitate the subjective adjustments of comparables to reflect the differences in the pedestrian flow and the trading potential between different streets. Therefore, we discard the 2 comparables at Shelter Street identified by the 2 valuation experts.

Should any comparable be chosen as a suitable comparable if the date of sale was close to the relevant valuation date

45. The Respondent submitted that Mr. Chan erred in not choosing some of the comparable sales even though their transaction dates were very close to the relevant valuation date for the EUV valuation exercise. We do not agree with this submission. Although timing of sales is an important element that has to be considered by the Tribunal in the valuation exercise, we cannot agree that comparables should be chosen having regard to the proximity between the dates of sales of the comparables and the relevant valuation date. We wish to stress that in the comparison approach of valuation, among all the differences where adjustments have to be made, valuation surveyors usually could agree on

the time adjustments. Even if they could not agree on the exact percentages of adjustments for time, they could in most cases agree on the direction of adjustments. Also, valuation surveyors could usually agree, among themselves, to use certain property price indices to account for the differences in the timing of sales and the date of valuation. On the other hand, for almost all other factors of adjustments, the surveyors have to rely on their subjective judgment in each and every case. Hence, we do not agree with Mr. Wong and the Respondent that some comparables should be used simply because they had dates of sales close to the relevant valuation date. This is against the commonly accepted valuation principle in the direct comparison approach.

Adjustment of the suitable shop comparables chosen by the Tribunal

46. After having concluded that there are 4 most suitable comparables (as shown in Appendix III), we next consider the issues of adjustments. As a valuation expert, Mr. Chan analyzed and adjusted his comparables at TRB(I)/31 under the factors of time, age & condition, size, location, frontage/depth and layout. The other valuation expert Mr. Wong disputed Mr. Chan' s quantum of adjustments for various factors.

47. In particular, Mr. Wong gave evidence that since Mr. Chan' s adjustment for time was based on the earlier property price index dated July 2007 published by the Rating & Valuation Department (RVD), that should be replaced by the time adjustments to be based on the property price index published in April 2008 by the RVD as the latter index gave final statistical figures whereas in the earlier index, RVD only gave provisional statistical figures. On being challenged that he was wrong in using a different set of RVD indices in his earlier valuation report, Mr. Wong frankly admitted that he had committed a mistake in using that wrong set of indices.

48. We agree with Mr. Wong that the figures given by RVD in the latter index of April 2008 should be adopted in making the adjustments for time. As such, we decide to adopt Mr. Wong' s adjustment percentages for time as shown in his table at Exhibit R4(1) and R4(2).

49. Other than time adjustments, we consider that the other adjustments made by Mr. Chan to the comparables adopted by this Tribunal are fair and reasonable. As a result, we prefer adopting all his adjustments than those of Mr. Wong. We hold this opinion because we have already found that Mr. Wong' s choice of most of his comparables (especially Comparables C1, C2, C3 and C4a and C4b (see Appendix II) and the grounds for discarding Comparables A3/R3, A5/R8 and A6/R7 (see Appendix III) were so unreasonable that we have little confidence on his opinion of adjustments for factors other

than time. As for time, since it was based on the RVD' s property price index (mutually agreed by both experts), we agree to use the most relevant index as recently submitted by Mr. Wong.

50. We sum up all the adjustments we have adopted for the 4 most suitable shop comparables at Appendix III of this Judgment. The adjusted unit rates for the chosen comparables are as follows:

Comparable	Adjusted Unit Rate (/sq. m.)
A1/C4	\$94,478
A3/R3	\$47,341
A5/R8	\$71,540
A6/R7	\$52,404
Average	\$66,440

Estimation of the EUV of the shop units in the Building

51. Applying the average of the adjusted unit rates of the chosen suitable comparables to the saleable area of the Respondent' s unit (i.e., G/F of 44 Haven Street), we arrive at the estimated EUV as at the valuation date of 27 July 2007, as follows:

	Converted saleable area (agreed by the parties)	68.92 sq. m
X	Adopted unit rate	\$66,440/ sq. m.
	Estimated EUV	\$4,579,045
		Rounded to \$4,580,000

52. Similarly, we estimate that the other shop, G/F of 46 Haven Street, with the same converted saleable area, will have the same EUV of \$4,580,000.

Determination of the EUV of the domestic units in the Building

53. After comparing our above estimated EUV of the shop units in the Building with the experts' respective valuations of the EUV of the shop units (as shown in Appendix I of this Judgment), we find that our estimates are close to those of Mr. Chan but very far away from those of Mr. Wong. Also, we find that Mr. Chan was a more credible witness than Mr. Wong because the latter could not at several occasions justify his valuation during the cross-examination. In particular, we agree with the Applicant that Mr. Wong had made in his first valuation a mistake, which ought not to have been made by any experienced valuation expert. That is, he had used an index, which stated out at the outset that that should not be used for time adjustment purposes.

54. In light of the fact that we did not even have the opportunity of viewing the domestic comparables at the site inspection, whether internally or externally, and we do not have the clear information as to their view and aspects thus making our adjustments very

difficult if not impossible, we decide to adopt the EUV of the domestic units of the Building as assessed by Mr. Chan, a more credible witness than Mr. Wong. We reproduce the results of Mr. Chan's valuation at Appendix I.

Summary of the Tribunal's estimated EUV for all the Units

55. Summing up, we set out in Appendix IV the Tribunal's estimated EUV for all the units in the Building at the Lot. Since the Respondent's unit is G/F of 44 Haven Street, the ratio of the EUV of the Respondent's unit to the total EUV of all the units in the Building is therefore equal to \$4,580,000 / \$38,050,000, or about 12.0368%.

Summary of the experts' estimates of the RDV of the Lot

56. Mr. Chan for the Applicant opined that there was no recent land sale transaction that could be accepted as suitable comparables. As a result, he could not carry out any valuation of the RDV of the Lot on direct comparison approach. He resorted to estimate, by the method of residual valuation, the RDV of the Lot at \$70,434,276 (see TRB (VII)/2372) for which he rounded to \$70 Million. On the other hand, Mr. Wong estimated the RDV of the Lot using both (i) the direct comparison approach and (ii) the residual approach. In the former approach, Mr. Wong estimated the RDV to be \$128 Million whilst in the latter, he estimated the RDV to be \$109 Million.

Are there suitable land sale transactions for comparison

57. Mr. Chan opined that there was no suitable land transaction that could be used for comparison. He also dismissed the 2 land transactions cited by Mr. Wong as relevant market sales and opined that they could not be taken as suitable comparables.

58. Mr. Wong cited the following 2 land transactions as Site Comparables: (1) 33 Tung Lo Wan Road (where an existing building known as Nam Fung Building stood on the site) which was said to be transacted at \$244 Million and (2) 19-21 Shelter Street (where another existing building known as Yuet Wah Court stood on the site), which was said to be transacted at \$73.56 Million. In his Supplemental Valuation Report dated 12 January 2009 (see TRB(VIII)/2395), Mr. Wong stated that by putting a weight of 10% on the site unit rate of Site Comparable (1) and 90% on the site unit rate of Site Comparable (2), he arrived at his estimation of the market value of the RDV of the Lot as at 3 December 2008, in the sum of \$128 Million. However, he did not explain his rationale for using this weighting % for these 2 "direct" site comparables. More importantly, he also did not set out clearly his reasons for accepting the above said transactions as proper market transactions of land.

59. During the hearing, Mr. Wong was cross-examined at length by counsel for the

Applicant and then re-examined by the Respondent' s counsel. However, having gone through all the documentary materials submitted before us, and the evidence of Mr. Wong and Mr. Chan, we agree entirely with the Applicant and came to the following findings:

(1) For Comparable (1), there was no evidence that the site was transacted, as alleged by Mr. Wong, at a consideration of \$244 Million. Therefore, Comparable (1) is not an appropriate site comparable. We also agree with the findings of Mr Chan for Comparable (1), which were summed up by counsel for the Applicant in his written closing submission. We will summarize these findings below:

(a) The public Announcement made by ITC Properties Group Limited ("ITC") (see TRB(VIII)/2406) did not identify \$244 Million as the consideration; rather, in the first paragraph of the executive summary of the Announcement, the consideration was stated as \$189.8 Million. In reality, the value of \$244 Million (as at the date of 30 September 2008) was only the valuation provided by RHL Appraisal Ltd.

(b) During the cross-examination, Mr. Wong changed his position and accepted that he would not invite the Tribunal to use the valuation of \$244 Million as a direct site comparable. He instead asserted that he could work out the amount of consideration from the 4 figures mentioned in various parts of the Announcement. Although he came close to \$224 Million, he in fact could only arrive a figure of \$244.1 Million himself.

(c) The Applicant submitted that "the transaction is abnormal in that it was not a straight sale and purchase of a site but a sale and purchase of shares and loans of companies with the purchaser group granting an advance to the vendor group in June, 5 months before the sale and purchase of shares and loans. The advance was for the expressed purpose of funding the vendor group to acquire the units in the building. It was a substantial sum of \$19.8 Million and, though interest bearing, was unsecured and with no fixed repayment date."

(d) Mr. Chan gave evidence that the optimum development of the site was for hotel, resulting in a higher unit price than that for residential, or commercial/office uses.

(e) Mr. Chan further opined that Mr. Wong should not have used the RVD' s Price Index for unit sales in arriving at the appropriate time adjustment for any site transaction such as the said site. Mr. Chan demonstrated that there would be an amplifying effect due to the residual nature of the land value in a residual valuation model.

(f) Finally, Mr. Chan also gave evidence that there was no reason whatsoever for Mr. Wong to add interest, demolition cost, professional fee and developer' s profit to his estimated "acquisition costs" of the said site to arrive at the cleared site values in Mr. Wong' s analysis of his Site Comparables (1) and (2). This was because in the present valuation exercise, the RDV of the Lot over which the Building stood should be assessed on the basis that it would be auctioned with the Building. This would be similar to the state of Mr. Wong' s Site Comparables (1) and (2). Mr. Wong did not give any satisfactory answer as to why his above said computation was correct, even after it was clearly challenged by Mr. Chan.

(2) For Mr. Wong' s Site Comparable (2), there was also no evidence that this was transacted for \$73.56 Million as a site. Mr. Wong simply adopted the aggregated acquisition cost of various units in the sum of \$73.56 Million to represent the site value of his Site Comparable (2). Frankly speaking, Mr. Wong should have realized that this could not be right in principle, particularly the information pertaining to the transactions concerning this Site Comparable (2) was again set out clearly in the public announcement of ITC dated 7 January 2009. Again, we also agree with the findings of Mr Chan for Comparable (2), which were summed up by counsel for the Applicant in his written closing submission. We will summarize these findings below:

(a) The other public Announcement made by ITC "announced a sale and

purchase of shares and loans and set out valuations done by RHL Appraisal Ltd. showing a clear marriage value of a combined development of Site Comparable (1) and 35-39 Tung Lo Wan Road, the neighbouring lot. The valuations in the announcement clearly showed that Site Comparable (2) being valued on its own was only \$29.5 Million. Accordingly, there was a high probability that the aggregated acquisition cost of \$73.56 Million contained the marriage value of a combined development with 33-35 Tung Lo Wan Road”

(b) Although Mr. Wong replied upon cross examination that he did not aware of the ITC announcement dated 7 January 2009 at the time of completing his valuation report dated 12 January 2009, he accepted that the existence of the valuation of \$29.5 Million would seriously called into question whether the aggregated acquisition cost of \$73.65 Million (being about 2.5 times of \$29.5 Million) represented the value of Site Comparable (2) “on its own” .

(c) Mr. Wong clearly acknowledged that the maximum permitted plot ratio of a building on Site Comparable (2) is only 5.88, which is fully utilized by the existing building whereas the maximum plot ratio of a combined development of Site Comparable (2) with 35-39 Tung Lo Wan Road will be 15. Nevertheless, Mr. Wong still chose to analyze and present the figure of \$73.65 Million as if it represented the value of Site Comparable (2) on its own, containing no marriage value due to the redevelopment with the adjoining properties of 35-39 Tung Lo Wan Road.

60. To summarize, we agree with Mr. Chan that the 2 Site Comparables as identified by Mr. Wong were not appropriate site comparables for the purpose of assessing the RDV of the Lot by direct comparison approach. In the circumstances, we could only estimate the RDV of the Lot using the residual approach.

Valuations of Mr. Chan and Mr. Wong using the residual approach

61. Mr. Chan all along valued the RDV of the Lot on the basis of its redevelopment for residential purpose. We reproduce his latest valuation as Appendix V attached at the end of this Judgment. It shows a residual land value of \$70,434,276 for which he rounded to about \$70 Million. Mr. Chan gave evidence that he also attempted to value the RDV of the Lot on the basis of its redevelopment for commercial purpose, with ground floor for shop use and upper floors for office use. However, he opined that the resulting land value, also arrived at by residual approach was less than that arrived at on the basis of the redevelopment of the Lot for residential purpose. It shows a residual land value of \$64,518,651 for he rounded to about \$65 Million. This valuation was on a similar basis as the residual valuation of Mr. Wong, which is reproduced as Appendix VI attached at the end of this Judgment. This shows a residual land value of \$109,427,634.90 for which he did not round off at all.

62. Mr. Wong carried out different RDV valuations at 14 May 2008 (TRB(IV)/1382) and more recently, at 12 January 2009 (TRB(VIII)/2429). In Mr. Wong’ s May 2008 report, he opined that there were 4 options for redevelopment available to the Building of the Lot under which he arrived at different values. They are as follows:

Option 1: for pure residential development, with the RDV at \$67.2 Million;

Option 2: for composite development with one-storey for commercial use and other storeys for residential use, with the RDV at \$85.2 Million;

Option 3: for composite development with 3-storeys for commercial use and other storeys for residential use, with the RDV at \$90.0 Million; and

Option 4: for commercial and office development, with the RDV at \$122.4 Million.

63. In the more recent valuation prepared in January 2009, Mr. Wong assumed the most optimal development to be a development with ground floor for shop use and upper floors for office use, and arrived at the RDV of \$109,427,634.90 (TRB(VIII)/2429).

The Tribunal' s determination of the RDV of the Lot

64. Instead of carrying out a residual valuation ourselves, we consider that it would be most appropriate at this juncture to consider the residual valuations presented by the 2 experts, in particular the few important parameters they adopted in their residual valuation.

65. We have considered the following most important parameters adopted by Mr. Wong in his latest residual valuation made in January 2009:

- (1) the shop comparables, his adjustments and the adopted average adjusted unit rate;
- (2) similarly, the office comparables, his adjustments and the adopted average adjusted unit rate;
- (3) the developer' s profit he adopted in his residual valuation model

66. In the written Closing Submission, the Applicant summed up Mr. Chan' s evidence on the 5 shop comparables that had been adopted by Mr. Wong:

- (a) Comparables RC1 and RC2 were both post-March 2007 transactions in the Haven Street area and embedded with hope value for redevelopment;
- (b) Comparable RC3 was in a vastly superior location of Keswick Street that could not be compared with the subject Lot for which a downward adjustment of 70% for location difference was warranted;
- (c) Comparable RC4, located in Wun Sha Street matured further since July 2007 as an entertainment and restaurant area in Tai Hang for which -50 to -60% adjustment for location was warranted; and
- (d) Comparable RC5 was in a much better location and had 3 frontages, for which -50 to -60% adjustment for location and -25 to -30% adjustment for frontages were warranted.

67. We find that Mr. Wong' s choice of shop comparables are unreasonable as they are all much better in location than that of the subject Building. Also, we agree with Mr. Chan that Mr. Wong' s 5 shop comparables, even if accepted, should warrant very substantial adjustments.

68. Mr. Chan also commented that when comparing the unit rates of shops and offices

in the assessments of the gross development values at 21 April 2008 and 12 January 2009 (see Mr. Wong' s residual valuation for pure commercial RDV at TRB(VI)/1417 and Mr. Wong' s latest residual valuation at TRB(VIII)/2429 respectively), he noticed that there was (a) a - 17.6% drop in the shop unit rate (from \$180,000 to \$148,400) but (b) a +6.5% rise in the office unit rate (\$84,000 vs. \$89,500). Mr. Chan also submitted that Mr. Wong was wrong in increasing the estimated office unit rate of the proposed commercial development for the Lot in light of the falling market. This was because according to the January version of RVD Price Index, there should already be a drop of about 9% for Grade C Office, from October to November 2008. The drop should be even slightly bigger according to the more recent February version of the said Index.

69. In addition, Mr. Chan gave evidence that Progress Commercial Building was much superior and there should be a location adjustment of -15 to -20%, instead of Wong' s - 5%.

70. Mr. Chan actually carried out the residual valuation of the Lot for commercial purpose, i.e., similar to that as assumed by Mr. Wong. His valuation on this basis giving a RDV figure of about \$65 Million is reproduced as Appendix VII attached at the end of this Judgment.

71. Lastly, in deciding on the adoption of the appropriate percentage return for the developer' s profit in the residual valuation of the RDV of the Lot, Mr. Chan gave evidence that he had followed the recent public announcement and changes in the developer' s profit allowed for by the Lands Department in its agreement for modification premium with various property owners. Mr. Chan submitted that in light of the increasing risk of property development in the present market after the current financial tsunami that affects the economy in the whole world including Hong Kong, it would be appropriate to allow for similar changes in the percentages of developer' s profits used in the residual valuation model. Mr. Wong disagreed to accept the proposed changes. The Respondent also submitted that whilst the Lands Department might have agreed to such changes, the modification premium computation could not be taken as market based.

72. Regarding the percentage allowed for as the developer' s profit in the residual model, we agree to accept the figures now adopted by the Lands Department and the property owners including property developers which applied for the lease modification or land exchange where premium payments are required. Firstly, the residual model commonly adopted by both Mr. Chan and Mr. Wong also followed the same format as that used and approved by the Lands Department in its modification premium computation. Secondly, we think that the parties on both sides are free to negotiate and to conclude the

negotiation. As such, we consider that the results of such negotiation between the Government and the property owners could be taken as quasi-market evidence, in the absence of better evidence between property owners as vendors and purchasers in the market. Thirdly, since the Government, obviously in response to the property owners' requests, has agreed to accept higher percentages of developer's risk and therefore developer's profit (which will lead to a lower land value) to cater for the current financial situation post the crisis following the collapse or virtual collapse of big institutions including Lehman Brothers, AIG and various international banks, we decide that we should accept similar new percentages in the residual valuation for the assessment of the RDV of the Lot.

73. To summarize, we find that Mr. Wong's estimation of the office unit rate was unreasonable and we prefer to adopt Mr. Chan's alternative estimated figure in Appendix VII. Therefore, after comparing Mr. Wong's valuation at Appendix VI and Mr. Chan's alternative valuation at Appendix VII, we prefer to adopt Mr. Chan's figures in the 3 major parameters (i.e. shop unit rate, office unit rate and the developer's profit) that we have discussed above. As we have said before, Mr. Chan's valuation at Appendix VII gives a residual land value of about \$65 Million.

Conclusion of the Tribunal's estimation of the RDV of the Lot

74. Mr. Chan's most recent residual valuation made in February 2009 for the assessment of the RDV for residential use gave a figure of \$70,434,276. This was higher than Mr Chan's valuation for commercial use, at \$65 Million. On the other hand, Mr. Wong did not set out any valuation for residential use in his latest report dated 12 January 2009.

75. We are satisfied with Mr. Chan's residual valuation including the various parameters he adopted. Therefore, we determine the RDV of the Lot to be \$70,434,276, for which we round to \$70.50 Million.

Whether redevelopment is justified

76. Section 4(2)(a) of the Ordinance provides that the Tribunal shall not make an order for sale unless it is satisfied that the redevelopment of the lot is justified due to the age or state of repair of the existing development on the lot, but the definition of age or state of repair has not been stated in the Ordinance.

77. In Intelligent House Ltd v Chan Tung Shing & Ors LDCS 11000/2006, 23 June 2008, the following tests have been formulated by the Tribunal (also adopted in New Vision Development Ltd v Excellent Speed International Ltd LDCS10000/2007),

(1) On the ground of age, the Tribunal is entitled to look at:

- (a) Whether the old building has reached the end of its physical life.*
- (b) Whether the old building has reached the end of its economic lifespan. The economic lifespan comes to an end when the cleared site value of the lot significantly exceeds the existing use value of the building, provided that it can be demonstrated that the building has so come to the end of the economic lifespan because of its age as reflected by features of obsolescence.*

(2) On the ground of state of repair, the Tribunal is entitled to look at:

- (a) The state of repair of the old building is such that it has rendered the building a danger to the residents or the public at large.*
- (b) The state of repair of the old building is such that it has rendered the building coming to the end of its economic lifespan, in that it has become economically unworthy to repair. This includes situation where (a) the costs of repair exceeds the existing use value of the building, or (b) the costs of repair significantly exceeds the enhancement value arising from or attributable to the repairs.*
- (c) Moreover, for the purpose of determining whether it is economically worthy to do so, the Tribunal is entitled to look at repairs which would render the building to a tenable condition fit for the enjoyment of its tenants and visitors, which is reasonable in the present day circumstances for the type of building in question.*

(3) On the grounds of both the “age” and “state of repair” of the old building, the Tribunal is entitled to look at all of the above factors or tests collectively to see if that justifies redevelopment, even though when each of them is considered alone, it is insufficient to do so.

78. The Respondent accepts the above tests but submits that they have not been satisfied.

Age test

79. The Applicant is not suggesting that the existing Building has reached the end of its physical life. Instead, it reaches the end of its economic lifespan as the clear site value of the Lot does significantly exceed the existing use value of the Building and also because of its age by features of obsolescence.

80. When comes to its application, Mr Liu of the Respondent, however, emphasizes that the valuation of the clear site value of the Lot shall discard the advantageous plot ratio, so as to achieve the comparison on the basis of like-with-like. Accordingly, by the Respondent’s calculation the RDV is \$56.44 Million (on the basis of plot ratio of 5.44) and the EUV is \$48 Million (para.57.7 of R’ s closing submission).

81. We are of the view that the above proposition, i.e. “discarding advantageous plot ratio” is wrong and clearly without evidential basis. Not only was that it had never been put to the Applicant’s expert, but also it ignores the very aim of the Ordinance, which is to facilitate urban renewal in the context of private sector land redevelopment, whereupon the real market simply would not restrict or limit its redevelopment potential on actual

calculation of the clear site value, which is usually done by employing residual method on the basis of the maximum permitted plot ratio.

82. Even if the Respondent's figures are adopted, the RDV still exceeds the EUV significantly and the Building is therefore coming to its end of economic life. In our view, we assess the EUV as in July 2007 to be about 38 Million (see Appendix IV) and the RDV as in Feb 2009 to be \$70.5 Million. Assuming the market movement between July 2007 and Feb 2009 applied equally to the EUV and the RDV (applying the same approach as at para.171 in *Intelligent House* without any evidence showing otherwise), the RDV in July 2007 shall still significantly exceed the EUV.

83. Mr Liu further argues that the above difference in value is not attributed to age but to the use of higher plot ratio. However, it must be noted from the Condition Survey Report of Mr Benson Wong of the Applicant (TRB (II)/619-), adopted by Mr Charles Chan that the Building was designed in the fifties and completed in 1958. Mr Benson Wong and Mr K.S. So have explained in their reports that (i) the Building was in urgent need of repair; (ii) the requirements of end-users have been evolving during this 49-year period; and (iii) the Building failed to fulfill current end-users requirements on various aspects including functional, environmental, legal and social. (TRB (I)/84)

84. Mr Chan then went on commenting the existing Building and comparing it to that of new developments, on choice of materials such as quality of cement rendering and paintwork on the external facades; on building services and facilities such as central town gas, refuse collection, security and recreational facilities; on building density from over 65% to redevelopment of maximum 33.33%; on environmental requirements such as balconies, utility platform, acoustic fins and sunshades. Mr Chan then concluded that due to poor physical condition and the failure to meet current end-users' requirement, the EUV is thus substantially lower given the features of obsolescence, the need of repairs and the continuing needs. (TRB (I)/84-87)

85. We accept the above opinion and find that the clear site value of the Lot does significantly exceed the value of existing use. The difference is clearly attributable to the features of obsolescence of the existing Building and its old age. We conclude that the redevelopment of the Lot is justified on the ground of age.

86. Perhaps it is also worth mentioning that Mr Liu also submits that the acquisition costs of about \$73 million, which is even higher than the proposed RDV would result in redevelopment of the Lot not being feasible in normal land economic terms. However, the acquisition costs is irrelevant to the age test, particularly considering that hope value has

been embedded in the acquisition costs and is therefore not to be taken into account for the valuation of the existing use.

State of repair

87. The Applicant is not submitting that the Building is posing danger to the residents or the public at large, but the Applicant relies on its team of experts including Mr Benson Wong, Mr KS So, Mr Markus Chui and Mr Matthew Chan to find and show all types of defect of the existing Building in their expert reports. The Respondent chose not to call upon their experts to counter the evidence of the Applicant's experts. Instead, Mr Liu attacks mainly on the issues of costing of repair and the statistical analysis.

88. According to Mr Benson Wong, the costs of repair is about \$6.3 Million (TRB (II)/674) and the enhancement value upon repair assessed by Mr Charles Chan is about \$2.9 Million (TRB (I)/88). Thus the costs of repair exceeds significantly the enhancement value arising from the repair and therefore the test on the state of repair shall be satisfied.

89. Mr So Kin Shing, the Structural Engineer expert of the Applicant, opined in his Structural Investigation Report that the existing Building was of conventional reinforced concrete construction, and the building structure had a design working life of normally 50 years in Hong Kong. The Code of Practice for structural use of concrete also assumed the same, whereas the robustness, durability, workmanship, materials and intended maintenance would tie up with the same design working life. It was his experience that the costs of carrying out repairs to an old, dilapidated reinforced concrete building structure was usually very high because of recurrence of spalling and cracks and it might be more economical to have it pulled down and to erect a new building instead. (TRB (I)/256-264).

90. By ways of covermeter surveys, carbonation depth tests, compression tests and chloride content tests, the slabs, columns and beams were tested. Mr So concluded that the structural frames of the Building was in a poor condition of repair and in urgent need of repairs, and the Building was approaching the end of its design working life of 50 years where its structural frames had also deteriorated to the final stage of its design working life. He further stated that the deterioration would continue at faster speed than before due to extensive carbonation, new defects would occur, and previous defects though repaired would recur and requiring substantial repairs and even partial demolition and reconstruction (TRB (I)/275-277)

91. Mr Liu of the Respondent comments that Mr So is an unsatisfactory witness, the criticism mainly on insufficient samples to arrive at the conclusion. Further, it is also submitted that Mr So fails to look into the Factor of Safety and also other necessary

considerations. In the absence of contrary expert evidence and the fact that these matters have not been properly put to Mr So, it is difficult to attack his expertise on this basis. We are of the view that Mr So is reliable and his opinion should be adopted.

92. On the costs of repair, Mr Liu states that Mr Benson Wong is not a member on the division of Quantity Surveying and that his estimates are inaccurate and exaggerated. However, having heard the evidence of Mr Wong and gone through his report, we find that Mr Wong has extensive experience on building repair costs, on repair packages and quotations, supervision of repair and maintenance. We do accept his view on the estimate of repair costs and the scope of repair.

93. In details, Mr Liu particularly submits that the replacement of a short section of pipe does not justify the excessive costs quoted. However, as explained, the drainage contractor would only provide the estimate of a minimum length and therefore the minimum charge. That cannot be said to be unfair nor unreasonable. In fact, no contrary evidence of costs was quoted.

94. Mr Liu also mentions that in complying with the Building Orders, essential repair works had already been undertaken in 2007, and the respective works could be seen in the Maintenance Contract (TRB (III)/ 1029-1053) and the drainage maintenance contract (TRB (III)/1054-1099)

95. To that, Mr Benson Wong had in his report dealt with it and stated that the respective costs of about \$400,000 spent were mainly of decorative or superficial in nature. He commented that notwithstanding this, complete replacement of external wall rendering should be carried out as it should have already come to the end of its effective life. Also, no work has been carried out in some areas including the flats internally, scavenging lane, underground drainage, electrical, fire services and lift installations. (TRB (II)/666-674)

96. For overall analysis, even accepting that 7 domestic units had not been inspected where internal repairs may not be necessary (about \$430,000 be reduced) and that the costs of structural frames be further reduced (for about \$360,000) (see para.63.3 & 63.5 of the Respondent' s closing submission), the estimated repair costs shall still remain at least around \$5 Million, which in our view does significantly exceed the enhancement value of \$2.9 Million. For other proposed reduction, we do not find sufficient basis and evidence to alter the estimation of Mr Benson Wong. Therefore, we hold that the test on the state of repair is satisfied accordingly.

97. There are two further points we have to answer for the sake of completeness. First, concerning the estimate of repair costs, Mr Liu said that Mr Benson Wong aimed to restore

the Building above the tenantable standard. Clearly Mr Benson Wong did all along in his report only meant to bring it up to tenantable standard (TRB (II)/674). The reference of good condition simply refers to no repair in the near future (TRB (II)/640) and we do not find that it differs much from the tenantable standard, if any. In either situation, the estimated costs shall not differ significantly. The same view of Mr Benson Wong was in fact also accepted in *Intelligent House* supra (para.199).

98. Second, Mr Liu also submits that some units have still been rented out or occupied by the Applicant without implementing repairs as recommended by Mr Benson Wong. However, this does not have any significant bearing for consideration as to consider whether the flats are in tenantable condition or not, as defined above. (para.200 of *Intelligent House* also rejected the same).

Age or State of repair collectively

99. As stated above, the Tribunal is also entitled to look at all of the above factors or tests collectively to see if redevelopment is justified, even though when each of them, if considered alone, is insufficient to do so.

100. We must mention that in the course of trial, although originally there had been quite some expert reports on condition and structural investigations of the Building prepared by the Respondent countering the Applicant's experts, it is indeed a very sensible approach adopted by the Respondent for not calling upon them, not only in saving much costs, but also after all, it remains the fact that the Building has been completed since 1958 and is by now more than 50 years of age approaching the end of its design working life. Given the legislative background for facilitating urban renewal, the present case is in our view a classical example of fitting the aim of the Ordinance, in justifying redevelopment either on age or state of repair or both.

Reasonable offer

101. Section 4(2)(b) of the Ordinance provides that the Tribunal shall not make an order for sale unless, after hearing the objections, if any, of the minority owners of the lot, the Tribunal is satisfied that the majority owner has taken reasonable steps to require all the undivided shares in the lot (including, in the case of a minority owner whose whereabouts are known, negotiating for the purchase of such of those shares as are owned by that minority owner on terms that are fair and reasonable).

In the Court of Final Appeal case, Capital Well Ltd v Bond Star Development Ltd[2005] 4 HKLRD 363 at para 33,

“In making that assessment the Tribunal is not conducting a valuation exercise. It does not need to adjudicate upon any disputes about the correct valuation principles to be applied. It does not itself arrive at any conclusion as to what figure represents the correct valuation. It merely needs to be satisfied that, on the evidence available, the offer falls within the range of what may broadly be regarded as fair and reasonable compensation for the interest in question. It is obviously necessary to recognize that there will often be differences of opinion on that matter. If duly satisfied that the rejected offer was fair and reasonable, the Tribunal may make the order, leaving the value and level of compensation to be determined by the public auction. The auction results may prove that the minority’s assessment was commercially wise. Or they may show that the majority’s offer exceeded what was realized at the auction.”

102. Thus when assessing whether an offer is reasonable, the Tribunal is not required to conduct a valuation exercise, it merely needs to be satisfied that the offer falls within the range of what may broadly be regarded as fair and reasonable.

103. In the present case, there were altogether 5 offers made by the Applicant to the Respondent, first on 16/4/2007 of \$6 Million, then on 2/5/07 of \$7M, on 11/6/07 of \$8M, on 27/7/07 of \$8M and lastly on 22/4/08 of \$11.715M. (see letters TRA/153-154, 263-364 respectively).

104. The present application was filed on 30/7/2007 and the trial commenced in June, 2008. The offer nearest to the date of the application is \$8M on 27/7/07. By then the Applicant’s expert valued the RDV of the Lot at \$72M and the EUV at about \$36M, the Respondent unit’s EUV at \$3.59M and the pro-rata share of RDV at about \$7.1M. This pro-rata share of \$7.1M when compared with the offer of \$8M is clearly within the fair and reasonable range when broadly assessed.

105. Further, even when adopting the Tribunal’s finding of the EUV and the RDV, we are also of the view that the Applicant’s offer is fair and reasonable and it does fall within the board range of compensation of the unit in question, bearing in mind also (i) that it is not necessary for the offer to “beat” the valuation as if it were a payment into court (see para.36 in *Capital Well*, supra), (ii) that the Applicant did rely on its expert opinion to formulate the purchase price offered to the minority owner and (iii) there is also no contrary evidence nor reason to suggest that the expert advice is not properly made on professional valuation of the EUV and the RDV of the Respondent’s unit.

106. Therefore, we are satisfied that the Applicant has taken reasonable steps on terms that are fair and reasonable to acquire the undivided share of the Respondent.

107. To conclude, we are satisfied that the requirements and conditions as laid down in the Ordinance have been met and an order for compulsory sale shall be made in the following terms,

(1) The Tribunal is satisfied that the existing use value of the Respondent’s unit, Ground

Floor of No.44, Haven Street and those of the Applicant' s units should be fixed as shown in Appendix IV annexed hereto are fair and reasonable.

(2) All the undivided shares in the Lot' s the subject of the Application herein, be sold by way of a public auction for the purposes of the redevelopment of the Lot under sections 4(1)(b) of the Ordinance.

(3) Mr. Ma Ho Fai and Ms Tsang May Ping, nominated by the Applicant be appointed as trustees (the "Trustees") to discharge the duties imposed on trustees under the Ordinance in relation to the Lot and the Trustees be authorized to charge such remuneration for their services in accordance with the terms set out in the letter of Messrs. Woo Kwan Lee & Lo dated 19th May 2008 (TRA/257).

(4) For the purpose of a sale of the Lot by public auction under section 5(1)(a) of the Ordinance:

(a) The sale of the Lot be on the particulars and conditions substantially the same as those in the draft Particulars and Conditions of Sale initialled and approved by the Tribunal.

(b) The reserve price is set at \$70.5 Million.

(c) Subject to further extensions that the Tribunal may subsequently allow upon the application of the purchaser of the Lot or its successor in title, the redevelopment of the Lot shall be completed and made fit for occupation within a period of 6 years after the date on which the purchaser of the Lot becomes the owner of the Lot as specified by section 9 and Schedule 3 of the Ordinance.

(5) Liberty to the Applicant, the Respondent and the Trustees to apply to the Tribunal for further direction under the Ordinance.

Costs Order nisi

108. In relation to the costs of the application, Mr Liu emphasizes that the Applicant shall bear the statutory burden to satisfy the Tribunal that the requirements laid down in the Ordinance have to be met no matter whether there comes any opposition. He further says that the Respondent merely challenges the valuation in his unit and no more and therefore no order shall be made as to costs.

109. However, the fact is, voluminous expert reports have been filed by the Respondent and it was not until in the course of the trial that the Respondent preferred not to call their experts nor adduce their reports. It is true that some trial dates have been saved, but rebuttal reports have since been filed and the Respondent is not simply taking a neutral stance. Whether the tests of age or state of repair have been satisfied were still under protest, not to mention the disputes in various valuation aspects. On valuation, eventually this Tribunal also prefers most figures adopted by the Applicant' s expert. Thus, the extra effort and costs incurred by the Applicant to deal with all the contentions submitted by the Respondent is obvious and it is completely different from the manner of going on a simple and straight forward proof of case.

110. We shall therefore make a costs order nisi that the Respondent shall bear 90% of the Applicant' s costs in this application, to be taxed on High Court Scale with certificate

for counsel if not agreed, to be made absolute after 14 days unless either party applies to vary otherwise.

Appendices –

- (I) Summary of EUV of all units in the Building as assessed by Mr. Charles Chan and Mr. Wong Wai Chi, the experts called by the parties
- (II) Summary of G/F shop comparables analyzed by Mr. Chan and Mr. Wong
- (III) Tribunal’ s analysis of the adopted G/F shop comparables
- (IV) Tribunal’ s estimation of the EUV of all units in the Building
- (V) Residual Valuation of the RDV of the Lot (“Residential” Scenario) by Mr. Chan
- (VI) Residual Valuation of the RDV of the Lot (“Commercial” Scenario) by Mr. Wong
- (VII) Residual Valuation of the RDV of the Lot (“Commercial” Scenario) by Mr Chan (Re-assessment of Mr Chan's Model)

(signed)
(F. YIU)
Presiding Officer, Lands Tribunal

(signed)
(W. K. LO)
Member, Lands Tribunal

Mr. MOK Yeuk Chi instructed by M/S Lo, Wong & Tsui, for the Applicant, present.

Mr. LIU C. Y. instructed by M/S Wong Poon Chan Law & Co., for the Respondent, present.

APPENDIX

APPENDIX I

**Summary of EUVs of all units in the Building as assessed by
Mr. Charles Chan and Mr Wong Wai Chi, the experts called by the parties**

Table of EUV of Domestic Portion

Floor	Unit	Existing Use Value	
		Mr. Charles Chan *(1)	Mr Wong Wai Chi *(2)
1	44	\$2,010,000	\$2,499,235.10
2	44	\$2,090,000	\$2,604,933.15
3	44	\$2,110,000	\$2,632,085.45
4	44	\$2,130,000	\$2,659,237.75
5	44	\$2,040,000	\$2,685,210.05
6	44	\$2,160,000	\$2,713,542.35
7	44	\$1,640,000	\$2,004,638.55
1	46	\$2,010,000	\$2,499,235.10
2	46	\$2,090,000	\$2,604,933.15
3	46	\$2,110,000	\$2,623,755.45
4	46	\$2,240,000	\$2,659,237.75
5	46	\$2,260,000	\$2,681,198.05
6	46	\$2,270,000	\$2,708,382.35
7	46	\$1,730,000	\$2,005,641.55
Sub-total		\$28,890,000	\$35,581,265.80
Table of EUV of Non-domestic (Ground Floor Shop) Portion			
G	44	\$3,590,000	\$10,225,143.42
G	46	\$3,590,000	\$10,238,713.42
Sub-total		\$7,180,000	\$20,463,856.84
Total		\$36,070,000	\$56,045,122.64

* Note

(1) Mr. Chan's detailed valuation figures as at 27 July 2007, see P. 89 of TRB(I)

(2) For Mr. Wong's detailed valuation figures as at 30 July 2007, see P. 1306 of TRB(IV)

APPENDIX II

Summary of G/F shop comparable adopted by Mr. Chan and Mr. Wong (comparable ref. A1-A12 and C1-C10 respectively)

Ref.	Address	Date of Sale	Sale Price	Converted area ⁽¹⁾	Unit rate (on Converted Area) (psm)	Total	Adjusted Unit Rate (\$/sq.m)
A1	G/F., 9 Haven Street	09/03/2007	\$4,800,000	41.0	\$116,959	-24.7%	\$88,117
A2	Unit B, G/F., 5-7A Warren Street	16/03/2007	\$2,550,000	24.8	\$102,809	-2.1%	\$100,619
A3	G/F., 13 Haven Street	25/01/2007	\$2,100,000	40.5	\$51,858	-14.4%	\$44,385
A4	G/F., 15A Haven Street	24/11/2006	\$1,700,000	44.6	\$38,125	23.1%	\$46,913
A5	G/F., 36 Haven Street	18/09/2006	\$4,780,000	67.1	\$71,253	-7.6%	\$65,859
A6	G/F., 38 Haven Street	10/08/2006	\$3,600,000	70.5	\$51,046	-5.4%	\$48,284
A7	Units 1-3, G/F., Parkview Commercial Building, 9-11 Shelter Street	02/02/2006	\$4,338,000	77.4	\$56,047	-22.3%	\$43,537
A8	G/F., 16C King Street	16/11/2006	\$1,290,000	34.1	\$37,784	1.5%	\$38,351
A9	Unit 2, G/F., 2 Second Lane/28 Shepherd Street	17/10/2006	\$2,198,000	37.5	\$58,655	-26.7%	\$43,012
A10	G/F., 12 Sun Chun Street	09/06/2006	\$1,600,000	32.2	\$49,767	2.8%	\$51,136
A11	G/F., 39 Sun Chun Street	17/10/2006	\$1,915,000	32.3	\$59,215	1.6%	\$60,162
A12	Shop B on G/F., & Cockloft Sun Chun Building, 5 Sun Chun Street / 15-17 Omsby Street	29/04/2006	\$2,820,000	53.8	\$52,441	-14.8%	\$44,680
C1	Shop 17, G/F., Lei Shun Court, 106-126 Leighton Road, 1-5 Haven Street	13/03/2006	\$3,000,000	16.09	\$186,451.21	-2.4%	\$181,893.41
C2	Shop 4 & Shop 15, G/F., Lei Shun Court, 106-126 Leighton Road, 1-5 Haven Street	25/04/2006	\$7,200,000	29.57	\$243,490.02	-18.1%	\$199,323.66
C3	Shop Nos. 1 & 2, G/F., Haven Court, 136-138 Leighton Road	25/01/2007	\$11,280,000	55.25	\$204,162.90	-21.9%	\$159,358.43
C4	G/F., 9 Haven Street	09/03/2007	\$4,800,000	41.00	\$117,073.17	5.9%	\$124,038.40
C4a	G/F., 13 Caroline Hill Road	16/05/2007	\$7,900,000	44.48	\$177,607.91	-19.2%	\$143,567.55
C4b	G/F., 11 Haven Street	06/11/2007	\$6,666,000	44.94	\$148,331.11	-8.8%	\$135,340.75
C5	G/F., 22 King Street	18/09/2007	\$3,980,000	32.14	\$123,846.07	-5.8%	\$116,637.51
C6	G/F., 24 King Street	15/01/2007	\$5,200,000	33.58	\$154,869.45	-0.6%	\$153,895.28
C7	Shop B, G/F., Sai See Mansion, 22-24 Wun Sha Street	27/10/2006	\$6,060,000	40.23	\$150,633.86	5.5%	\$158,873.15
C8	G/F., 30 Wun Sha Street	23/11/2006	\$3,480,000	35.45	\$98,166.43	9.3%	\$107,278.38
C9	Shop 5, G/F., Wun Sha Tower, 33-45 Wun Sha Street	12/09/2006	\$6,380,000	84.44	\$75,558.10	18.8%	\$89,799.18
C9a	G/F., 11 King Street & The Flat Roof of Water Closet	09/10/2007	\$4,360,000	32.61	\$133,709.52	-7.5%	\$123,663.25
C10	Shop B, G/F., 17-17A Shelter Street	09/10/2007	\$8,200,000	70.85	\$115,740.20	20.8%	\$139,797.12

APPENDIX III

Analysis of G/F Shop Comparables

Ref.	Address	Date of Sale (ASP)	Sale Price	Floor Area (sq.m)				Unit rate (on Converted Area) (/sq.m)	Adjustments						Total	Adjusted Unit Rate (/sq.m)
				Saleable	Yard	Cockloft	Converted area ⁽¹⁾		Time	Age & Condition	Size	Location	Frontage / Depth	Layout		
A1/C4	G/F., 9 Haven Street	09/03/2007	\$4,800,000	41.0	0.0	0.0	41.0	\$116,959	9.5%	0%	-3%	-20%	-5%	0%	-19.3%	\$94,478
A3/R3	G/F., 13 Haven Street	25/01/2007	\$2,100,000	40.5	0.0	0.0	40.5	\$51,858	10.1%	0%	-3%	-10%	-5%	0%	-8.7%	\$47,341
A5/R8	G/F., 36 Haven Street	18/09/2006	\$4,780,000	62.6	26.9	0.0	67.1	\$71,253	11.5%	0%	0%	-10%	0%	0%	0.4%	\$71,540
A6/R7	G/F., 38 Haven Street	10/08/2006	\$3,600,000	64.7	34.7	0.0	70.5	\$51,046	14.0%	0%	0%	-10%	0%	0%	2.6%	\$52,404
Average																<u>\$66,440</u>

Note :

(1) Conversion Factor Adopted:

Yard	1/6
Cockloft	1/4

APPENDIX IV**Tribunal's estimation of the EUV of the subject building at the Lot**

Floor	Unit	Existing Use Value
G	44	\$4,580,000
1	44	\$2,010,000
2	44	\$2,090,000
3	44	\$2,110,000
4	44	\$2,130,000
5	44	\$2,040,000
6	44	\$2,160,000
7	44	\$1,640,000
G	46	\$4,580,000
1	46	\$2,010,000
2	46	\$2,090,000
3	46	\$2,110,000
4	46	\$2,240,000
5	46	\$2,260,000
6	46	\$2,270,000
7	46	\$1,730,000
Total		\$38,050,000

APPENDIX VResidual Valuation of the RDV of the Lot ("Residential" Scenario) by Mr. ChanGDV

Residential Units		1,182.33 m ² x	\$108,000 /m ² (S)		\$127,691,640	
					\$127,691,640	
Marketing Cost	@	1.5%		x	0.9850	
Present Value for		2.00 yrs ⁽³⁾ @	4.00%	x	0.9246	\$116,292,735

Less CostDemolition Cost

Existing GFA		1,280 m ² (G) x	\$1,250 /m ²		\$1,600,000	
Covered Walkway		10 m	\$8,900 /m		\$89,000	
					\$1,689,000	
Professional Fee	@	6%			\$101,340	
Profit	@	20%			\$358,068	
					\$2,148,408	
Present Value for		0.250 yrs ⁽³⁾ @	4.00%	x	0.9902	\$2,127,354

Construction Cost

Proposed GFA		1,797 m ² (G) x	\$13,620 /m ²		\$24,475,140	
					\$24,475,140	
Professional Fee	@	6%			\$1,468,508	
Profit	@	20%			\$5,188,730	
					\$31,132,378	
Present Value for		1.25 yrs ⁽³⁾ @	4.00%	x	0.9522	\$29,644,250

+

	\$70 M
Land Value, Say	
Overall AV	\$40,773 /m ²
Or	\$3,788 /ft ²

APPENDIX VIResidual Valuation of the RDV of the Lot ("Commercial" Scenario) by Mr. WongGDV

Commercial Units ⁽¹⁾⁺⁽²⁾		Unit Rate (\$/m2 S)			
G/F (Saleable Floor Area/m ²)	154.598	HK\$	148,400.00	HK\$	22,942,343.20
1/F (Saleable Floor Area/m ²)	0.000	HK\$	-	HK\$	-
2/F (Saleable Floor Area/m ²)	170.041	(8) HK\$	95,268.38	HK\$	16,199,530.86
Office					
Upper Floors (Saleable Floor Area/m ²)	1,820.327	(8) HK\$	89,500.00	+) HK\$	162,919,266.50
Total				HK\$	202,061,140.56
Marketing Cost	@	1.50%		-) HK\$	3,030,917.11
Sub-total				HK\$	199,030,223.45
Present Value for	2.25 years ⁽³⁾	@	4.50% ⁽⁷⁾	x)	0.9057
					HK\$ 180,261,673.38

Less Costs

Less Costs			<u>Unit Rate (\$/m2 G)</u>		
Demolition Cost ⁽⁶⁾					
Existing GFA (m ²)	1280		HK\$	1,200.00	HK\$ 1,536,000.00
Hoarding(m)	10		HK\$	8,600.00	HK\$ 86,000.00
Asbesto Removal (Item)	1		HK\$	15,500.00	+) HK\$ 15,500.00
Total				HK\$	1,637,500.00
Professional Fees	@	6.00%		HK\$	98,250.00
Profit	@	10.00%		+) HK\$	173,575.00
Sub-total				HK\$	1,909,325.00
Present Value for	0.25 years ⁽⁴⁾	@	4.50% ⁽⁷⁾	x)	0.9891
				-)	HK\$ 1,888,513.36

Construction Costs⁽⁶⁾

Proposed CFA-Commercial	3,431.637	HK\$	15,400.00	HK\$	52,847,209.80
Professional Fees	@	6.00%		HK\$	3,170,832.59
Profit	@	10.00%		+) HK\$	5,601,804.24
				HK\$	61,619,846.63
Present Value for	1.375 years ⁽⁵⁾	@	4.50% ⁽⁷⁾	x)	0.9413
					-) HK\$ 58,002,761.63
					HK\$ 120,370,398.39
Less Developer's Profit	Say	@	10%		-) 1.1000
					HK\$ 109,427,634.90
					Accommodation Value
					HK\$ 34,015.02

APPENDIX VIIResidual Valuation of the RDV of the Lot ("Commercial" Scenario) by Mr. Chan (Re-assessment of Mr. Wong's Model)

Gross Development Value (GDV)							
Retail (G/F)		0.00 m ² x		\$56,000 /m ² (S)		\$0	
Commercial / Office (2/F)		170.60 m ² x		\$77,000 /m ² (S)		\$13,136,200	
Commercial / Office (U/F)		2,142.77 m ² x		\$73,000 /m ² (S)		\$156,422,210	
						<u>\$169,558,410</u>	
Marketing Cost	@	1.5% of GDV			x	0.9850	
Present Value for		2.50 yrs @	4.00%		x	<u>0.9066</u>	\$151,415,830
Less Cost							
Demolition Cost							
Existing GFA		1,280 m ² (G) x		\$1,250 /m ² (2)		\$1,600,000	
Covered Walkway		10 m x		\$8,900 /m ² (2)		\$89,000	
						<u>\$1,689,000</u>	
Professional Fee	@	6%				\$101,340	
Profit	@	25%				<u>\$447,585</u>	
						\$2,237,925	
Present Value for		0.25 yrs @	4.00%		x	<u>0.9902</u>	\$2,215,993
Construction Cost							
Commercial		3,429.38 m ² (G) x		\$16,000 /m ² (3)		\$54,870,080	
						<u>\$54,870,080</u>	
Professional Fee	@	6%				\$3,292,205	
Profit	@	25%				<u>\$14,540,571</u>	
						\$72,702,856	
PV		1.50 yr @	4.00%		x	<u>0.9429</u>	\$68,551,523
							<u>\$80,648,314</u>
Profit	@	25%					<u>1.25</u>
							<u>\$64,518,651</u>
						Land Value, Say	\$65 M
						Overall AV	\$18,954 /m ²
						Or	\$1,761 /ft ²