

**Legislative Council Panel on Development**

**Proposals to Facilitate Redevelopment by the Private Sector:**

**Applications Threshold under the  
Land (Compulsory Sale for Redevelopment) Ordinance**

**PURPOSE**

This paper invites Members' views on the Administration's proposals to lower the application threshold for certain classes of lots with respect to applications for compulsory order for sale under the Land (Compulsory Sale for Redevelopment) Ordinance (LCSRO) for redevelopment of the lots.

**BACKGROUND**

***Urban decay and urban redevelopment in Hong Kong***

2. The design working life<sup>1</sup> for normal buildings in Hong Kong is assumed to be 50 years. There are now about 3 300 buildings aged 50 years or above; it is estimated that every year about 500 buildings will reach the end of their design life in the next ten years.

3. With support from the Government, the Urban Renewal Authority (URA) is implementing an urban renewal programme. Since its establishment in 2001, the URA has commenced projects to redevelop 550 dilapidated buildings (these redevelopment projects will take up to 2021 to be completed) and rehabilitate another 500 buildings. It is clear that it is impossible to rely on the public sector alone to tackle the problem of urban decay. Indeed, the private sector has all along been an important player in urban redevelopment. The urban regeneration experience in other Asian cities also indicates that successful urban regeneration models usually involve a mix of public and private sector participation.

4. The Government issued a policy statement *Urban Renewal in Hong Kong* in 1996, setting out a comprehensive package of proposals to deal with the problems of urban renewal in the short and long run. One of the proposals was to introduce legislation to enable owners holding a clear majority of the

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<sup>1</sup> This refers to the period of time during which a structure that has undergone normal maintenance is unlikely to require major repairs.

shares in a lot which merits priority redevelopment to sell the whole lot, even though the owners have not acquired the legal interests of the minority owners. This has resulted in the LCSRO enacted in 1998 and came into operation in 1999.

5. The object of the LCSRO is to facilitate private sector participation in urban renewal. Private sector involvement is recognised as necessary in order to speed up urban renewal. In view of the difficulties in acquiring interests in properties due to problems such as defective titles, missing or intestacy of owners, and unreasonable high prices demanded by owners, some legislative provisions are justified.

### ***Provisions under LCSRO***

6. Under the LCSRO, persons who own a specified majority of the undivided shares in a lot (the “majority owners”) may apply to the Lands Tribunal (the “Tribunal”) for an order for the sale of all undivided shares in the lot for the purposes of redevelopment. The Tribunal may make such an order if the specified criteria are met. These include –

- (a) the majority owners own not less than the specified majority (90%) of undivided shares in the lot;
- (b) redevelopment is justified on the ground of age or state of repair of the existing buildings on the lot;
- (c) the majority owners have taken reasonable steps to acquire all undivided shares of the lot.

7. If the Tribunal agrees to make an order for sale, it will normally direct the sale to be made by public auction and set a reserve price. This is to ensure transparency and the securing of the highest price. The reserve price will take into account the redevelopment value of the lot. Any person, including the majority and minority owners, can bid for the lot.

8. To prevent collusion among bidders, the reserve price must be approved by the Tribunal. It is common for the applicants to appoint surveyors to assess the redevelopment values and submit their valuations for the Tribunal’s consideration and adoption. The minority owners may also appoint their own surveyors and submit their assessments. The Tribunal, with a qualified surveyor sitting as a panel member, will consider the assessed redevelopment values of the lot before approving the reserve price for auction. The Tribunal will adopt the most optimal redevelopment mode in determining the redevelopment value of the lot and this will be done as close to the auction

date as possible; where necessary, the Tribunal may also direct a further hearing on the updated valuations of the redevelopment value. This arrangement will enable the minority owner to receive a share in the potential development value of their properties, instead of just the existing use value. If the lot is successfully sold, the Tribunal will direct that the minority owners should receive a proportionate share of the sale proceeds. The key points of operation of the LCSRO are summarised in **Annex A**.

### ***Application threshold***

9. At present, the LCSRO requires that the majority owners have to own at least 90% of the undivided shares in a lot before they can apply to the Tribunal for a compulsory order for sale of the whole lot for redevelopment purposes. This 90% application threshold applies to all classes of lots, regardless of its land use zoning, and the age and existing uses of the buildings sitting on the lots. But the LCSRO also provides that the Chief Executive in Council may specify a lower application threshold (but not lower than 80%) for certain specified classes of lots.

10. According to a study on urban regeneration policies and practices in other Asian cities<sup>2</sup>, the required level of consent from existing owners for privately-led redevelopment is the highest in Hong Kong. Consent from only two-thirds of existing owners is normally required in Tokyo, Seoul, Shanghai and Guangzhou. Taipei requires consent from owners of 50% to 75% of the land and building floor area, depending on the priority for urban renewal of the land. In the case of Singapore, the threshold is 80% for buildings aged 10 years or above, and 90% for buildings below 10 years.

### ***Results of implementation***

11. Since the LCSRO came into effect in June 1999, the Tribunal has received 61 applications: 20 of which have resulted in compulsory orders for sale made; one application was rejected because it could not satisfy the Tribunal on the redevelopment need of the lot; 29 cases were cancelled or suspended; and 11 cases are being processed.

12. Over the years, we have received numerous comments from the public on the LCSRO. There are complaints from some minority owners that the sale price of their lot is not high enough; there are also complaints from many individual owner-occupiers living in old buildings in various districts that the current application threshold is too high. These individual owners usually live in buildings over 40 years old, often without lifts, and the buildings are due for

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<sup>2</sup> “Urban Renewal Policies in Asian Cities for the Urban Renewal Strategy Review”, Dr CK Law & others, University of Hong Kong, March 2009.

substantial repair and maintenance. Nevertheless, due to lack of resources or a proper building management structure, the individual owners find it difficult to carry out the maintenance works required.

13. Some of these individual owners were approached by developers proposing to acquire the whole building for redevelopment. They said the offer prices were reasonable and sometimes over 80% of the existing owners had already agreed to sell their units, but there were often strategic investors, who did not live in these buildings (so they did not care about the poor existing conditions) and insisted on exceptionally high prices. As there are often comparatively few units in these old buildings, these strategic investors can easily control more than 10% of the total undivided shares in the lot and block the acquisition attempts. Copies of some of the letters sent to Development Bureau by individual owners reflecting the above sentiments are at **Annex B (Chinese only)**.

#### ***Public consultation in 2006***

14. To further examine options to facilitate privately-led redevelopment, the Administration consulted the public in 2006 on proposals to lower the application thresholds for selected classes of lots. The idea was to make use of an existing provision in the LCSRO to specify a lower application threshold of not less than 80% of the undivided shares for the following classes of lots –

- (a) *lots with “all units but one” acquired* – this was proposed to facilitate private redevelopment of buildings with five to nine units<sup>3</sup>. Proposals to redevelop this type of buildings would easily come to a deadlock if the owner of any one unit refuses to sell their unit;
- (b) *lots with all buildings aged 40 or above* – this was proposed to facilitate redevelopment of older buildings, which usually have more maintenance problems, as the enhancement in the value of these buildings due to maintenance may not always be commensurate with the costs; and
- (c) *lots with missing or untraceable owners* – this was proposed to facilitate privately-led redevelopment when some owners cannot be reached.

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<sup>3</sup> This assumes that each unit accounts for roughly the same percentage of the total undivided shares in the lot. For buildings with more than nine units, the last unit will take up 10% or less of the undivided shares of the building, so application for compulsory sale may proceed according to the current threshold of 90%. But for buildings with fewer than five units, as the last unit will have taken up more than 20% of the undivided shares, application cannot proceed even under the proposed lower threshold of 80%.

15. It should be emphasised that these proposals concern only allowing a lower specified majority of undivided shares (i.e. 80% instead of 90%) in the specified classes of lots to trigger applications to the Tribunal. All these applications will still have to satisfy the Tribunal that redevelopment is justified on the ground of age or state of repair of the buildings, and that the majority owners have taken reasonable steps to acquire all the undivided shares of the lot.

16. The results of our consultation in 2006 showed that there was general support for the policy direction to lower the application threshold to facilitate privately-led redevelopment, but the community would also like to ensure that there was adequate protection of the property rights of minority owners. As regards the proposed classes of lots to benefit from a reduced application threshold (i.e. 80%), many people expressed concerns about the proposal involving missing or untraceable owners, in particular the possibility of erroneously categorising some owners as missing or untraceable.

***Consultation with LegCo Development Panel in early 2008***

17. In the light of the results of the previous round of public consultation, we decided to drop the proposal involving missing or untraceable owners. In early 2008, we proposed to the LegCo Development Panel to designate a lower application threshold of not less than 80% for only the following two classes of lots –

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

The proposals were discussed at the Development Panel meeting on 22 January 2008 and a session for Members to hear representations and depositions was arranged on 6 March 2008.

18. The proposal regarding lots with “all units but one” acquired received general support from Members, but the proposed lower application threshold for lots with all buildings aged 40 or above attracted mixed views. Some Members supported the proposal because it would facilitate privately-led redevelopment of old and dilapidated buildings, but some other Members expressed concerns about the protection of minority owners and the possible increase in development density due to the redevelopment in the absence of comprehensive planning control.

### ***Further deliberation***

19. The Administration undertook to consider carefully the views and suggestions made by Members and the deputations. During the past year,

- we have looked at comparative practices in other places in the context of the urban renewal policies in Asian cities commissioned for the Urban Renewal Strategy Review;
- we have encouraged professional institutions to discuss the subject and help educate the public. The highlights of this include a seminar organised by the Hong Kong Institute of Surveyors (HKIS) on 13 March 2009 and a layman's guide to compulsory sale published by the HKIS in April 2009 (copy at **Annex C**, Chinese only);
- we have commissioned an opinion survey to gauge public views on the relevant matters (key findings of the survey are at **Annex D**);
- We have discussed the background and relevant considerations of our proposals with the chairmen and vice chairmen of all District Councils; and
- we have taken account of the implications of expedited urban redevelopment against the current economic situation and their job creation impact.

### **LATEST PROPOSAL**

20. Taking into account the above work, previous comments by Members, aspirations of individual owners and views of the industry, we have revised our package of proposals as set out below.

#### ***Lots with "All Units but One" Acquired***

21. We propose to designate a lower application threshold (80%) for lots with "all units but one" acquired. As pointed out by many individual owners, attempts to redevelop old buildings consisting of few units often fail simply because the owner of one single unit in the building rejects the redevelopment proposal. We believe we should not allow the owner of the last unit to obstruct the collective decision of all other owners, if these owners together control not less than 80% of the lot. There is no readily available information on the number of buildings that may benefit from such a proposal, but we know that over 6 700 private buildings aged 30 or above in Hong Kong are between five to nine storeys in height.

22. We need to provide a definition for “units” in this proposal. Our proposal is to focus on the principal uses of a building (e.g. domestic flats in a residential building): we will treat building parts with undivided shares allotted but not falling within the common parts of a building as “units”, but car parking spaces, roof-top areas, external walls and basements will be excluded for the purpose of determining the last remaining unit in the building.<sup>4</sup> We consider it necessary to ensure that if the majority owners have agreed to redevelop a building, the redevelopment plan will not be unnecessarily hindered by owners of building parts peripheral to the principal uses of the building<sup>5</sup>.

### ***Lots with All Buildings Aged 50 or Above***

23. In response to the concern that the age of an existing building alone cannot determine its need for redevelopment, we would like to reiterate that the application threshold (whether set at 90% or 80%) only allows an application to be made to the Tribunal, which will take an independent view on the matter and in so doing, the age of the building is only one of the factors that the Tribunal will consider in deciding whether to approve a compulsory order for sale. The majority owners will also have to satisfy the other criteria set out in paragraph 6 above, including whether redevelopment of the lot can be justified on the ground of the state of repair of the existing building and whether the majority owners have taken reasonable steps to acquire all undivided shares in the lot. In fact, the Tribunal rejected in 2007 an application for compulsory sale of a lot with two 47-year old buildings because the applicant had failed to satisfy the Tribunal that redevelopment of the lot was justified due to the age or state of repair of the existing buildings. In addition, the conditions of buildings of the same age may vary substantially depending on the workmanship, usage and maintenance of the buildings.

24. Notwithstanding the above, given the reservation expressed on this proposal by some Members of the Development Panel of the previous term of the Legislative Council and certain quarters of the community and that the design working life of reinforced concrete buildings in Hong Kong is generally assumed to be 50 years, we propose to adopt a more prudent approach, i.e. raising the proposed age limit for buildings that will benefit from a lower

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<sup>4</sup> The Hong Kong Institute of Surveyors has suggested the following definition which may meet our intention: An existing entry in the Land Registry which corresponds to an accommodation which has been shown on the approved building plans based on which an Occupation Permit has been issued, or the subsequent amended building plans approved by the Building Authority.

<sup>5</sup> Under this definition, if a majority owner of a residential building has acquired all units but one in the building, leaving just one remaining unit and a few car parking spaces, so long as he has acquired more than 80% of the undivided shares of that lot, he may apply to the Lands Tribunal for a compulsory sale of the whole lot. The Lands Tribunal will then consider this application according to the criteria specified in the Ordinance.

application threshold of 80% from 40 years or above to 50 years or above.

25. According to Building Department's records, there are about 3 300 buildings aged 50 years or above in Hong Kong, representing 8% of all existing buildings, but they account for 19% of all building repair orders served by the department during the past five years. We therefore believe that it is reasonable to adopt a lower application threshold for the class of lots with all buildings located thereon aged 50 or above. It will facilitate private redevelopment of old and dilapidated buildings and help improve the living environment of residents in these buildings.

26. In the opinion survey we conducted last year, the proportion of respondents who supported or strongly supported the proposed lowering of application threshold increased considerably from 42% to 60%, while the proportion of respondents against or strongly against the proposal decreased by half from 34% to 17%, when the age limit of buildings in the proposal was raised from 40 years or above to 50 years or above. Furthermore, the proportion of respondents who considered the protection of private property rights under the proposal sufficient also increased from 48% to 56%, when the building age was raised from 40 years or above to 50 years or above.

***Lots with Industrial Buildings Aged 30 Years or Above Located in Non-industrial Zones***

27. With Hong Kong's industrial restructuring and the migration of traditional manufacturing activities to the Mainland, the Administration reviews the use of old industrial areas from time to time to ensure optimum use of our land resources. The Planning Department assists the Town Planning Board in periodically reviewing the land uses in the light of economic and social needs and revising the statutory land use zones in the Outline Zoning Plans of all districts. Since 1991, the Planning Department has rezoned about 500 hectares of surplus and suitable Industrial land for non-industrial uses, including 'Other Specified Use (Business)', 'Residential (Group E)', 'Comprehensive Development Area'.

28. There are over 1 450 private industrial buildings<sup>6</sup> in Hong Kong's metro and new town areas, but the majority of them (70%) are located in non-industrial zones – including 56% in "Other Specified Use (Business)" zones, 7% in "Residential (Group E)" zones, and 2% in "Comprehensive Development Area" zones. These figures suggest that despite changes in the land use zoning, most of the existing industrial buildings have not been redeveloped or converted for other uses. Whilst there may be a host of reasons

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<sup>6</sup> These include private flatland factories, godowns and industrial-office buildings.

for this apparently slow pace of regeneration, the existence of multiple ownerships in these buildings is likely a contributory factor.

29. Under the current provision of the LCSRO, any person who owns 90% of undivided shares in a lot may apply to the Tribunal for a compulsory order for sale for redevelopment, regardless of the nature of the building. To facilitate regeneration of old industrial buildings and minimise industrial-residential interface problems, we propose to extend the lowering of application threshold from 90% to 80% to lots with existing industrial buildings aged 30 years or above and situated in non-industrial zones.

30. According to government statistics, there are about 1 000 private industrial buildings situated in non-industrial zonings in the metro and new town areas. Only 5% of these industrial buildings are 50 years old or more, 18% are between 40-49 years, 34% between 30-39 years, and 44% were built within the past 30 years. Since the majority owners will have to prove to the Tribunal that redevelopment of the existing buildings is justified on the ground of their age or state of repair, we have considered whether there is a need to set an age limit for industrial buildings in this class of lots.

31. Be that as it may, we also note the importance that Hong Kong people attach to protection of private property rights and sustainable development (they would not wish to see relatively new buildings knocked down and thereby generating unnecessary demolition wastes). We therefore propose to set the building age limit for this class of lots at 30 years or above and believe that this would strike the right balance. The proposed building age limit will cover about 56% of all industrial buildings currently located in former industrial areas such as Kwun Tong, Kowloon Bay, Cheung Sha Wan, San Po Kong and Wong Chuk Hang, where most if not all of the industrial land has been rezoned over the years to non-industrial uses, notably “Other Specified Use (Business)”. These buildings are relatively old and their current uses may not be entirely in line with the current planning intention, so they should be given priority in redevelopment. The proposed age limit on industrial buildings eligible for a lower application threshold will help avoid premature demolition of existing industrial buildings.

## **WAY FORWARD**

32. In the light of the results of our previous consultation, discussions at the Development Panel of the previous term of the Legislative Council and our further analyses above, we propose to designate in a Gazette notice a lower application threshold of not less than 80% for the following three classes of lots –

- (a) lots with “all units but one” acquired;
- (b) lots with all buildings aged 50 or above; and
- (c) lots with industrial buildings aged 30 or above located in non-industrial zones.

33. Subject to Members’ support, we aim to introduce the Gazette notice, which is a piece of subsidiary legislation, into the Legislative Council as soon as practicable.

**Development Bureau**  
**June 2009**

## **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) [s3(1) & s3(7)(a)]; or
- (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 1 Chinese and 1 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]; and
- (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)]; and
- (b) ensure absentee minority owners' property as assessed in the application is fair and reasonable (including 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)]; and
- (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 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; and
  - (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 6 years after the purchaser becomes the owner; and
  - (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)]; and
  - (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)].

Development Bureau

小業主致發展局的信件副本

你好，

由於本人居於 xxx 大廈，在經濟不景下，除了要應付舊樓各項的維修費外。還要顧及週邊環境的安全！

我們所住之大廈有七成是老人家，他們不是行動不便，就是身體比較差，因要上落多層樓梯而經常跌倒，而且這麼舊的大廈，因為內部日久失修，梯間經常電力負荷不足而不能供電，還招徠一些閒雜人等流連，大廈或附近曾多次發生盜竊，行劫及風化案件，為居民造成很大惶恐和困擾！

我們大廈曾有數次被收購的機會，但每次都因未達九成的業主同意，而擱置收購，實在令眾人失望！故此，希望藉來函表達意願，同時，希望政府可通過在強制售賣土地之申請門檻，由九成的份數降至八成，使我們有改善環境之機會，這才是為市民爭取幸福，並促請政府盡快落實及通過此方案！

祝 新春愉快！

XX 大廈街坊 敬上  
二零零九年一月六日

林鄭月娥局長，

本人是 xxx 某舊樓之其中業主，去年曾接受一私人發展商進行收購行動，為期大約半年多，但可惜最終告吹。最大失敗原因，是有幾戶住宅及鋪位索價太高，令發展商止步。而幾戶加起業權多達百分之十七，不可動用強制售賣，令大部份業主極之失望。其實本樓宇已超過四十年樓齡，殘舊失修，我只想改善居住環境，望政府及有關團體把強制售賣由現時 90% 降到 80%，令全港舊樓市民得益。

XXX

10/1/09

林局長：

有關要求政府加快修例降低舊樓強制收購門檻

本人是 xxx 街的舊唐樓業主，該樓宇已有四十六年樓齡了，早兩年經濟好，有發展商上門提出收購計劃，我們一班小業主都計劃出售手上單位，當收購行動進行得如火如荼之際，發展商才發現有“職業炒家”在背後收集了一成的業權，並向發展商提出高出市價一倍的收購價，即所謂的“打釘”，與此同時市道忽然逆轉，該發展商唯有停止收購行動，此舉令我們一班年老收入低的窮苦大眾進退兩難，因為我們一來大部分的街坊都是退休人士，依靠微薄的積蓄過活，不用拿綜援已是萬幸，根本就不能負擔大型的樓宇維修，小型的修葺對石屎剝落，天花滲水等問題根本寥勝於無，再加上我們的身體亦一日差過一日，風濕關節炎，腳痛，腰痛無時無刻不在折磨我們，實在不知道還可以支撐多久爬樓梯的日子！

我們並不是貪心想賺大錢，只想在有生之年改善生活環境，安居樂業，但基於目前條例所限，發展商若未能收得九成業權，將不能申請強制拍賣，而市場上類似的所謂“打釘”投機行為屢見不鮮，最終令發展商因大失預算而終止收購計劃，而受害的是我們這些無辜的小市民及拖延市區重建的步伐！

我們因此強烈要求政府盡快修例，降低強制收購門檻至八成，增加市場投機者的風險成本，變相令到舊樓重建成功的機會率提高，加快市區重建的步伐，不但令我們這些備受舊樓重建問題困擾的老人家早日安居樂業，更能促進社會和諧及振興經濟，一舉數得！

此致

二零零九年一月十五日

您好:

本人之前有一直留意xxx，有一些疑問希望向您們請教。

據了解《土地（為重新發展而強制售賣）條例》是在 06年 3月建議放寬，「不過，社會上有不少聲音批評有關法例的放寬是忽視小業主利益，令有關條例過去多次在立法會討論仍未取得共識，至今落實無期。」(2009.05.24的文章)

我也明白到大部份反對的理由和問題，只要上網搜查和在貴網站有很多資料和答案。以下內容只是反映自己面對到問題 ~

本人居住在xxx的五十年代起的單幢唐樓，與家人共住20年左右，大樓只有3層共6個業權，其中有4個是住家和2個地舖。最初因政府出信要求外牆及大廈需維修以及其它問題等，加上沒有電梯，其它單位的部份住客已到達退休年齡以上，所以一開始所有業主都打算出售。但最終剩下一個業主(地舖)因與發展商討價還價而一直未同意出售。

這裡的樓齡已經超過55年，每個單位的業權便只有不到17%。所以只要有6份一的業權便不可能進行「強制售賣」。而居住在此的業主與地舖的業主並無法達成共識。首先出入上落的不便和樓齡老化只會真正影響住在這裡的業主及住客，加上地舖業主的心態認為舖比住家要高，所以開價比住家高1~2成才肯接受。

之前的新聞把樓齡四十年以上的樓宇考慮把樓齡限制修訂至五十年以上，但結果還是被否決。<http://kwuntong.wordpress.com/2008/09/02/compulsory/>（2008.09.01）請問 10%的裡面可否不要統一對應在所有業主的業權？對業權人只有五至六位的唐樓和對幾十戶的大廈，如將門檻由10%改為20%而兩種的結果會差別很大，是否應該將兩種作區分或以單位的數量比率作區分？本人認為大家的出發點是保障小業主利益，但當中的條例要如何作修改才可以同時保障其它業主的利益？

希望大家盡快或最少先提出到一個時間表出來讓我們這種業主可以有個心理準備，如一直修改否決修改否決，再十年以上的討論樓齡將快七十年。

謝謝您們的時間

XXX

2009年5月26日

致發展局局長林鄭月娥女士、相關學會及立法會

本人乃 xxx 街的業主，很幸運地本大廈獲某大發展商垂青，但不幸的是我們的大廈在被收購的過程中遇到阻滯。希望透過此信除了可以幫助自己脫困外，更可幫助其他受困的業主。政府於數年前便開始擬改法例，想把樓齡達 40 年或以上，九成贊成出售的強制性改為八成，但究竟幾時才可以通過？現在某大發展商對 xxx 街和 xxx 街進行收購，然而二零零九年六月三十日便是期限。以現階段 xxx 街只有八成幾的業權贊成，而 xxx 街就只有七成幾的業權贊成。事實上 xxx 街的業主看 xxx 街的業主意向才跟風，所以倘若政府早早立法改例，那現在 xxx 街和 xxx 街便一早被強制性拍賣。那為何難為我們這班窮困的小業主呢？

本人有以下觀點，希望貴局盡快加速政府落實七成的通過：

### **從經濟角度出發**

請恕我直言，你們一班高官倘若從自小便擁有好環境的是不會感受到我們的苦處。一般抗拒被收購的業主大多數都擁有較多百分比的業權，有些甚至一人便擁有超過 10% 以上的業權，而只要他一人反對便整幢大廈的人也不得異議。這換句話說，越富的人便越有權，可以控制大部份的窮人。就像我這大廈一樣，業權擁有最多的人便向發展商開天價，希望自己的鋪位能被出價 1000 萬。事實上，就以 xx 街某一地鋪每月租金只不過 4000 元，而發展商已出到四百多萬給他。即是說這鋪位的業主要收 100 年的租金才可得到這四百多萬。想請問？這些業主可以活多一百年嗎？這座樓的結構壽命又可以再捱多一百年嗎？再者我們很多的業主已感十分不滿，即使屋宇署沒有發命令我們的大廈也在不太殘缺的情況下進行大維修，例如翻新外牆，鋪靚大堂。連同屋宇署和大廈維修發起人所命令的費用在短短數年間而達每戶要繳交十幾萬之多，而我這家庭因是低收入人仕更要向外借錢去維修這幢爛樓。他們就是以爲把它翻新好便可以以高價出售給發展商或政府，而事實上即使把它裝修得如皇宮的豪華也沒有用，因為樓一拆了便失去原先的價值。像香港現在很多舊樓也收不成，一來是因為大多業主也是年老的且大部份學識水平不高，他們好像不明白舊屋被收購的好處，而最大最嚴重的問題是政府遲遲不肯改例把強制性的拍賣門檻降低。我知道上海只要有 7 成半至 8 成半的贊成及廣州有 7 成的贊成業權可以強制性拍賣。唯獨香港的門檻是全亞州最高的，不要計我自己的個人利益，倘若政府依然坐視不理，這會全面影響社會整體的經濟。

### **不迫切實行七至八成的強制性收購的嚴重後果**

#### **1) 減低就業機會，影響地區性可得收益**

發展商失去發展土地機會，使建築業減低人力資源需求；上至建築師、測量師、工程師及下至建築工人都會失去就業機會。長遠來說，一個本來可

供經濟效益的大型購物屋苑商場本可為香港飲食業、零售業等提供就業機會。但就因為那些不肯被收購的業主從個人的喜好而引伸至影響整區的經濟。再者，又減低了遊客消費的好去處從而又剝削了外匯的收入。本人真的希望政府要正視這問題，不要讓自私的小撮人破壞社會的整體經濟效益。

## **2) 不良經濟的個別收益及習慣性僭建存在的危險性**

據知，政府有意為有僭建物的業主提供一萬元的津貼清拆僭建物。我想向你們說的是大多數舊樓一經轉讓，新業主又會很快找裝修師傅加建一個新的僭建物。每一次新業主加建一個平台屋的時候便會諮詢那些裝修師傅的可行性，然而做生意的必定會說這是可以的，更說屋宇署是不會檢控的。到時那些業主一收命令又要向政府取津貼、又要付錢給那些明知故犯的師傅。那簡直是太過份，這只會鼓勵業主不停搭建僭建物而賺錢的又是那些裝修師傅，而造成錯誤的經濟轉移及浪費納稅人的金錢。

## **3) 鼓勵霸佔地鋪的業主繼續違例，並以天價索償逼使其他肯被收購的業主成為被剝削及被要脅對象**

我所住的 xxx 街後巷地鋪全部也是僭建的，業主們把原本的鋪位擴建出來以增加其租金收入。而屋宇署只採取釘契行動而沒有強制性出命令拆除它，完全不理會這些舊僭建會帶來潛在危險。直至最近，我發現了其中一間僭建物有破窗半天吊（見圖一（本文件未有夾附））。一方面屋宇署繼續鼓勵它們的存在，另方面政府又遲遲不肯降低強制性拍賣的門檻，故這些業主便繼續以他們的僭建鋪做生意並以天價向發展商提出被收購（圖二（本文件未有夾附））。因為他們明知這些僭建屋是不被計算收購價而現在反正可繼續租給人用，正所謂賺得一蚊得一蚊，他們自以為是以為到最後發展商會肯就範。更甚的例子是像當時 xxx 街被收購時就因其中一個地鋪以天價 2500 萬索價而其他的業主就因怕錯失被收購的機會而發起簽名行動，目的是把他們自己應得的錢分送給這位開大口的業主。即使後來這位開大口業主把該物業降至 1900 萬也超出 24% 之多，難聽一點可以稱得上是「勒索」、加上金融海嘯，結果 xxx 街的收購計劃便告吹，而香港又多一件沒有價值的文物古跡。

## **4) 環境衛生勁差及超級天台僭建物造成危險**

像我們居住在這舊區的人每天面對極度污染的環境中生活（見圖三及四（本文件未有夾附）），加上近日豬流感的盛行，並有全球最壯觀的三層丁屋僭建物。有些更破爛不堪及有些更突出天台圍牆並以兩支幼而生鏽的鐵枝借助天台下一層的僭建簷篷借力，情況十分危險（圖五及六（本文件未有夾附））。而屋宇署只是因田土廳的紀錄是當年的發展商為該天台的業主原故而只向他發出清拆命令而非共同業主的命令，正因這發展商的股東早已死去而其後人也因田土廳中零分享業權而拒絕清拆，至使今天如此成為重災區。如果政府早早立例加快強制性拍賣，就不會弄到如此局面。為甚

麼要多數服從小數？他們愛把危險的僭建租給人住，不理公眾安全。即是說只要 89.9% 人願意被收購的話，那 11.1% 不願意被收購的人便因着自己小數的私慾而影響大多收數的人的意願更甚至影響社會經濟效益。

## **促請政府立即通過七成強制性拍賣而不須理會樓齡**

### **1) 七成強制性拍賣為最佳政策**

究竟全港有多少幢物業有四十年樓齡以上的樓？那麼如果 39 年的政府又如何處置？香港有很多些樓還沒有到四十年便十分破爛而事實上在公平的法則上是小數的服從多數，況且肯被收購的除了是利自己外更加是加速社會經濟效益，那政府還在等甚麼才肯通過？只是每次政府也是講而沒有行動。我個人甚至大部份人也認為香港要仿效廣州七成通過，因為香港現在的地區環境和經濟質數已被當年的廣州追過落後了，廣州就不斷進步，但香港就不斷退步。廣州便到處拆舊樓建樓發展社區，所以七成強制性拍賣是必須立法的。

### **2) 政府缺乏教育市民**

我區一些年老而又學術水平低的業主根本不明白不論是發展商或是政府肯收購這殘破的舊樓已是一個很大的恩惠。但他們有些竟開天殺價、有些更傻地要等政府收才肯賣、其他發展商要賣便死都不肯。有些已遷離這些舊樓而現居靚屋的而擁有多個業權的業主更加開大個獅子口，正因上述我所講的理由，結果大部份肯被收購的業主便被這些小數不良份子拖累。就像當年的 xxx 事件一樣，而最近又聽到 xxx 及 xxx 收購失敗的事件。我們不想成為古物，我說政府缺乏教育市民，說這些小數不肯被收購的業主是無良是完全正確的。因為政府沒有在電視上宣傳收購舊樓的好處，政府屋宇署就天天有廣告宣傳動用納稅人的錢去清拆一些有人認頭的僭建物。其實當這些殘破不堪的舊樓有人收已十分恩惠，政府又不肯收購，即使肯收又要等數十年之久。就市建局收購觀塘一事後已大傷完氣，那又何來可以收購其他呢？那麼政府你們有否教育舊區業主要把握時機，蘇州過後有艇搭的道理？我說那些不肯讓步的業主是無良也是合理的，因為他們大多擁有多個業權兼且是有錢的，就因政府的九成政策而使他們得逞。結果便是我們大多數肯被收購的業主要服從小數無良業主，最終便像 xxx 一樣被高大的新樓圍起來，老人家便繼續喘氣地行六層樓，年青的更加要努力工作去賺取大廈維修費及負擔一些我沒份建的清拆天台僭建物。而最快解決的辦法是政府立即通過七成強制性法例，我想 8 成已沒有效用，而之後的便是政府教育市民。我們請政府不要輕看我們的投訴及建議，我們身為市民已盡己責但你們政府只是講多過做，故希望你們要徹底實行並立即通過法例。

\* 因本人從報章中得知以下貴學會及立法會就有關收購強制性拍賣舊樓曾與發展局局長開會討論有關事宜，故本人副本送給你們作參考以表明我

們一羣無助的小業主的現在絕望的心情並希望即時實行政策。

副本送：立法會  
測量師學會  
建築師學會  
工程師學會  
園境師學會

倘若立法會要公開信件內容，請先通知閣下並請保密投訴人資料

**Urgent & confidential**

此致  
xxx 街業主  
xxx 先生  
xxx 先生  
26.5.09

# 『強制售賣』概覽

2009年4月第一版



THE HONG KONG INSTITUTE OF  
SURVEYORS

香港測量師學會



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## 聲明

本小冊子旨在以淺易的文字及方式介紹「併合收購」、「聯合出售」及「強制售賣」的一些常問問題與及『土地 (為重新發展而強制售賣) 條例 (香港法例第545章) 』的重點及對業主的影響。讀者在作出任何相關決定前，應先清楚了解條例的原文，並諮詢專業人士的意見，香港測量師學會及各編製組成員不會承擔本小冊子所引申的任何法律責任。

除非已得香港測量師學會書面同意，本刊內容不得翻印或以任何形式複製。

促進市區重建發展基本上是符合公眾利益的。重新發展舊區土地上已殘破的物業，能改善環境、衛生及更有效利用土地資源，對社會整體有益。

但業權份數的分散往往令到一些得到大多數小業主同意的重建項目不能推展，更令到小業主失去提升其物業價值的機會。故此，業權分散的問題一向是市區重建的主要障礙。

為了利便私人發展商參與和加快市區重建的工作，當局於1998年提出了方案，而最後立法會通過了『土地 (為重新發展而強制售賣) 條例』(香港法例第545章)。

該條例旨在容許某一地段的「不分割份數」中，擁有達到一個指定多數份數的人，可向土地審裁處提出申請，要求作出一項為重新發展該地段而強制售賣該地段所有「不分割份數」的命令，並使土地審裁處可在若干指明條件已符合的情況下，作出該項命令，以及就附帶或相關事宜訂定條文。

這條例提供一個務實的機制以解決業權分散的問題。

作為香港房地產業中一個重要的專業團體，香港測量師學會不時提供有關政策和法例的意見予香港政府，以使本港經濟更穩定和持續健康發展。

自該條例於1999年實施以來，本會多名會員曾參與根據該條例向土地審裁處申請「售賣令」的個案，故本會會員對條例實施所引起的迴響和社會意見都有一定認知。

於2005年8月，學會就該條例實施以來所出現的問題，曾向特區政府呈上建議，並向有關部門提出修訂條例的多項考慮因素。

近年市場上出現很多收購建議，部份小業主在面對收購建議時往往有點迷茫、困惑、不知所措。有見及此，香港測量師學會本著承擔社會責任的原則，編製此『強制售賣概覽』，嘗試把一些基本資訊編錄，以供市民大眾參考。

香港測量師學會樂於就這課題作進一步探討及貢獻。

任何會員或人仕對本冊子或這課題有任何意見，歡迎向我們反映。

香港測量師學會

2009年4月

編製組

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## 1. 個別單位業主所擁有的業權是什麼？

答：香港的分層大廈，大多數是由發展商在取得整片土地業權後，在其上興建樓房，然後以分層、個別單位形式出售。每單位之新業主（俗稱「小業主」）會獲分配該整片土地之「不分割份數」的業權，其權益基本是該指定單位的使用權和轉讓權，亦包括對其他公用部份相應的使用權益和責任。

如要將整片土地再次重新發展，要先將個別單位之業權併合，亦即要將全部（即百份之百）「不分割份數」整合。

## 2. 什麼情況下個別物業單位會有「併合」價值，吸引財團「併合收購」或值得「聯合出售」？

答：一般來說，隨著環境的變遷，坐落於舊發展區樓宇的地段有機會重新發展為更高地積比率的大廈，甚或改變成為更高經濟價值的用途，例如由住宅用途改為商業用途。在此情況下，地段的發展潛力，反映在重建價值上便可能高於「現樓價」。當重建價值高於現樓價時，便會為業權整合帶來誘因，吸引投資者整合分散的業權，以釋放地段的潛在發展價值。

業權併合在普遍情況下是由一些有財力的收購者啟動，在市場上持續購入個別單位業權，直至將地段的業權百分百整合。自強制售賣條例設立後，為節省時間及簡化過程，亦有收購者進行「併合性收購」行動，即一次過大批收購個別小業主的業權，再進行「強制售賣」程序。

當察覺這種情況（即業權併合後可以釋放地皮的發展價值）出現時，個別單位業主亦可自行組織起來，進行「聯合出售」。

## 3. 什麼物業可以併合收購或聯合出售？

答：有重建質價值的物業，並不限於住宅樓宇，亦包括其他工商樓宇，主要視乎物業座落地段的發展潛力有多大。很多舊樓並未用盡地段的發展潛力及地積比率，因此潛在的發展價值較高。反之，一般新落成樓宇大多已用盡了地段跟據現行法例和地契所賦予的發展潛力，現樓價接近、甚至高於地段的發展價值，因此重建發展誘因不大。

## 4. 併合收購或聯合出售計劃中，個別小業主是否必須跟隨大多數小業主的意願接受收購者所提之價格或參與出售計劃？

答：個別業主是業權擁有人，除經土地審裁處或其他法院依法例指令出售，否則現時的業主有自主權。個別小業主可根據其個人情況及意願自行決定是否參與聯合出售計劃或接受收購建議之條件，包括金額。

併合收購或聯合出售計劃與一般大廈管理及維修事宜性質不同，因此並不受大廈公契所約束，更沒有少數服從多數的規限。

## 5. 如何確保收購價是切合市場價格？

答：地段價值是物業地契、城市規劃委員會法定圖則、建築物條例、及該地段之獨特性（如地點、景觀、交通）等因素之綜合反映，亦跟隨經濟及市場情況浮動。基本上總收購價是反映該地皮之實際發展潛力價值。因有關物業價值評估涉及專業分析，小業主適宜諮詢專業測量師之意見。

6. 如果不是百分百的業主同意出售，對收購價有何影響？

答：一般而言，如果有部份業主不同意聯合出售，則收購價會有所折讓。舉例，如果一幢物業在百份百業主同意出售時可獲十億元，當只有百份之九十業主同意出售時，則收購價定必少於九億，因為收購者須承擔收購餘下業權所衍生的額外風險（包括市場浮動）、訴訟費用（例如作出土地審裁處申請）、利息支出等等。

7. 如果同意聯合出售的業主所持業權份數不足百份之九十，收購者有興趣收購嗎？

答：收購者當然希望收購百份之九十以上業權份數的項目，因為這是現時啟動強制售賣條例的門檻，倘若其後未能以私人協商形式併合業權，則可引用強制售賣條例申請強制售賣，以統一業權並進行重建。如果該次出售的業權份數不足百份之九十，則收購者並不能隨即申請強制售賣，以致完成併合的時間，風險及成本便會大增，這些因素會減低收購者對於這項目的收購興趣。因此，不足百份之九十的聯合出售項目的收購價值會因而有所折讓，幅度視乎與強制售賣條例門檻的差距。

8. 如物業作自住用途，在進行聯合出售時小業主可以怎麼辦？

答：因收購者仍要一段時間併合業權再安排拆卸樓宇，故一般情況下可要求收購者給予暫住期。當然交易條件是可以商議的，例如付款安排，可以要求於物業成交時（即業權轉讓時）業主可先收取樓價之部份，其餘的款項則安放於律師樓中，當物業交吉時，律師便把餘款歸還業主。

9. 如物業現有租約，在進行聯合出售時可以怎麼辦？

答：一般住宅租約不多於兩年，收購者可以連租約購入，因此並不需要待租約完結後才出售。當然，交易條件的細節是可以談判和需要個別商議的。

10. 在併合收購或聯合出售時，各小業主可以如何攤分物業的總收購價？

答：攤分的方法，理論上是可依據各單位的面積、業權份數或價值等的比例，採用何種方法是由各業主經協商後決定。假若參考強制售賣條例的精神和理念，方法是以各單位的現樓市場價值按比例攤分，因這方法能顧及各單位的面積、樓層、坐向等不同因素的關係。如收購者日後引用強制售賣條例進行強制售賣，所得之售賣收益亦是以各單位的現樓市場價格比例分攤。

11. 在小業主方面，有甚麼費用需要於過程中繳付？

答：一般情況下，不論併合收購或聯合出售，小業主都需要繳付其律師費，而物業成交時物業代理一般亦會收取佣金。如樓契出現問題而需要進行補契等手續，便需另外與律師商討額外費用。當然，這些條件亦是可商議和談判的。

12. 物業收購或出售過程需時多久？

答：收購過程與併合物業或聯合出售的單位數目及業主數目有關，所需時間亦取決於業主對售賣意向及收購條件如出售價、分攤方法，及談判過程是否順利等。

13. 為甚麼經常以實用面積作樓價計算準則？

答：由於大多數之私人舊樓於多年前建成，年代久遠，即使從屋宇署取得建築圖則，其面積計算基礎亦可能與今天的標準有所不同。而且各業主過往可能以不同的建築面積買賣，難作準則。因此，為統一及客觀地反映各單位之大小，以香港測量師學會所訂定的「實用面積」定義作為計算現時單位之基準，以之估算現樓價，是比較客觀及公平的做法。

14. 如以實用面積作計算，那麼公共地方之價值如何處理？

答：當所有單位均以實用面積計算其市場價值，而此市場價值亦用作攤分整體收益之用，則地段之所有潛在價值均已根據實用面積分配到各單位中，而公共地方之價值亦已包含及反映於實用面積之計算呎價中。

15. 假若樓宇除主體外 (即商舖或住宅單位)，另有其他附屬設施，例如車位，這些部份會怎樣處理？

答：基本上任何個別物業單位業權人，擁有可以合法地使用的部份，都有市場價值 (反映面積，用途和特性)，亦即擁有「現樓價」，可以構成日後收購價的攤分比例。

16. 小業主參與併合收購或聯合出售的選擇和風險為何？

答：小業主在併合收購中是被動的，所有條件基本上是由收購者首先提出，一般來說會要求是「綑綁式」，即要求達到某一設定的業權份數時，該次收購才會生效。

小業主要注意該等條件的約束性和合理性，是否會影響業權的自由買賣，例如綑綁期，授權細節等等。另外亦要留意付款安排，例如佣金，律師費等等。

相對來說，在聯合出售時，小業主有主動權選擇代理人及顧問，並制定出售條件。但基本上要成功出售，小業主相互之間的協議，採用綑綁式是可避免節外生枝 (例如個別小業主中途退出)，同時亦要小心處理啟動出售程序的費用和相關安排，與及個別單位的業權完整性。當然，出售安排，例如招標或拍賣的形式和其他條件，亦應及早達成共識。

在任何情況下，小業主要清楚認識到簽署各種文件的權責和後果。更要明白很多臨時契約簽署後並不能代表交易一定完成，而業主亦會面對一些責任。

總的來說，簽署任何文件前，應尋求獨立專業顧問 (例如產業測量師和律師) 的意見。

17. 小業主對「併合收購」或「聯合出售」計劃有興趣，可怎麼辦？

答：業主們可組織起來，聘用產業測量師，作出研究並提供專業意見，甚或安排聯合出售事宜。

如個別業主對收購的安排、條件或價格有疑問，亦可分別向其他產業測量師或執業律師尋求專業意見。

在香港測量師學會的網站 ([www.hkis.org.hk](http://www.hkis.org.hk)) 可找到產業測量顧問公司的名單和聯絡細節。

18. 在「併合收購」或「聯合出售」時為甚麼訂金及首期樓款等要先存放於律師樓而非立即分配到各業主手上？

答：因為收購者要同時面對眾多律師樓及賣家，亦須處理各買入單位之業權問題，故此能否依期完成一併買賣會存在一定變數，把訂金及首期樓款先存放於律師樓是收購者覺得比較妥善的做法。

19. 在處理這些收購和出售等事情上，還有其他重要提示嗎？

答：這些以整合業權為最終目標的收購行動，涉及的法律程序繁多，金額亦大，付款的安排，和文件的簽署，都分多次及有多種類，其他的條件亦十分複雜。再者，每個小業主的心態和實際需要亦會不同，包括業權的完整性，甚至有沒有拖欠管理費等細節，都會影響收購進程。

業權整合過程中，在不同階段，要涉及由小業主支付之費用，對此，小業主要清楚明白此等費用的目的為何，付出後所得到的服務或成果是什麼。同理，在各階段需要簽署文件時，要清楚明白目的為何，簽署後的約束性是怎樣，內容所引發的權責是什麼。

小業主考慮出售單位以便業權整合，是為了釋放地段發展價值，從而小業主有機會攤分這潛在利益。在這前提下，相信本著以和為貴，互惠互利，團結是力量的心態，便可達到共贏的最終結果。

20. 收購者在什麼情況下可申請強制售賣？

答：收購者在現行法例下，必須成功購入（或併合）不少於百份之九十業權份數後，才可向土地審裁處申請強制售賣令。如果土地審裁處經聆訊後，接納物業的樓齡及其維修狀況應重新發展，另外亦同時接納收購者（即大部份業主）已採取合理步驟收購餘下業權（雖並不成功），才可頒發售賣令。因此，如果收購者的收購價過低，不能成功吸引超過九成業權的業主出售其物業，收購者亦不可能啟動強制售賣令的申請。

21. 物業根據售賣令拍賣後，樓款會如何分攤？

答：土地審裁處在頒發售賣令時，會指令有關地段須設定拍賣底價，該底價須獲審裁處裁定批准。拍賣後所得款項在扣除一些有關開支後，會按各單位的現樓價比例（若有爭議，會由土地審裁處裁定）分攤給各小業主。

22. 在處理強制售賣令的申請時，土地審裁處的考慮是什麼？

答：土地審裁處會考慮有關樓宇的齡期及保養狀況，以了解該物業是否到達其物質週期或經濟週期之末期，而適合重建。故此，申請售賣令者要清楚提供有關樓宇的保養狀況及齡期的証據，以供土地審裁處作出評審。建築測量師可以提供這方面的服務。

在香港測量師學會的網站 ([www.hkis.org.hk](http://www.hkis.org.hk)) 可找到建築測量顧問公司的名單和聯絡細節。

另外土地審裁處亦要確保申請售賣令者曾作出合理步驟去收購餘下之個別單位，對如何評審這點，終審庭曾裁定土地審裁處只需要確立先前作出的收購建議是在公平合理的範圍內便可成立，而最終的價值和賠償是會反映在公開拍賣的安排上。而事實上亦曾有實例，最後拍賣所得價格是超出土地審裁處所訂定的底價。

土地審裁處會詳細考慮現樓價的估值，以作分攤日後拍賣整塊土地業權的收益，確定比例的公平性和合理性，有爭議時，審裁處會自行評估各單位的現樓價格。

23. 土地審裁處在批出售賣令時，會否附帶任何條件？

答：申請售賣令者，要向土地審裁處提出一系列建議，包括聘用何人為執行售賣令的信託人，並要承擔其費用，而信託人及其費用，連同拍賣底價，最終亦會由土地審裁處在詳細考慮後作出裁定，成為「售賣令」的條件內容。申請者亦要提交拍賣底價的評估報告，而土地審裁處會審視該估價報告的內容和細節，包括估價師所採用的估價方法、基準、參數和假設等等的適用性和合理性，這亦包括估價師的身份、資歷和公正性。

申請者亦要將拍賣整體業權的條件和合約條文提交土地審裁處，以便該處審視其合理性和適用性，以確保拍賣時得到最佳收益，土地審裁處亦會因應個案而作出有關的修改。

24. 假若我擁有的單位被申請強制售賣，我的保障為何？

答：基本上任何強制售賣的申請都要經過土地審裁處依法執行的嚴格審視，就算小業主不作抗辯，土地審裁處都會依法把關，維護所有業權人的利益。如果小業主不同意「售賣令」申請人評估的現樓價或其他申請理據，可以提出反對，土地審裁處會就爭議作出裁決。

當然小業主亦適宜自行向有關專業人士，例如測量師、律師等尋求專業意見，亦可向土地審裁處提出反對批出售賣令，並提供有關理據。

註：上文所提的「強制售賣條例」，或「條例」都是指『土地（為重新發展而強制售賣）條例』。

# 進行「土地 (為重新發展而強制售賣) 條例」 所需作出的步驟

條文	行動	執行者	備註
4(2)(b)	於申請前，採取合理步驟包括以公平合理條件商議購買該地段的所有不分割份數	申請人	
3(1)(a)	申請前，申請人先擬備估價報告，條例規定申請售賣令時須附上該地段上各物業單位的市值評估報告	申請人 估價師	估價報告的撰寫日期必須為申請日之前3個月內
3(1)	連同估值報告向土地審裁處 (審裁處) 申請強制出售該地段	申請人	
3(3)(a)	將申請的文本送達該地段的每名少數份數擁有人	申請人	
3(3)(b)	將申請的文本於田土廳註冊登記	申請人	
3(3)(c)	張貼通告於該地段並刊登在香港中英文報章上	申請人	
4(1)(a)(i)	審裁處就物業價值評估，樓宇的齡期及保養狀況和其他申請理據爭議進行聆訊	申請人	少數份數擁有人可出席聆訊
4(1)(b)(ii), 4(13)	如審裁處拒絕作出售賣令，須把申請的文本註冊撤銷	申請人	
4(12)	若申請人由2名或以上人士組成，其中任何人告知審裁處他不欲繼續該項申請，則該申請即當作撤銷	申請人	在審裁處未有發出售賣令之前
4(1)(c)(i)	申請售賣令時，須向審裁處提名受託人。	申請人	
7(1) & 附表3	售賣令批出後，將售賣令文本及按法例附表 3 的文本 (即規限地段購買者的重新發展條件) 於田土廳註冊登記	受託人	
4(4)(a) & 4(4)(b)	送達售賣令文本給每名少數份數擁有人和地政總署署長	申請人	
4(4)(c)	將通告刊登在香港中英文報章上，通告述明審裁處已批出售賣令，地段用拍賣方式售賣等	申請人	
4(5)	如售賣令文本不能送達少數份數擁有人，審裁處可免除向擁有人送達命令文本，及指示審裁處認為合適的時間和方式刊登公告，通知擁有人審裁處已批出售賣令及可取得該文本的地點與時間	申請人	
5(1)	按照售賣令內指明的條件以公開拍賣方式售賣 (或按照審裁處批准的售賣方式及條件出售)	受託人	

# 進行「土地 (為重新發展而強制售賣) 條例」 所需作出的步驟

條文	行動	執行者	備註
附表2	如以拍賣方式出售該地段，受託人須安排於拍賣日前三星期最少每星期各一次刊登中英文報章通知公眾有關拍賣日期、時間、地點等資料，以審裁處設定的底價和條件進行拍賣	受託人 估價師 律師 拍賣師	申請人要 (及少數份數擁有人亦可) 聘請估價師評估拍賣底價；提交該拍賣底價予審裁處批准；最後，申請人聘任律師及拍賣師安排拍賣  拍賣底價須顧及地段重新發展潛力
5(2) & 7(3)	如所有業主以書面通知受託人他們均不欲售賣該地段，售賣令立即無效，受託人須將售賣令及附表3的註冊撤銷	受託人	在未有購買者之前
5(5)(a)	如以拍賣方式出售，須售予出價最高的競投人	競投人	競投人須先付以按金
5(4)	若該地段在三個月內仍未能出售，可申請延期三個月	受託人 或任何 業主	
7(3)	凡售賣令因第5(4)條而不具效力，須將售賣令及附表3的註冊撤銷	受託人	
10,11	如該地段成功出售，受託人須按附表1第3部指明的基準 (即按現樓價的攤分比例) 分攤該地段在扣除應有開支後的售賣收益予多數份數擁有人與少數份數擁有人	受託人	此等應有開支包括以下開支/費用：- <ul style="list-style-type: none"> <li>• 拍賣開支</li> <li>• 有關轉讓契的法律費用</li> <li>• 用於解除就該地段而須對政府履行的任何法律責任的相關費用</li> <li>• 用於解除影響該地段的產權負擔的相關費用</li> <li>• 對有關租客的賠償 (如適用)</li> </ul>

# 香港測量師學會產業測量顧問公司名單

## 環亞物業顧問有限公司

九龍尖沙咀東部61號麼地道冠華中心6樓602室  
電話：2866 6303  
傳真：2865 4471  
電郵：patricklai@aaproperty.com.hk  
聯絡人：黎華枝

## 韋堅信測量師行

香港皇后大道中99號中環中心27樓2701室  
電話：2521 6467  
傳真：2845 2642  
電郵：ringolam@agw.com.hk  
聯絡人：林晉超

## 天衡產業測量行

九龍尖沙咀堪富利士道2號2樓  
電話：2724 8281  
傳真：2724 6232  
電郵：aestate@biznetvigator.com  
聯絡人：扶栢文

## 策略測量師行有限公司

香港中環德輔道中19號環球大廈1802室  
電話：2180 8690  
傳真：3011 6295  
電郵：chris@adsurveyors.com  
聯絡人：蕭文威

## 蘇振顯測量行有限公司

九龍紅磡蕪湖街83號莊士紅磡廣場1302室  
電話：2882 3183  
傳真：2882 2810  
電郵：mail@assl.com.hk  
聯絡人：蘇振顯

## 美國評值有限公司

香港灣仔告士打道108號大生金融中心1506-10室  
電話：2511 5200  
傳真：2511 9626  
電郵：calvinchan@american-appraisal.com  
聯絡人：陳勁翔

## 恆信測量師行有限公司

九龍彌敦道469-471號新光商業大廈8字樓803室  
電話：2868 0866  
傳真：2526 7511  
聯絡人：文志豪

## 資產評值顧問有限公司

香港灣仔軒尼詩道145號  
安康商業大廈8字樓802室  
電話：2529 9448  
傳真：3544 6316  
電郵：sandra@assetappraisal.com.hk  
聯絡人：劉詩詠

## 協聯估值及拍賣行有限公司

香港中環威靈頓街64-66號裕榮大廈7字樓  
電話：2522 2088  
傳真：2810 6549  
電郵：auction@associated.com.hk  
聯絡人：黃志偉

## 保栢國際評估有限公司

香港灣仔告士打道109-111號  
東惠商業大廈13樓1301室  
電話：2127 6011  
傳真：2137 9881  
電郵：williamsham@biappraisals.com.hk  
聯絡人：參志強

## 保栢測量師有限公司

香港灣仔告士打道109-111號  
東惠商業大廈13樓1301室  
電話：2127 6011  
傳真：2137 9881  
電郵：williamsham@biappraisals.com.hk  
聯絡人：參志強

## 陳國輝測量行有限公司

九龍尖沙咀金巴利道26號19樓D室  
電話：8105 6238  
傳真：2607 1828  
電郵：bernard@bernardkfchan.org  
聯絡人：陳國輝

## 中和邦盟評估有限公司

香港灣仔港灣道6-8號瑞安中心31樓3111-18室  
電話：2593 9634  
傳真：2802 0863  
電郵：jwfchan@bmintelligence.com  
聯絡人：陳詠芬

## 忠誠測量行有限公司

香港中環皇后大道中142-146號  
金利商業大廈1字樓  
電話：2541 2282  
傳真：2544 8267  
電郵：samlo@chungsen.com.hk  
聯絡人：盧漢昌

## 嘉漫 (香港) 有限公司

香港中環141號德輔道中141號中保集團大廈211室  
電話：2957 8928  
傳真：2957 8978  
電郵：ernest@castoresmagi.com  
聯絡人：張華富

## 世邦魏理仕

香港灣仔港灣道18號中環廣場34樓  
電話：2820 2932  
傳真：2877 2439  
電郵：kamhung.yu@cbre.com.hk  
聯絡人：余錦雄

## 中原測量師行有限公司

香港皇后大道中18號  
新世界大廈1座12樓1202-03室  
電話：2521 8160  
傳真：2525 6543  
電郵：james918@msmail.centanet.com  
聯絡人：張競達

## 建城發展顧問有限公司

九龍油麻地彌敦道469-471號  
新光商業大廈9樓905室  
電話：3105 5008  
傳真：3105 0504  
電郵：kkc@citibuild.com  
聯絡人：蔡健君

## 天俊測量師行有限公司

香港銅鑼灣渣甸街5-19號京華中心9樓04室  
電話：2111 8882  
傳真：2111 5636  
電郵：kenneth@citilandsurveyors.com  
聯絡人：張楚然

## 毛燦明顧問測量師有限公司

九龍河內道5號普基商業中心20樓  
電話：2622 2622  
傳真：2622 2621  
電郵：cmmo@lands.com.hk  
聯絡人：毛燦明

## 高力國際物業顧問 (香港) 有限公司

香港灣仔港灣道18號中環廣場5701室  
電話：2822 0727  
傳真：2810 5970  
電郵：piers.brunner@colliers.com  
聯絡人：Piers Brunner

## 高緯物業顧問有限公司

香港中環皇后大道中5號衡怡大廈6樓  
電話：2956 7038  
傳真：2956 2323  
電郵：simon.lynch@ap.cushwake.com  
聯絡人：連世文

## 譚秉文測量師有限公司

九龍尖沙咀金巴利道35號金巴利中心9字樓902室  
電話：2721 7880  
傳真：2312 1231  
電郵：dennytam@dennytam.com  
聯絡人：譚秉文

## 戴德梁行

香港中環怡和大廈16樓  
電話：2507 0602  
傳真：2530 1502  
電郵：kk.chiu@dtz.com.hk  
聯絡人：趙錦耀

### 捷利行測量師有限公司

香港中環皇后大道中153號兆英商業大廈14字樓  
電話：2525 0375  
傳真：2877 0378  
電郵：elo@dudleysurveyors.com  
聯絡人：盧以德

### 雍盛資產評估及房地產顧問有限公司

香港上環永安樂街148號南和行大廈1901室  
電話：2891 9861  
傳真：2891 9449  
電郵：yungshing@dpval.com  
聯絡人：黃雅盛

### 談達祥測計師行有限公司

香港中環皇后大道中189-205號啟豐大廈4樓G  
電話：2544 9397  
傳真：2545 8852  
聯絡人：談達祥

### 萊斯物業代理有限公司

新界葵芳興芳路223號  
新都會廣場二期九樓901-902室  
電話：2484 1892  
傳真：8208 3286  
電郵：wkl@hkfpa.com  
聯絡人：李偉權

### 福安測量師行有限公司

新界元朗青山道99-109號  
元朗貿易中心8字樓801室  
電話：2478 8908  
傳真：2478 2765  
電郵：fsl@hkstar.com  
聯絡人：劉月明

### Gareth Williams & Associates

香港上環蘇杭街19-25號永昌商業大廈16B室  
電話：2541 6116  
傳真：2541 6199  
電郵：garethwilliams@gwahk.com  
聯絡人：韋理信

### 金潤規劃測量師行有限公司

新界元朗安樂路129-149號基達中心8樓E室  
電話：2714 2821  
傳真：2762 1783  
電郵：goldrichplanners@gmail.com  
聯絡人：劉德

### 中證評估有限公司

香港灣仔分域街18號捷利中心17樓1701室  
電話：2877 8330  
傳真：2877 6718  
電郵：peggylai@grantsherman.com  
聯絡人：黎玉燕

### 漢華評值有限公司

香港灣仔港灣道6-8號瑞安中心2703室  
電話：2511 6868  
傳真：2511 6161  
電郵：kki@gca.com.hk  
聯絡人：葉國光

### 高練賢測計師行

香港中環干諾道中33號中亞洲大廈4樓  
電話：2543 1997  
傳真：2854 1557  
電郵：ica@netvigator.com  
聯絡人：Ian R.C. Cullen

### 尊維斯香港有限公司

新界葵涌葵豐街33-39號  
華豐工業中心二期二樓D室  
電話：3525 0135  
傳真：3525 0136  
電郵：eyuen@jrwest.com.hk  
聯絡人：袁國良

### 吳耀華測計師行有限公司

香港中環德輔道中130-132號  
大生銀行大廈706室  
電話：2808 1808  
傳真：2808 1108  
電郵：jamesngs@netvigator.com  
聯絡人：吳耀華

### 晉高測量師行有限公司

香港灣仔皇后大道東58-64號  
帝后商業中心7樓A室  
電話：2723 1688  
傳真：2723 2660  
電郵：jointgoal@yahoo.com.hk  
聯絡人：顏源全

### 仲量聯行有限公司

香港金鐘道88號太古廣場一期28樓  
電話：2846 5501  
傳真：2968 0078  
電郵：chunkong.lau@ap.jll.com  
聯絡人：劉振江

### 仲量聯行西門有限公司

香港英皇道979號太古坊多盛大廈17樓  
電話：2169 6003  
傳真：2169 6001  
電郵：paul.brown@jllsallmanns.com  
聯絡人：Paul L. Brown

### Joseph Ho & Associates Ltd

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傳真：2815 0823  
電郵：josepho@hkstar.com  
聯絡人：何展才

### 廖敬棠測計師行有限公司

香港中環德輔道中107-111號  
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電話：2869 0778  
傳真：2525 6799  
電郵：ktliustld@ctimail.com  
聯絡人：廖敬棠

### 萊坊測計師行有限公司

香港灣仔港灣道6-8號瑞安中心4字樓  
電話：2840 1177  
傳真：2840 0600  
電郵：alan.child@hk.knightfrank.com;  
alex.ng@hk.knightfrank.com  
聯絡人：齊良德 / 吳紹林

### 峻峰地產有限公司

香港灣仔港灣道23號鷹君中心1202室  
電話：2529 6606  
傳真：2529 8875  
電郵：ltpdavid@netvigator.com  
聯絡人：謝建華

### 宏基測量師行有限公司

九龍尖沙咀加拿芬道18號恆生尖沙咀大廈1402室  
電話：2301 1869  
傳真：2739 1913  
電郵：info@lanbase.com.hk  
聯絡人：曾國鳴

### 峻盛測量師行

香港北角電氣道148號28樓2801室  
電話：2869 7138  
傳真：2869 6010  
電郵：landelit@netvigator.com  
聯絡人：葉滿華

### 領域測量師行有限公司

香港灣仔皇后大道東183號合和中心31樓3106室  
電話：2866 0022  
傳真：2866 0015  
電郵：info@landscape.com  
聯絡人：許廣勝

### 譚希仲產業測計師有限公司

香港北角英皇道625號6樓601室  
電話：2810 4411  
傳真：2810 4637  
電郵：spancer@larryhctam.com.hk  
聯絡人：黃潤長

### 羅迅測計師行

香港中環雲咸街1號南華大廈1601室  
電話：2877 1636  
傳真：2524 0355  
電郵：ldssung@lawsonsurveyors.com  
聯絡人：宋梓華

### 利駿行測量師有限公司

香港中環德輔道中287-291號長達大廈17樓  
電話：2586 1737  
傳真：2586 1847  
電郵：elsang@lchgroup.com  
聯絡人：吳紅梅

### 溫文儀測量師行有限公司

香港中環亞畢諾道3號環貿中心2805室  
電話：2111 1367  
傳真：2521 2815  
電郵：mywan@netvigator.com  
聯絡人：溫文儀

**黃開基測計師行有限公司**

九龍尖沙咀漢口道4-6號匯生商業中心15樓  
電話：2905 3588  
傳真：2868 4913  
電郵：memfuswong@mwsll.com.hk  
聯絡人：黃開基

**曙亮測量師有限公司**

香港北角英皇道89號匯生商業中心1403室  
電話：2836 3135  
傳真：2571 3336  
電郵：merry@netvigator.com  
聯絡人：李志豪

**美聯測量師行**

香港中環德輔道中19號環球大廈25樓2505-8室  
電話：2801 4930  
傳真：2530 1357  
電郵：syr@midland.com.hk  
聯絡人：林子彬

**萬邦測量師行有限公司**

香港灣仔軒尼詩道24-34號大生商業大廈21樓  
電話：2840 1022  
傳真：2877 2811  
電郵：raymond.chan@yahoo.com.hk;  
info@multiple.com.hk  
聯絡人：陳偉建

**普敦國際評估有限公司**

香港灣仔軒尼詩道288號英皇集團中心21樓01室  
電話：2810 7505  
傳真：2810 6337  
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聯絡人：王明坤

**Paul Varty Chartered Surveyors**

香港中環都爹利街11號律敦治大廈1302室  
電話：2841 8860  
傳真：2841 8890  
電郵：pvarty@netvigator.com  
聯絡人：Paul Varty

**測建行有限公司**

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## Summary of Opinion Surveys Conducted in April 2008

- Aggregated Effective Sample Size: 905 (only residents living in rented and privately-owned residential units were interviewed).

### **Proposal 1: A lot with “all units but one” acquired**

#### (a) Lower the threshold

- Support (32%) + Strongly Support (9.4%) = 41.4%
- Against (23%) + Strongly Against (8.5%) = 31.5%
- Neutral and others: 27.1%

#### (b) Protection of private property rights

- Sufficient: 46.2%
- Insufficient: 37.9%
- Neutral and others: 15.9%

### **Proposal 2: A lot with all building(s) aged 40 or above**

#### (a) Lower the threshold

- Support (33%) + Strongly Support (9.1%) = 42.1%
- Against (25.5%) + Strongly Against (8.3%) = 33.8%
- Neutral and others: 24.1%

#### (b) Protection of private property rights

- Sufficient: 47.7%
- Insufficient: 37.8%
- Neutral and others: 14.4%

### **Proposal 3: A lot with all building(s) aged 50 or above**

Only those respondents who did not opt for “support” or “strongly support” for the “building(s) aged 40 or above” proposal were asked about the “building(s) aged 50 or above” proposal.

#### **(a) Lower the threshold**

- Support/Strongly Support: 60%, including -
  - (i) *respondents who opted for “support” (33%) and “strongly support” (9.1%) for the “building(s) aged 40 or above” proposal, and*
  - (ii) *respondents who opted for “support” (16.7%) and “strongly support” (1.2%) for the “building(s) aged 50 or above” proposal.*
- Against (14.1%) + Strongly Against (4.5%) = 18.6%
- Neutral and others: 21.3%

#### **(b) Protection of private property rights**

- Sufficient: At least 56.1%, including -
  - (i) *respondents who considered the “building(s) aged 40 or above” proposal sufficient and were not asked about the “building(s) aged 50 or above” proposal (32.8%), and*
  - (ii) *respondents who considered the “building(s) aged 50 or above” proposal sufficient (23.3%).*
- Insufficient: 23.5%

Development Bureau