

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1262/09-10  
(These minutes have been seen by  
the Administration)

Ref : CB1/SS/5/09

**Subcommittee on Land (Compulsory Sale for Redevelopment)  
(Specification of Lower Percentage) Notice**

**Minutes of the second meeting held on  
Friday, 19 February 2010, at 2:30 pm  
in the Chamber of the Legislative Council Building**

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Dr Hon Margaret NG  
Hon James TO Kun-sun  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Kwok-hing, MH  
Hon Cyd HO Sau-lan  
Hon Starry LEE Wai-king  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
- Members absent** : Hon Albert HO Chun-yan  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon CHEUNG Hok-ming, GBS, JP  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon WONG Kwok-kin, BBS
- Public Officers attending** : Agenda item I  
  
Mr Tommy YUEN, JP  
Deputy Secretary (Planning and Lands)2  
Development Bureau  
  
Mr Laurie LO  
Head, Development Opportunities Office  
Development Bureau

Ms Winnie SO  
Principal Assistant Secretary (Planning and Lands)  
Development Bureau

Ms Francoise LAM  
Senior Government Counsel  
Department of Justice

**Attendance by  
invitation**

: Agenda Item I

Designing Hong Kong Ltd.

Mr Paul ZIMMERMAN  
Founding Member

Central & Western Concern Group

Ms Katty LAW  
Convener

Community Alliance for Urban Planning

Mr NG Yin-keung  
Spokesman

舊樓業主支持修改八成關注小組

Mr LEUNG Yuk-ming  
Secretary

Democratic Alliance for the Betterment and Progress of  
Hong Kong

Mr Vincent CHENG Wing-shun  
Central Committee Member

K28 Sport Shoes Street Concern Group

Mr CHAM Kam-shu  
Representative

People Planning in Action

Mr WONG Ho-yin  
Member

保安及物業管理從業員支持舊區重建關注小組

Mr KWONG Wai-pak  
Secretary

The Hong Kong Institute of Surveyors

Dr Lawrence POON  
Immediate Past Chairman of General Practice Division

Individual

Mr Edwin C L TSANG  
Former Chairman of Planning and Development  
Division of the Hong Kong Institute of Surveyors

茶果嶺區舊樓重建會

Mr YEUNG Hop-kei  
Member

Study Group on Old Building Crisis

Mr LAM Kei-sam  
Representative

Hong Kong Institute of Real Estate Administrators

Ms Ellen LO Yee-tak  
Committee Member

Owner of Haven Street

Mr SIN Ho-yuen  
Representative

捍衛基本法大聯盟

Mr KU Nai-hong  
Representative

Owner of Kam Kwok Building

Mrs WONG WONG Ngar-kit  
Representative

深水埗舊區業主

Mr HAU Chi-wang  
Spokesman

Green Sense

Mr TAM Hoi-pong  
President

**Clerk in attendance :** Ms Debbie YAU  
Chief Council Secretary (1)6

**Staff in attendance :** Mr Kelvin LEE  
Assistant Legal Adviser 1

Ms Angel SHEK  
Senior Council Secretary (1)1

Ms Michelle NIEN  
Legislative Assistant (1)9

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Action

**I Meeting with deputations and the Administration**

LC Paper No. CB(1)1172/09-10(04) -- Submission from Central & Western Concern Group (*Chinese version only*)

LC Paper No. CB(1)1172/09-10(05) -- Submissions from Community  
LC Paper No. CB(1)1126/09-10(01) Alliance for Urban Planning  
(*Chinese version only*)

LC Paper No. CB(1) 1172/09-10(06) -- Submission from 舊樓業主支持修  
改八成關注小組 (*Chinese version only*)

LC Paper No. CB(1)1172/09-10(07) -- Submission from Democratic  
Alliance for the Betterment and  
Progress of Hong Kong (*Chinese version only*)

LC Paper No. CB(1)1172/09-10(08) -- Submission from K28 Sport Shoes  
Street Concern Group (*Chinese version only*)

- LC Paper No. CB(1)1172/09-10(09) -- Submissions from People Planning  
LC Paper No. CB(1)1126/09-10(02) in Action (*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(10) -- Submission from 保安及物業管理  
從業員支持舊區重建關注小組  
(*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(11) -- Submission from The Hong Kong  
Institute of Surveyors (*English  
version only*)
- LC Paper No. CB(1)1172/09-10(12) -- Submission from 茶果嶺區舊樓重  
建會(*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(13) -- Submission from Study Group on  
Old Building Crisis (*Chinese  
version only*)
- LC Paper No. CB(1)1172/09-10(14) -- Submission from Hong Kong  
Institute of Real Estate  
Administrators (*Chinese version  
only*)
- LC Paper No. CB(1)1172/09-10(15) -- Submission from Owner of Haven  
Street (*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(16) -- Submission from 捍衛基本法大  
聯盟(*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(17) -- Submission from Owner of Kam  
Kwok Building  
(*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(18) -- Submission from 深水埗舊區業  
主 (*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(19) -- Submission from Green Sense  
(*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(20) -- Submission from Association of  
Engineering Professionals in  
Society (*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(21) -- Submission from Hong Kong  
Construction Association (*English  
version only*)

- LC Paper No. CB(1) 1172/09-10(22) -- Submission from Kowloon City District Council (*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(23) -- Submission from The Hong Kong Association for the Advancement of Real Estate and Construction Technology Limited (*Chinese version only*)
- LC Paper No. CB(1)1172/09-10(24) -- Submission from The Real Estate Developers Association of Hong Kong (*English version only*)
- LC Paper No. CB(1)1172/09-10(25) -- Submission from Hip Shing Hong Group (*Chinese version only*)
- LC Paper No. CB(1)1126/09-10(03) -- Submission from 高綺華女士 (*Chinese version only*)
- LC Paper No. CB(1)1126/09-10(04) -- Submission from Mr WONG Chi-sum (*Chinese version only*)
- LC Paper No. CB(1) 1172/09-10(01) -- List of follow-up actions arising from the discussion at the meeting on 9 February 2010
- LC Paper No. CB(1)1172/09-10(02) -- Administration's response to CB(1)1172/09-10(01)
- LC Paper No. CB(1)1172/09-10(03) -- Administration's information paper on summary of key issues covered in past Lands Tribunal Judgments on Applications for Compulsory Sale under the Land (Compulsory Sale for Redevelopment) Ordinance
- LC Paper No. CB(1)1163/09-10(01) -- Administration's information paper on profile of old buildings in Hong Kong
- LC Paper No. CB(1)1163/09-10(02) -- Administration's information paper on optimising the use of industrial buildings to meet Hong Kong's changing economic and social needs

LC Paper No. CB(1)1163/09-10(03) -- Administration's information paper on protection of minority owners under the Land (Compulsory Sale for Redevelopment) Ordinance)

The Subcommittee met with the Administration and deputations (Index of proceedings attached at **Appendix**).

Follow-up actions required to be taken by the Administration

2. The Administration was requested to provide written response to members' concerns and requests raised at the meeting:

- (a) Information on the compensation to the owners affected by the redevelopment project at Hanoi Road, Tsim Sha Tsui (i.e. the site of the current K11 district and the Masterpiece residential development) taken forward by the former Land Development Corporation;
- (b) The Administration should explore the feasibility of engaging the Hong Kong Housing Society and the Urban Renewal Authority in submitting bids during the auctions for compulsory land sale conducted under the Land (Compulsory Sale For Redevelopment) Ordinance (the Ordinance);
- (c) Detailed response to members' suggestions of establishing a mediation and/or arbitration mechanism under the Ordinance;
- (d) Whether redevelopment projects under compulsory land sale had to comply with relevant town planning requirements including plot ratio, building height, and conduct of assessments such as traffic and social impact assessments, and whether complementary measures and facilities would be provided to meet the anticipated increasing demand arising from the redevelopment in the neighbourhood;
- (e) The Administration should consider revising the second class of lot under the Notice to specify that the lower application threshold of 80% would be applied to those buildings aged 50 years or above which posed imminent safety risks as assessed by the Buildings Department;
- (f) The Administration should consider including owner participation arrangements as one of the factors for the Lands Tribunal to determine a compulsory land sale application in the implementation of the Ordinance;

- (g) Measures to address issues referred to in paragraph 42 of a judgment of the Court of Final Appeal (FACV No 4 of 2005) with a view to ensuring that the objectives of the Ordinance were not frustrated; and
- (h) Clarification on the object of the Ordinance, particularly in relation to building safety and/or economic value of redevelopment, analysis of whether the Lands Tribunal had exercised judgments on past compulsory land sale applications in tandem with the object and whether it was necessary to amend the Ordinance to reflect the legislative intent, together with explanation on the urgency in effecting the Notice at this juncture.

Date of next meeting

- 3. The Chairman reminded members that the next meeting would be held on Tuesday, 23 February 2010 at 10:45 am.

**II Any other business**

- 4. There being no other business, the meeting ended at 6:45pm.

Council Business Division 1  
Legislative Council Secretariat  
26 February 2010



**Proceedings of the second meeting of  
the Subcommittee on Land (Compulsory Sale for Redevelopment)  
(Specification of Lower Percentage) Notice  
on Friday, 19 February 2010, at 2:30 pm  
in the Chamber of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
000302 – 000645	Chairman	Welcoming remarks by the Chairman	
000646 – 001002	Chairman Designing Hong Kong Ltd (DHKL)	DHKL's view that redevelopment could not resolve urban problems such as traffic congestion and heavy pedestrian flow in busy districts and the Notice could not address the problem of building dilapidation. Implementation of the Notice should be deferred until a more sustainable solution was identified to address the problems. The right of owner(s) should not be interfered unless they failed to keep the building in a safe condition. The Government should instead consider withdrawing the occupancy permit of buildings which had failed to carry out repairs in accordance with orders served by the Buildings Department.	
001003 – 001337	Chairman Central & Western Concern Group (CWCG)	Presentation of views (CB(1)1172/09-10(04)).	
001338 – 002107	Chairman Community Alliance for Urban Planning (CAUP)	Presentation of views (CB(1)1126/09-10(01) and CB(1)1172/09-10(05)).	
002108 – 002508	Chairman 舊樓業主支持修改 八成關注小組	Presentation of views (CB(1)1172/09-10(06)).	
002509 – 002838	Chairman Democratic Alliance for the Betterment and Progress of Hong Kong	Presentation of views (CB(1)1172/09-10(07)).	
002839 – 003443	Chairman K28 Sport Shoes Street Concern Group (K28)	Presentation of views (CB(1)1172/09-10(08)).	
003444 – 003917	Chairman People Planning in Action (PPA)	Presentation of views (CB(1)1126/09-10(02), CB(1)1172/09-10(09) and CB(1)1192/09-10(02)).	
003918 – 004144	Chairman 保安及物業管理從 業員支持舊區重建 關注小組	Presentation of views (CB(1)1172/09-10(10)).	

Time marker	Speaker	Subject(s)	Action required
004139 – 004612	Chairman The Hong Kong Institute of Surveyors (HKIS)	Presentation of views (CB(1)1172/09-10(11)).	
004613 – 004723	Chairman Mr Edwin TSANG	Presentation of views (CB(1)1192/09-10(03)).	
004724 – 004920	Chairman 茶果嶺區舊樓重建 會	Presentation of views (CB(1)1172/09-10(12)).	
004921 – 005457	Chairman Study Group on Old Building Crisis	Presentation of views (CB(1)1172/09-10(13)).	
005458 – 005641	Chairman Hong Kong Institute of Real Estate Administrators (HKIERA)	Presentation of views (CB(1)1172/09-10(14)).	
005642 – 010115	Chairman Owner of Haven Street (OHS)	Presentation of views (CB(1)1172/09-10(15)).	
010116 – 010557	Chairman 捍衛基本法大聯盟	Presentation of views (CB(1)1172/09-10(16)).	
010558 – 010909	Chairman Owner of Kam Kwok Building (OKKB)	Presentation of views (CB(1)1172/09-10(17)).	
010910 – 011459	Chairman 深水埗舊區業主	Presentation of views (CB(1)1172/09-10(18)).	
011500 – 011821	Chairman Green Sense	Presentation of views (CB(1)1172/09-10(19)).	
011822 – 012718	Chairman Administration	<p>The Administration's response that –</p> <p>(a) the aim of the Notice was to enhance the ability of private property owners who owned more than 80% of the undivided shares in a lot to apply to the Lands Tribunal for an order for the sale of all of the undivided shares in the lot for the purposes of redevelopment;</p> <p>(b) the Notice specified a lower application threshold of 80% in respect of only three classes of lot (and not all the lots), which had undergone thorough consultation with the Panel on Development of the Legislative Council and the public over the past few years;</p> <p>(c) the Lands Tribunal had been playing a gatekeeper's role in determining each compulsory sale application in</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>accordance with the detailed requirements of the Ordinance; and</p> <p>(d) to enhance affected owners' understanding of the legislative provisions, the Hong Kong Housing Society (HKHS) would provide, with professional support mainly from HKIS, free information service on the compulsory land sale process, valuation principles, rights of minority owners etc.</p>	
012728 – 013616	Chairman Mr James TO CAUP HKIS	<p>Mr James TO's concern whether the small number of bidder in compulsory land sale auction was due to an unreasonably high reserve price level or as suggested by one of the deputations, a tacit practice among developers not to submit bids in the auctions for land sale application initiated by other developers. His suggestion of engaging HKHS and/or Urban Renewal Authority (URA) in submitting bids during the auctions, so as to help secure a more reasonable transaction price.</p> <p>HKIS's remark that few or only one bidder taking part in the auctions might not necessarily mean inadequate protection of the interests of affected minority owners. The Lands Tribunal, which had a qualified surveyor sitting on its panel, had given stringent considerations in determining compulsory land sale applications and valuation of the lot concerned.</p>	The Administration to follow up as requested in paragraph 2(b) of the minutes.
013617– 014408	Chairman Dr Margaret NG PPA CWCG Administration	<p>Noting the divergent views among property owners in the deputations regarding the effectiveness of the Ordinance in achieving its objectives, Dr Margaret NG's doubt whether the lowering of application threshold to 80% for specified lots could genuinely address the problem of dilapidating buildings like the collapsed tenement in Ma Tau Wai Road, and improve the living environment of needy owners in old buildings, as developers would likely choose only those lots with high redevelopment potential for making compulsory land sale applications.</p> <p>PPA's observation that the lots involved in the past 20 compulsory land sale auctions were located in areas of high redevelopment potential, such as those in Mid-level, Tai Hang and Causeway Bay. Its view that the Government might make reference to the Taipei experience to delineate specific zones with aging buildings for redevelopment such as Sham Shui Po, and offer owner participation arrangement in redevelopment projects.</p> <p>CWCG shared the observation and noted that many of the buildings undergone compulsory sale auction were still in good state of repair. Her view that the compulsory land sale mechanism should only target at those buildings in poor state of repair, and private sector-led redevelopment projects should be subject to town planning requirements to avoid screen-like developments affecting the neighbourhood.</p> <p>The Administration's response that as the collapse incident in Ma Tau Wai Road was still under investigation, it would not</p>	The Administration to provide information as requested in paragraph 2(a) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>be appropriate to comment at this stage on the reasons leading to the collapse. Nevertheless, as the other buildings (45E to 45H of Ma Tau Wai Road) contiguous to the solely-owned collapsed tenement (45J) were over 50 years of age, they would therefore be covered under the second class of lot for a lower application threshold as specified in the Notice.</p> <p>In reply to Dr NG's further enquiry, the Administration's agreement to provide information about the compensation arrangements under the Hanoi Road redevelopment project taken forward by the former Land Development Corporation for members' reference.</p>	
014409 – 015443	Chairman Mrs Regina IP OHS Administration	<p>Having received a related complaint concerning the Haven Street redevelopment, Mrs Regina IP's doubt whether some minority owners had demanded unreasonably high prices and hindered redevelopment of the relevant lot by the private sector. Considering that the compulsory land sale system did undermine the bargaining power of minority owners, her suggestion of implementing arbitration in place of compulsory land sale by auction with a view to better protecting minority owners' interests in private sector-led redevelopment. As the Administration had advised that the number of lots to be relegated under the Notice would be limited, it might not be worthwhile to pursue the lowering of the application threshold.</p> <p>OHS's consideration of his request for shop-for-shop arrangement reasonable for the acquisition of his shop in the Haven Street redevelopment. His view that the option of arbitration might help aggrieved owners save professional and legal costs which would otherwise be incurred if disputes over assessed property value were brought before the Lands Tribunal under the existing mechanism.</p> <p>The Administration's view that –</p> <p>(a) while it was difficult to assess whether arbitration would be better than auction in terms of protecting the interest of all owners involved, the current mechanism of determination of compulsory land sale applications by the Lands Tribunal in accordance with the requirements of the Ordinance and the disposal of related lots by auctions with the reserve prices determined by the Tribunal had served to strike a balance of interests between the majority and minority owners; and</p> <p>(b) the limited number of past compulsory land sale cases was not a question of defects in the prevailing system <i>per se</i>, but how the system could be refined towards more gainful use. The lowering of application threshold to 80% for specified lots was to facilitate more applications under the Ordinance by addressing the deadlock situations as stated in the LegCo Brief (File Ref. DEVB(PL)UR)70/41/85). It was also hoped that the specification of a lower threshold for the class of lot with</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>all buildings aged 50 years or above would help address the building dilapidation problem associated with a fast growing number of aged buildings in the city.</p>	
015444 – 020156	<p>Chairman Mr WONG Kwok-hing DHKL Administration</p>	<p>Noting the Administration's response (part (b) of CB(1)1172/09-10(02)) that it would "encourage" the majority owners and minority owners of a lot to adopt a mediation approach before invoking the procedures under Cap. 545, Mr WONG Kwok-hing asked about measures to be taken by the Administration to "encourage" mediation between them. He stressed that unlike arbitration, mediation could help resolve disputes in a mutually-agreed manner and form a basis for the Lands Tribunal's consideration.</p> <p>The Administration's advice that the said response was just an interim reply, and it was studying, in consultation with the Judiciary and related organizations (e.g. HKIS and HKHS), the suggestion of mediation on voluntary basis, and would provide a detailed response in due course. Mr WONG's request that the Administration should also consider the feasibility of a compulsory mediation mechanism.</p> <p>DHKL's suggestion that assistance should be provided to owners interested in selling their properties but having difficulty in aggregating sufficient undivided shares to proceed to a compulsory land sale application.</p>	<p>The Administration to provide written response as requested in paragraph 2(c) of the minutes.</p>
020157 – 020359	<p>Chairman Mr James TO Administration</p>	<p>Regarding Mr James TO's suggestion of engaging HKHS and/or the URA in submitting bids during the auctions for compulsory land sale, the Administration's consideration that it might not be appropriate to deploy public resources from HKHS and URA in privately-led redevelopments.</p>	
020400 – 021152	<p>Chairman Ms Cyd HO Administration Green Sense</p>	<p>Ms Cyd HO's view that compulsory land sale by auction should only be implemented for those buildings in which the owner of the last but one unit was missing. Referring to the redevelopment at Seymour Road, her concern that private redevelopments had been taken forward in built-up districts that had given rise to adverse traffic impact in the districts. Her concern about whether redevelopment projects under compulsory land sale had to comply with relevant town planning requirements including plot ratio, building height, and conduct of assessments such as traffic and social impact assessments, and whether complementary measures and facilities would be provided to meet the anticipated increasing demand in the neighbourhood.</p> <p>The Administration's response that the Notice did not entail changes to the current policy of town planning and related measures which were undertaken in parallel with urban renewal. The Chairman's advice that policy issues relating to town planning could be further deliberated at future meetings of the Panel on Development.</p>	<p>The Administration to provide written response as requested in paragraph 2(d) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
021153 – 022216	Chairman Ms Miriam LAU Administration HKIREA PPA K28	<p>Ms Miriam LAU's concern about whether the Lands Tribunal had played its gate-keeping role effectively given the many complaints from affected owners in compulsory land sale cases, and the Administration should identify problems in the existing system for making improvements where warranted. She shared the suggestion to settle disputes arising from compulsory land sale by way of mediation which however should not be made compulsory. Her doubt about the effectiveness of arbitration if it only repeated the same process of the Tribunal.</p> <p>The Administration's reiteration that the Tribunal had given stringent considerations of various pertinent requirements in the Ordinance in determining the applications for compulsory land sale, as reflected in the past Tribunal judgments on the applications.</p> <p>HKIREA's consideration that the crust of problem with the current system was that the reserve price only took into account the redevelopment potential of the subject lot on its own but not the redevelopment potential with adjacent lots which had been acquired by the same majority owner/developer. This might explain why few or only one bidder had submitted bids in past compulsory land sale auctions since standalone lots of limited size and low redevelopment value would not be attractive to bidders unless they had also acquired the adjacent lots to form a composite site for redevelopment.</p> <p>PPA's agreement that resumption of private properties should only be made on grounds of public interests, and private developer should be required to comply with the prevailing planning parameters in redevelopment projects. K28's echo that private property right should be respected and shop-for-shop and flat-for-flat arrangement should be provided.</p>	
022217 – 022939	Chairman Ms Starry LEE Administration K28 OKKB 捍衛基本法大聯盟 CAUP	<p>Ms Starry LEE's enquiry about the feasibility of providing owner participation arrangements such as flat-for-flat and shop-for-shop arrangements to affected minority owners in private redevelopment projects.</p> <p>The Administration's highlight that owner participation in private redevelopment projects were available in Tokyo and Taipei and all these projects were implemented with an increase in the plot ratio for the subject lots, whereas in Singapore there was no provision for owner participation. Cap. 545 did not preclude the owners from making owner participation arrangements, as in the case of the Lai Sing Court redevelopment. It was not appropriate for the Government to impose any other condition on such property transactions. While the Administration was engaging the public in the context of the Urban Renewal Strategy (URS) Review on various improvement measures worth considering when urban renewal projects were carried out by URA, it had no plan at this stage to change the legal framework of Cap. 545.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>OKKB's view that owner participation initiatives in private redevelopments could not be realized if they were not statutory requirements.</p> <p>捍衛基本法大聯盟's view that resumption of private properties should only be made on grounds of public interests, and compulsory land sale violated the Basic Law.</p> <p>CAUP's view that owner participation would facilitate the fruition of more private redevelopments for aged buildings, whereas lowering the application threshold for lots with all buildings aged 50 years or above would be futile in tackling building deterioration as developers were not interested in acquiring dilapidated buildings in areas with low redevelopment value.</p>	
023030 – 024005		Break	
024006 – 025222	Chairman Ms Audrey EU James TO Administration	<p>Ms Audrey EU's request for the Administration to consider –</p> <p>(a) requiring related parties to undertake mediation in respect of owner participation arrangements before the Lands Tribunal considered the relevant compulsory land sale application; and</p> <p>(b) revising the second class of lot under the Notice to specify that the lower application threshold of 80% would be applied to those buildings aged 50 years or above which were in dilapidating conditions and/or posing safety problem.</p> <p>The Administration's response that –</p> <p>(a) the current provisions in the Notice would not entail any changes to Cap. 545 including the mechanism to determine compulsory land sale applications, but the Administration and related parties would study how mediation could be encouraged in the process of compulsory land sale; and</p> <p>(b) the specification of a lower threshold for lots with all buildings aged 50 years or above did not imply that all the buildings in this class of lots had to be redeveloped. The Tribunal, when considering compulsory land sale applications, would need to be satisfied, among other factors, that the redevelopment of the lot was justified due to the age or state of repair of the existing development on the lot.</p> <p>In response to the further enquiry of Ms EU, the Administration's reply that it did not have any information on the number of applications that would be made on the basis of the three specified classes of lot if the Notice was carried.</p>	The Administration to provide written response as requested in paragraphs 2(e) and 2(f) of the minutes.

Time marker	Speaker	Subject(s)	Action required
025223 – 030313	Chairman Mrs Regina IP Administration	<p>Mrs Regina IP's enquiry about the impact assessment of lowering the application threshold for the third class of lot specified in the Notice, i.e. lot with all industrial buildings aged 30 years or above not located within an industrial zone.</p> <p>The Administration's response that –</p> <ul style="list-style-type: none"> <li>(a) the existing Ordinance was applicable to both residential and industrial developments. The specification of the third class of lot under the Notice was one of the measures announced in the 2009-2010 Policy Address to release the potential of those industrial buildings through redevelopment and wholesale conversion. This particular initiative aimed to facilitate consolidation of ownership for redevelopment of older industrial buildings. The rezoning of industrial zone to non-industrial zone had undergone proper Town Planning Board procedures including public representation and relevant impact assessments;</li> <li>(b) the package of initiatives included both measures to facilitate redevelopment and measures to encourage wholesale conversion of existing industrial buildings; and</li> <li>(c) the impact on the owners/tenants of industrial buildings affected by the lowering of threshold would be similar to those encountered in the compulsory sale of residential developments. Many of the units of industrial buildings in non-industrial zones were already converted for non-industrial usage which did not comply with the planning requirements and land lease conditions, and they were a cause for fire safety concern. It was expected that the facilitation of redevelopment of these industrial buildings would help minimize non-compliant conversion and enhance fire safety in these buildings.</li> </ul> <p>Mrs IP's concern that the Ordinance did not in any way link to building safety, even though its object was to tackle building deterioration. Her enquiry on whether the Administration would consider revising the second class of lot under the Notice to specify that the lower application threshold of 80% would be applied to those buildings aged 50 years or above and having structural safety problems.</p> <p>The Administration's response that although the Ordinance was not enacted specifically for the purpose of facilitating redevelopment of buildings with structural safety problems, it was enacted with a view to providing a mechanism through which redevelopment of aged and dilapidated buildings by the private property owners could be facilitated. This would indirectly address building safety concerns. Noting the Administration's clarification, Mrs IP's remark that in that case, members' objection to the Notice would not be seen as affecting public safety.</p> <p>Mrs IP's concern that the mechanism of compulsory land sale was in effect intervening the property market and she sought</p>	



Time marker	Speaker	Subject(s)	Action required
		<p>information on the relevant factors to be considered by the Lands Tribunal. The Administration's reference to relevant provisions in the Ordinance (i.e. Section 4(2), part 1 of Schedule 1 and Section 2 of Schedule 2) in respect of how the Tribunal exercised its role in determining compulsory land sale applications.</p>	
<p>030314 – 031438</p>	<p>Chairman Mr WONG Kwok-hing Administration Assistant Legal Adviser (ALA)</p>	<p>Highlighting that a claim could be settled through mediation prior to bringing it to the Labour Tribunal, Mr WONG Kwok-hing's urge for the Administration to consider "establishing" a mediation mechanism so that the Lands Tribunal could consider more thoroughly the concerns and needs of the majority and minority owners when determining whether it was justified to redevelop the lot under application.</p> <p>Referring to HKIERA's remark on the discrepancy between the majority owner/developer and minority owners on the reserve price, Mr WONG's concern about measures to be taken by the Administration to ensure that the reserve price approved by the Tribunal would be fair and reasonable.</p> <p>Discussion on a judgment of the Court of Final Appeal (FACV No. 4 of 2005) regarding whether the Lands Tribunal should order the sale of a lot, together with adjacent lots, or the Tribunal should only order sale of the lot in question, as the reserve price for the former scenario was higher than the latter case.</p> <p>In response to Mr WONG's concern on the cost burden of minority owners in engaging independent surveyors and lawyers to give evidence at the Lands Tribunal, the Administration's assurance that the Tribunal had a qualified surveyor providing independent assessment on the valuation of the lot and the respondents could attend the Tribunal's proceedings and raise objection on their own. In reply to Mr WONG's request to review the implementation one year after the Notice took effect, the Administration's advice that it would review the implementation of the compulsory land sale mechanism from time to time.</p>	
<p>031439 – 032518</p>	<p>Chairman Mr James TO Administration Ms Audrey EU</p>	<p>Mr James TO's request for the Administration to clarify whether the object of the Ordinance was related to economic value and/or building safety, analyze whether the judiciary had exercised judgments on past compulsory land sale applications in tandem with the object and consider whether it was necessary to amend the Ordinance to reflect the legislative intent together with explanation on the urgency in effecting the Notice at this juncture.</p> <p>The Administration's highlight that although under section 4(2) of the Ordinance, the Lands Tribunal should be satisfied that the redevelopment of the lot was justified due to the age or the state of repair of the existing development on the lot, the Tribunal had, as reflected in the past relevant judgments, taken both factors into account in determination of applications.</p>	<p>The Administration to provide written response as requested in paragraph 2(h) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
032519 – 033628	Chairman Dr Margaret NG Administration	<p>Dr Margaret NG's highlight of the cost burden for minority owners to raise objection to compulsory land sale applications which were dealt with by the Lands Tribunal and if necessary, higher courts. Referring to the Administration's earlier advice that the Ordinance did not have building safety as its primary concern but to facilitate redevelopment by the private sector, her concern that even with the Notice in place, dangerous buildings might not necessarily be selected for compulsory land sale despite the Lands Tribunal would consider the age or the state of repair of the existing development on the lot in determination of application. As such, she saw no justification in compromising the property rights of minority owners, which was protected under the Basic Law, unless there was an overriding public need such as to remove buildings posing imminent threat. Hence there was no need and urgency to pass the subsidiary legislation to lower the threshold. Her suggestion that –</p> <p>(a) mediation and owner participation should be incorporated under the compulsory land sale mechanism; and</p> <p>(b) URS Review should be conducted comprehensively to address the problem of building dilapidation.</p> <p>The Administration's reiteration that ensuring building safety was one of the main functions of the Buildings Department and it carried out this function under the statutory framework provided for under the Buildings Ordinance (Cap. 123). Cap. 545 was enacted to provide a mechanism to facilitate private sector-led redevelopment under specified conditions.</p>	
033629 – 034325	Chairman Mr Frederick FUNG Administration	<p>Mr Frederick FUNG's reiteration that property right was fundamental to the capitalist society and the Ordinance was in effect transferring benefits from minority owners to private developers.</p> <p>The Administration's advice that the Ordinance sought to balance the interests between majority owner (not developer) and minority owners in the lot under application for redevelopment. Indeed, some minority owners were looking forward to redevelopment. In response to Mr FUNG's consideration that URA should take forward more redevelopment projects, the Administration's reiteration that in view of the slow pace of URA's work in urban renewal, it was the aim of the Ordinance and the Notice to facilitate development of aged and dilapidated buildings by the private sector under specified conditions.</p>	
034326 – 035338	Chairman Ms Miriam LAU Administration ALA Ms Starry LEE	<p>While sharing that the primary concern of the Ordinance was to facilitate urban renewal, Ms Miriam LAU's urge for the Administration to address the problem of discrepancy between the majority owner/developer and minority owners on the reserve price. Without a common basis, mediation or arbitration could not help meet the expectation of minority owners.</p>	<p>The Administration to follow up as requested in paragraph 2(g) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration noted members' concern over the comments of the CFA when delivering judgment in the case FACV No 4 of 2005 and its relevance to the dispute between majority owners and minority owners over reserve price. In that case, the Lands Tribunal had, on the majority owner's application, ordered the sale of the six lots intended for redevelopment in a single batch. However, the Court of Appeal held that on the true construction of the Ordinance, this was impermissible. It varied the Tribunal's order to confine it to an order solely for sale of the subject lot. CFA's view that there was, however, a danger that if the power was so confined, the policy objectives of the Ordinance might be undermined. The minority owner, if sufficiently funded, might be able to bid up the single lot to a highly inflated price thereby exercising "ransom power" through the medium of the public auction. And if the minority owner or a third party actually acquired the auctioned lot, the intended redevelopment might have to be abandoned or face lengthy delays subject to the uncertainties of negotiations with the new owner of the lot. The Administration advised that the CFA's concern was more on the discretion of the Tribunal to give direction for sale of a single lot which was the subject of an application for compulsory sale with other lots.</p> <p>ALA's advice that CFA had expressly left the issue open for possible future consideration as to whether the Tribunal might order the sale of all the lots, rather than the lot in question. CFA considered that the best course might be for these issues to be addressed by the legislature with a view to ensuring that the objectives of the Ordinance were not frustrated.</p> <p>Ms LAU's request for the Administration to address these issues. Sharing her view, Ms Starry LEE urged the Administration to conduct a review on the discrepancy on reserve price to minimize disputes.</p>	
035339 – 035814	Chairman Ms Starry LEE Administration	<p>Noting that owner participation was available in Tokyo and Taipei, Ms Starry LEE's repeated urge for the Administration to consider this mode of collaboration with affected minority owners and provide flat-for-flat and shop-for-shop arrangement for them.</p> <p>The Administration's undertaking to consider, in the course of the URS Review, different compensation modes for affected owners in redevelopment projects to be undertaken by URA.</p>	
035815 – 040339	Chairman Ms Audrey EU Administration	<p>Ms Audrey EU's concern that although the Lands Tribunal would consider the evidence provided by the applicant and respondent regarding the age <u>and</u> the state of repair of the lot under application, it would approve the application if it was satisfied that the redevelopment of the lot was justified due to the age <u>or</u> state of repair of the existing development on the lot. Pursuant to the Notice, a lot with all buildings aged 50 years or above would meet the age requirement and subject to a 80% application threshold.</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
040340 – 040610	Chairman Mr Frederick FUNG Kin-kee Administration	Mr Frederick FUNG's view that arrangements for minority owners should be broadly comparable for redevelopment projects undertaken by URA or private developers. As such, the Notice should take effect after the URS Review.  The Administration's advice that it had consulted the public on the proposal since 2006.	
040611 – 040641	Chairman Dr Margaret NG	Dr Margaret NG's query on the urgency of effecting the Notice at this juncture.	
040642 – 040749	Chairman Ms Miriam LAU	Ms Miriam LAU's support the Administration to look into Ms Audrey EU's proposals regarding the second class of lots in the Notice.	
040750 – 040958	Chairman Mrs Regina IP	Date of next meeting.	