

For discussion
on 9 February 2010

Legislative Council

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

Purpose

Pursuant to section 3(5) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap 545) (“Ordinance”), the Chief Executive in Council has made the Land (Compulsory Sale for Redevelopment)(Specification of Lower Percentage) Notice (“Notice”) at **Annex** to specify an application threshold of 80% in respect of the lots specified in the Notice to substitute the application threshold of 90% now stipulated in the Ordinance. This paper explains the policy objectives behind the inclusion of the three classes of lot in the Notice for Members’ reference.

Background

2. Further to the promulgation of the Government’s urban renewal strategy via the 1996 policy statement “Urban Renewal in Hong Kong”, the Ordinance was brought into force in 1999 to provide a framework under which owners of buildings in multiple ownership can proceed to redevelop their lots under specified conditions. Under the Ordinance, persons who own not less than 90% of the undivided shares in a lot may make an application to the Lands Tribunal for an order for the sale of all of the undivided shares in the lot for the purposes of redevelopment. Also under the Ordinance, the Chief Executive in Council may, by notice in the Gazette, specify a percentage lower than 90% in respect of a specified class of lots provided the specified percentage is not less than 80%.

3. When the concerned Bills Committee considered the Land (Compulsory Sale for Redevelopment) Bill in 1998, there were debates on the appropriateness of setting the compulsory sale application threshold at 90% of the undivided shares of a lot and the lower application threshold at 80% for particular classes of lot to be specified by notice made by the Chief Executive in Council. The Bills Committee considered thoroughly the desirability and viability of an even lower application threshold of 75% to cater for cases involving lots with buildings having only four units where all units but one in the lot were acquired. As the number of four-unit ageing buildings due for

redevelopment should be small while the number of owners holding 25% undivided shares in a multi-storey building who refused to sell could be many, on balance, the Bills Committee agreed to the proposal to set the application threshold at 90% or not lower than 80% for particular classes of lots to be specified by the Chief Executive in Council by notice in the Gazette. The intention to cater for the need for future adjustment of the application threshold was clear.

The Notice

4. An application threshold of 80% is specified in the Notice in respect of the following three classes of land lots –

- (a) a lot with units each of which accounts for more than 10% of the undivided shares in the lot;
- (b) a lot with all buildings aged 50 years or above; and
- (c) a lot that is not located within an industrial zone and with all the buildings on the lot being industrial buildings aged 30 years or above.

Last but one unit

5. To address deadlock situations whereby even with the agreement of all owners but one in the lot, the agreeing owner(s) still fail(s) to reach the 90% application threshold and hence cannot make an application to the Lands Tribunal for an order to sell for the purposes of redevelopment, the Notice has specified that the application threshold will be lowered to 80% if the concerned lot consists of units each of which accounts for more than 10% of the undivided shares in the lot. In practice, this will facilitate owners of buildings with five to nine units each of which accounts for more than 10% of the undivided shares of the lot to apply for compulsory sale for redevelopment if only the agreement of the owner of one unit cannot be secured.

At or above 50 years' old buildings

6. The design working life of an ordinary building in Hong Kong is 50 years. We have included the second class of lot with all buildings aged 50 years or above in the Notice to enhance the ability of private property owners of some of these buildings to address the issue of building dilapidation through redevelopment and to improve the living condition of the affected residents.

At or above 30 years' old industrial buildings

7. The lowering of the compulsory sale application threshold for the redevelopment of industrial buildings of 30 years of age was one of the measures announced by the Chief Executive in the 2009-10 Policy Address to facilitate the

revitalisation of industrial buildings in Hong Kong. The measure will help optimise the use of under-utilised or disused industrial buildings located in non-industrial zones in Hong Kong.

Determination of application by the Lands Tribunal

8. Similar to applications submitted with the 90% threshold, any application to be submitted in respect of one of the three classes of lots described in paragraphs 5 to 7 above with the 80% threshold would also be considered and determined by the Lands Tribunal in accordance with the requirements of the Ordinance.

Further Assistance for Minority Owners

9. To enhance property owners' understanding of the legislative proposal, particularly for those living in dilapidated buildings contemplating redevelopment, the Hong Kong Housing Society (HKHS) will provide, with professional support mainly from the Hong Kong Institute of Surveyors, free information service on the compulsory sale process and other related issues.

10. Details about the Ordinance, including the compulsory sale process, the rights of minority owners, valuation, etc. will be provided to the public through HKHS's 10 property management advisory centres. Public forums will also be organised to further explain the legislation to interested owners. The HKHS has also sought the assistance of the Law Society of Hong Kong to conduct lecture sessions on the Ordinance to facilitate public understanding of the legislation.

Development Bureau
February 2010

L.N. 6 of 2010**LAND (COMPULSORY SALE FOR REDEVELOPMENT)
(SPECIFICATION OF LOWER
PERCENTAGE) NOTICE**

(Made by the Chief Executive in Council under section 3(5) of the Land
(Compulsory Sale for Redevelopment) Ordinance (Cap. 545))

1. Commencement

This Notice comes into operation on 1 April 2010.

2. Interpretation

In this Notice—

“industrial building” (工業建築物) means a building the whole or any part of which is approved by the Building Authority for any of the following uses under a plan approved under the Buildings Ordinance (Cap. 123)—

(a) godown;

(b) any industry in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed;

“industrial zone” (工業地帶) means a zone that is set apart for industrial use in a draft plan prepared by the Town Planning Board or approved by the Chief Executive in Council under the Town Planning Ordinance (Cap. 131);

“occupation permit” (佔用許可證) means an occupation permit issued by the Building Authority under section 21(2) of the Buildings Ordinance (Cap. 123);

“relevant date” (有關日期), in relation to a lot in respect of which an application is made under section 3(1) of the Ordinance, means the date of the application;

“unit” (單位) means any premises that are described by reference to a specified number of undivided shares in a lot in any instrument registered in the Land Registry.

3. Specification of percentage

80% is specified as the percentage required for the purposes of section 3(1) of the Ordinance in respect of a lot that belongs to any class of lot specified in section 4.

4. Specification of classes of lot

(1) The following classes of lot are specified for the purposes of section 3—

- (a) a lot with each of the units on the lot representing more than 10% of all the undivided shares in the lot;
- (b) a lot with each of the buildings erected on the lot issued with an occupation permit at least 50 years before the relevant date;
- (c) a lot that is not located within an industrial zone and each of the buildings erected on the lot—
 - (i) is an industrial building; and
 - (ii) was issued with an occupation permit at least 30 years before the relevant date.

(2) For the purposes of the class of lot referred to in subsection (1)(a), if—

- (a) a unit in a building is subdivided into 2 or more units on or after 1 April 2010; and
- (b) the subdivision does not involve—
 - (i) any alteration to the size of any common area of the building; or
 - (ii) any change in a person's liability in relation to the common areas and facilities of the building under the common law or any enactment,

those units are regarded as one single unit.

Manda CHAN

Clerk to the Executive Council

COUNCIL CHAMBER

12 January 2010

Explanatory Note

Under section 3(1) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) ("Ordinance"), a person must own not less than 90% of the undivided shares in a lot before the person may make an application for an order to sell all the undivided shares in the lot.

2. Section 3(5) of the Ordinance enables the Chief Executive in Council to specify by notice in the Gazette a lower percentage for the purposes of section 3(1) of the Ordinance in respect of any specified class of lot. This Notice specifies 80% as the percentage required in respect of any class of lot set out in the Notice.