

For information on
19 February 2010

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

**Protection of Minority Owners under the
Land (Compulsory Sale for Redevelopment) Ordinance**

Purpose

This paper summarises for Members' reference the key provisions in the Land (Compulsory Sale for Redevelopment) Ordinance (Cap 545) ("Ordinance") relating to the protection of minority owners, and presents further measures proposed to enhance the minority owners' understanding of the legislative framework for compulsory sale and the current legislative proposal.

Relevant Provisions

2. The following paragraphs summarise the major provisions in the Ordinance relevant to the protection of minority owners. The numbers in square brackets denote the section number of the Ordinance.

Notification to Minority Owners on Application for Compulsory Sale

3. On making an application to the Lands Tribunal for compulsory sale of a lot, the majority owners shall [s3(3)&(4), Part 2 of Schedule 1] –

- (a) serve a copy of the application on each minority owner and register a copy of the application with the Lands Registry;
- (b) post a notice in Chinese and English on a conspicuous part of the building/lot and advertise the notice in 1 Chinese and 1 English newspaper; and
- (c) serve a copy of the application on any minority owners who cannot be found in a manner specified by Lands Tribunal within a specified time.

Right to Dispute

4. In an application for compulsory sale, a minority owner may raise objections over the value of any property as assessed to the Lands Tribunal for determination [s4(1)(a)(i)].

Determination of Application by the Lands Tribunal

5. The Lands Tribunal shall not make an order for sale unless, after hearing the objections of the minority owners concerned, it is satisfied that [s4(2)] -

- (a) redevelopment of the lot is justified -
 - (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; and
- (b) the majority owner has taken reasonable steps to acquire all the undivided shares in the lot (including in the case of a minority owner whose whereabouts are known, negotiating for the purchase of such shares on terms that are fair and reasonable). [s4(2)(b)].

Lot to be Sold by Public Auction or Other Means

6. Where an order for sale by auction is granted by the Lands Tribunal, the concerned lot shall be sold by public auction and subject to a reserve price, as approved by the Lands Tribunal, which takes into account the redevelopment potential of the lot [s5(1)(a)].

Sharing the Redevelopment Value of the Lot

7. The sale proceeds shall be apportioned among the majority owners and minority owners on a pro-rata basis according to the value of their respective properties as assessed in the valuation report attached to the application, or any subsequent amendments to the assessments as approved by the Lands Tribunal [Part 3 of Schedule 1].

Remuneration for Trustee to be Paid by Majority Owner

8. The remuneration for trustee in related work under a compulsory sale order shall be paid by the majority owner [s4(11)].

Expenses of Auction

9. Where there is a purchaser for the lot under compulsory sale, the expenses of the auction (or other means of sale) shall be apportioned among all owners on a pro-rata basis. Where there is no purchaser, the majority owner shall bear the expenses of the auction [s10(1)].

Compensation to Tenants

10. Upon the sale of the lot, the minority owners will only be responsible for paying the compensation to their own “ex-tenants” [s8(3)(a)(ii)] if compensation is specified in the order issued by the Lands Tribunal. The trustee will deduct the compensation amount specified by the Lands Tribunal from the sale proceeds before releasing the residual amount to the owners [s11(2)(c)].

Further Assistance for Minority Owners

11. To enhance the minority owners’ understanding of the legislative proposal, 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.

12. Details about the Ordinance, including the compulsory sale process, the rights of minority owners, valuation, etc will be provided to the public through the 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