

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

**List of follow-up actions arising from the discussion
at the meeting on 19 February 2010**

- (a) Information on the compensation to the owners affected by the redevelopment project at Hanoi Road, Tsim Sha Tsui, taken forward by the former Land Development Corporation

As advised by the Urban Renewal Authority (URA), in April 1998, the former Land Development Corporation paid the replacement cost of a notional 10-year old flat at the rate of \$6,810 per sq foot saleable area to the owner occupiers of domestic units and owners of vacant domestic units of the redevelopment project at Hanoi Road, Tsim Sha Tsui.

- (b) The feasibility of engaging the Hong Kong Housing Society (HKHS) and the Urban Renewal Authority (URA) to submit bids during the auctions of compulsory land sale under the Land (Compulsory Sale for Redevelopment) Ordinance (Cap 545)

The operation of HKHS and the URA is governed by their respective ordinances. Whether or not they will submit bids during the auctions of compulsory land sale under Cap 545 will be a matter for the respective Board and Executive Committee of the two authorities. We can make enquiry with the two authorities on Members' suggestion if the Subcommittee wishes.

- (c) Detailed response on Members' suggestions on establishing a mediation and/or arbitration mechanism under the Ordinance

We will examine Members' suggestion in detail in consultation with the relevant agencies.

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- (d) Whether redevelopment projects under compulsory land sale had to comply with relevant town planning requirements including plot ratio, building height, and conduct assessments such as traffic and social impact

assessments, and whether complementary measures and facilities would be provided to meet the anticipated demand arising from the redevelopment in the neighbourhood

All redevelopment on sites of compulsory land sale will have to comply with the prevailing planning parameters over the lots as applicable and also subject to building plan approval.

- (e) Consider revising the proposed 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 pose imminent safety risks as assessed by the Buildings Department

We would like to stress that any application to be submitted to the Lands Tribunal in respect of any one of the three classes of lot specified in the Notice made under Section 3(5) of the Ordinance would be considered and determined by the Lands Tribunal in accordance with the requirements of the Ordinance. Under Section 4 of the Ordinance, the applicant would still have to satisfy the Lands Tribunal that redevelopment is “justified” due to the age or state of repair of the lot, and the majority owner has taken reasonable steps to acquire all the undivided shares in the lot.

We wish to stress that the main purpose of Cap 545 is to facilitate urban renewal by enabling persons who own a specified majority of the undivided shares in a lot to make an application to the Lands Tribunal for compulsory sale of all of the undivided shares for the purposes of redevelopment. It provides an avenue for redevelopment of buildings in dilapidated condition and those that are beyond economic repair, and would thus help to deal with the problem of buildings in disrepair and that pose safety risk to the public. It is not our policy view that urban renewal through redevelopment should only take place when a building is posing imminent building safety risk, as for these, the Buildings Department should take immediate action under the Buildings Ordinance.

- (f) Consider including “owner participation” arrangements as one of the factors for the Lands Tribunal to determine a compulsory sale application in the implementation of the Ordinance

The main purpose of Cap 545 is to facilitate urban renewal by enabling persons who own a specified majority of the undivided shares in a lot to make an application to the Lands Tribunal for compulsory sale of all of the undivided shares for the purposes of redevelopment. At present, Cap 545 does not preclude different forms of “owner participation” arrangements

that may be agreed between the private owners involved.

- (g) Measures to address issues referred 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

In the case of *Capital Well Limited v Bond Star Development Limited*, the Court of Final Appeal commented on one aspect of the case which is not under appeal, not in issue and not argued before the Court of Final Appeal, that is, whether Cap 545 precludes the Lands Tribunal from making an order for sale in respect of composite sites. The Court of Final Appeal is concerned that if the power of the Lands Tribunal is so confined in that the Lands Tribunal can only make an order solely for the sale of the lot, there is the danger that the policy objectives of Cap 545 may be undermined as the Court of Appeal recognized that the minority owner, if sufficiently funded, may be able to bid up a single lot to a highly inflated price thereby exercising “ransom power” through the medium of the public auction.

We note the comment of the Court of Final Appeal but it is not our policy intention to change the law as we consider that the arrangements now in place under the Ordinance represents a carefully considered balance between the protection for majority owners and minority owners involved in a compulsory sale.

- (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

The object of the Ordinance, as provided in the Long Title, is “to enable persons who own a specified majority of the undivided shares in a lot to make an application to the Tribunal for an order for the sale of all of the undivided shares in the lot for the purposes of the redevelopment of the lot; to enable the Tribunal to make such an order if specified criteria are met; and for matters incidental thereto or connected therewith.”

It is the Administration’s firm belief that the Lands Tribunal has, in the past judgments under Cap 545, carried out the objects of the Ordinance.

As pointed out in a separate paper provided to the Sub-Committee regarding the profile of old buildings in Hong Kong, there will be on average over 500 buildings reaching the age of 50 every year in the coming

decade. Hence, we consider that there is a need to consider how we can further facilitate urban redevelopment within the permitted framework of Cap 545. To introduce a lower compulsory sale application threshold for three specified classes of lot pursuant to s3(5) of the Ordinance is a proposal that has been extensively discussed with LegCo and the community over the past few years.

Development Bureau
February 2010