



1st March, 2010

Hon Chan Kam-lam, SBS, JP
Chairman of Sub-committee on Land (Compulsory Sales
for Redevelopment) (Specification of Lower Percentage)
Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Urgent by fax only

Dear Hon Chan,

**Re: Comments on lowering the triggering threshold for compulsory purchase
under Land (Compulsory Purchase for Redevelopment) Ordinance**

We understand that Government is proposing to lower the 90% ownership threshold for application to the Lands Tribunal for Compulsory Sale Order to 80% ownership threshold for the following three classes of lots:-

- (1) Each unit of the lot holds more than 10% undivided shares of the lot;
- (2) Buildings of more than 50 years old; and,
- (3) Industrial buildings of more than 30 years old and located within non-industrial zones.

We write to fully support this Government's initiative to facilitate private sector led urban redevelopment projects for the following reasons:-

(a) Interests of Minority Owners are as good as the Interests of Majority Owners

We agree that property rights are fundamental rights and everyone should respect and treasure these fundamental rights always, be it a minority one or majority one. However, while we think it is fair and reasonable to protect the interests of the minority owner(s), we should not forget or neglect the interests of the majority owners (the majority owners may be a developer, or individual unit owners), as the interests or property rights of these majority owners are as good as the property rights or interests hold by the minority owners.



Since the enactment of the Land (Compulsory Sale for Redevelopment) Ordinances, there have been many occasions over the past years that the individual majority unit owners (over or near 90% ownership) of a building or a lot jointly advertised in the newspapers offering to sell their near or over 90% ownership interests in the open market by tender or auction, with the views that there will be bids from developers to buy their joint and near 90% majority ownership interests at a higher than existing use value of their individual units, i.e. values reflecting the redevelopment potential of their relevant building or lot. This fact clearly illustrates the genuine needs from the great majority of individual unit owners of the old buildings in Hong Kong for such a application system for compulsory sale of lots in place so that they could sell their units jointly for higher than their respective existing use values or market prices to a developer and to upgrade their living standards etc.

(b) **Stringent requirements already imposed by the Ordinance**

As stipulated in the Ordinance, the Lands Tribunal shall **not** make an order for sale unless and until the Tribunal is **satisfied that-**

- a. the redevelopment of the lot is justified (and whether or not the majority owner proposes to or is capable of undertaking the redevelopment)-
 - (i) **due to the age or state of repair** of the existing development on the lot; or
 - (ii) on 1 or more grounds, if any, specified in regulations made under section 12; 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 of those shares as are owned by that minority owner on terms that are fair and reasonable).



As you may agree, many of the old buildings of over 50 years old in Hong Kong are in dilapidation state, i.e. near the end of their physical lives, and in many occasions, these old buildings are also approaching the end of their economical lives as well. Thus, there have been genuine and urgent need for quicker and more redevelopment of these old buildings, no matter the redevelopment projects be carried out by URA, or the private sector owners or developers.

If we all agree that the current pace of URA doing these redevelopment projects is too slow, or it is not quite appropriate for URA, i.e. using public money, to take up the developer's role to undertake these redevelopment projects, instead of doing more revitalization or conservation projects, there is no choice for Government but to devise some measure, e.g. the Ordinance, and the current proposed relaxation of 90% ownership threshold to 80% ownership threshold in order to facilitate or encourage the private sector led redevelopment projects, with a view of preventing the occurrence of the unfortunate collapse of building in Ma Tau Wai Road again.

(c) **Reserve Price duly set by the Lands Tribunal**

The Lands Tribunal will also determine a fair and reasonable reserve price when granting its compulsory sale order by public auction. This reserve price will always, as a rule, reflect the redevelopment value of the lot, i.e. usually higher than the existing use value or open market prices of the individual units by individual sales, so there would not be any unfair treatment to the minority owners with respect to their respective sales prices in all such compulsory order sales

(d) **The proposed 80% Ownership Threshold is relatively low** when compared with the Statutory Thresholds required in other Asian Cities e.g. in China, Japan, Korea, Singapore, and Taiwan:-



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- China (Canton, Shanghai) - 66.6%,
- Japan (Tokyo) - 66.6%
- Korea (Seoul) - 66.6%
- Singapore - 80% (more than 10 years' old buildings)
- Taiwan (Taipei) - 50% to 66.6%

Yours sincerely,

David Tse
EMBA (Kellogg-HKUST) FRICS FHKIS FHIREA RPS (GP) MCIREAA RBV EA
RICS International Governing Councillor
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DT/pc