

DEVB's response to LegCo Development Panel

**Review of the Town Planning Ordinance
Freezing of Private Land Uses and
Damage to Development Rights of Private Land as well as
Allowing People Other Than Those with Land Interest to
Apply for Conversion of Private Land Uses**

As mentioned in our letter dated 23 December 2009, there is no provision for compensation for any development affected by a planning decision under the current Town Planning Ordinance (the Ordinance). This system has been in place for years and is also in line with the common law principles. Regarding land reserved for public purposes on outline zoning plans, there are issues of allocation of resources and priorities set by the relevant government departments. The relevant departments will follow the established mechanism and the relevant ordinances in implementing plans for public purposes. Compensation issues related to planning decisions were carefully considered by the Special Committee on Compensation and Betterment (the Special Committee) in 1992. In light of the recommendations of the Special Committee Report, the Ordinance was amended in 2005 to increase transparency significantly to make the planning process more open and fair.

Besides, as explained in our letter, according to the Ordinance, when an application for amendment of a plan (submitted under section 12A of the Ordinance) or for planning permission (submitted under section 16 of the Ordinance) is made, the applicant should obtain the consent of the land owner or notify the land owner, or demonstrate that he has taken reasonable steps to obtain the consent of the land owner or notify the land owner. The purpose of this requirement is to ensure that the land owner is aware of the application and can give comments on it for consideration by the Town Planning Board (the Board). Moreover, according to the existing procedure, after the Board approves a section 12A application, the amendments to land uses must be incorporated into a statutory plan. Members of the public (including land owners affected)

may make representations on the proposed amendments to the Board, or give comments on the representations. In any case, after obtaining planning permission, the applicant will still have to obtain the consent of the land owner or acquire all the affected land before carrying out the development, if he is not the land owner of the application site.

As regards the prosecution actions by the Planning Department, they are taken against unauthorised developments which do not comply with the statutory plans, and involve management of private land. The approval of a planning application under the Ordinance does not mean that the applicant is entitled to implement the development at the application site. The land owner will not be deprived of his development right.