

DEVB's response to LegCo Development Panel

**Review section 12(c) of
the Lands Resumption Ordinance and
The ex-gratia zonal compensation system**

We have explained in a reply of 31 December 2009 the existing system of ex-gratia zonal compensation under which land in the New Territories is divided into four zones (i.e. Zones A, B, C and D). The ex-gratia zonal compensation rates for these zones are reviewed and adjusted half-yearly to take account of the changes in market value and conditions of development. We also review the zonal boundaries from time to time, and may update the compensation zones of the areas affected by land resumption taking account of the merits of individual public works projects.

The ex-gratia zonal compensation system has been operating effectively and provides an alternative arrangement to the affected land owners to settle compensation matters with the Government. If land owners do not accept the ex-gratia compensation offer, they may submit statutory claims under the relevant legislation. If an agreement cannot be reached on the amount of claim, the land owner may refer the claim to the Lands Tribunal for determination.

On the suggestion of repealing section 12(c) of the Lands Resumption Ordinance (Chapter 124), as the Administration has explained to the Heung Yee Kuk, we consider that it is a fundamental principle that the value to be assessed should be the value of the land or other property for its existing use. Where the development is limited in some ways, such limitation should be taken into account in the valuation, and no compensation shall be given to any hope or expectancy that such development limitation might be removed in the future. Section 12(c) of the Lands Resumption Ordinance reflects the abovementioned fundamental principle. The ruling of the Court of Final Appeal on the case FACV No. 11/2005 in November 2005 also confirms that under section 12(c) of the Lands Resumption Ordinance, assessment of

compensation on land resumption should exclude any component of development potential. In the light of the above, we believe that there is no sufficient justification to repeal or amend section 12(c) of the Lands Resumption Ordinance.