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## FACT SHEET

### Collective sales in Singapore

#### 1. Background

1.1 To expedite the pace of urban renewal, the Government has recently lowered the threshold for applications for compulsory sale under the *Land (Compulsory Sale for Redevelopment) Ordinance* (Cap. 545) from ownership of not less than 90% to not less than 80% of the undivided shares in respect of three classes of lot<sup>1</sup>. The purpose of this fact sheet is to provide the Panel on Development with background information on the corresponding institutional arrangement in Singapore, which is a land-scarce economy facing similar development pressure as Hong Kong. In addition, Singapore has established a similar legislative framework for compulsory sales, as evident by the enactment of the *Land Titles (Strata) Act* (Cap. 158) to facilitate urban renewal through a collective sale (also known as en bloc sale) of a development by the majority owners to a private developer for redevelopment.

#### 2. Collective sales in Singapore

2.1 In 1994, Singapore's national planning agency – the Urban Redevelopment Authority – assigned higher plot ratios for various residential sites in Singapore, in an effort to alleviate the land scarcity problem amid the growing population of the country. This policy sparked off the collective sale phenomenon in Singapore, where individual owners within a development sell their properties collectively at a premium to a buyer (usually a developer) for redevelopment purposes. Collective sales were particularly appealing in low-density residential areas, thanks to the untapped redevelopment potential of the areas under higher permitted plot ratios.

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<sup>1</sup> These three classes of lot are: (a) a lot with each of the units representing more than 10% of all the undivided shares in the lot, (b) a lot with all buildings aged 50 years or above, and (c) a lot that is not located within an industrial zone and each of the buildings erected thereon is an industrial building aged 30 years or above.

2.2 At that time, a unanimous consent from related property owners was required as a prerequisite for a collective sale. As a result, many collective sales stalled and the frustrated property owners complained against their dissenting minority neighbours for thwarting the deals. More importantly, the setback resulted in under-utilization of scarce land resources in Singapore, thereby defying the intention of the Urban Redevelopment Authority.

2.3 Against the above background, the then Minister of State for Law and Home Affairs proposed to lower the level of consent required for a collective sale in June 1998. In October 1999, the Singapore Parliament amended the *Land Titles (Strata) Act* to remove the unanimity requirement for a collective sale and replaced it with a majority consent requirement<sup>2</sup>. The requisite "majority", as stipulated under the amended Act, is tied to the age of the building and the percentage of votes garnered from the property owners in favour of the collective sale.

### 3. Legislative framework governing collective sales

3.1 The *Land Titles (Strata) Act* authorizes and facilitates the subdivision of land into strata, as well as dealing with collective sales of property and the disposition of strata titles. The Act also stipulates, among other things, the requisite majority consent for proceeding with a collective sale. For developments less than 10 years old, the majority owners must control at least 90% of the total share values<sup>3</sup> and account for at least 90% of the total area of all the units in the development. For buildings aged 10 years or above, the corresponding percentage is 80%<sup>4</sup>.

3.2 As shown in the **Table**, the application threshold employed by the Singaporean government for compulsory sale is broadly in line with the practice in many overseas places.

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<sup>2</sup> According to Christudason (2005a), "the concerns of the majority owners were accepted by Parliament as legitimate and the actions of the dissenting minority were described as impeding efforts to maximise the development potential of en bloc sale sites, and preventing the rejuvenation of old estates".

<sup>3</sup> Share values determine the share of common property, the voting rights and the amount of maintenance contribution of each owner of a strata development. The schedule of share values is filed by the developer concerned and must be accepted by the Commissioner of Buildings before the sale of any strata lots in a development.

<sup>4</sup> Before 2007, the 80%/90% requirement was only based on share values. The additional requirement of the total area of all the units in the development concerned was introduced in 2007 to redress the inherent discrepancy in mixed developments, where the share value is commonly 1:4:5 for residential, office and shop units respectively. Such a discrepancy will tilt the balance of voting rights in favour of the owners of shop and office units, when using share values as the only basis for deciding on a collective sale.

**Table – Requisite majority consent from property owners for compulsory sales in selected places**

New York and Washington	80%
New Zealand	75%
Alberta	75%
Tokyo	66.7%
Seoul	66.7%
Guangzhou and Shanghai	66.7% of the property owners owning a total of 66.7% of the total building floor area
Taipei	<ul style="list-style-type: none"> <li>• Expedited urban renewal areas: 50% of the property owners owning 50% of the total land and building floor area.</li> <li>• Priority urban renewal areas: 60% of the property owners owning 66.7% of the total land and building floor area.</li> <li>• Other non-designated area: 66.7% of the property owners owning 75% of the total land and building floor area.</li> </ul>

Sources: Law et al. (2009), Property Council of Australia (2009), Department of Building and Housing of New Zealand (2010) and *Condominium Property Act* (2009).

#### 4. Collective sale process

4.1 The collective sale process in Singapore, as set out in the *Land Titles (Strata) Act*, is summarized as follows:

##### Stage 1: Election of collective sale committee

4.2 Collective sales may be initiated by the property owners of a development, developers or property consultants. The formal procedure starts with the interested property owners gathering together to establish a collective sale committee to explore the possibility of the deal. According to the *Land Titles (Strata) Act*, such a committee comprising between three and 14 members must be elected at a general meeting of the management corporation. Only eligible property owners in the development (or their nominees) aged 21 or above can be elected to the committee. The collective sale committee, acting jointly on behalf of all property owners, will convene one or more general meetings to:

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- (a) appoint a solicitor, property consultant or marketing agent in connection with the collective sale;
  - (b) approve the apportionment of sale proceeds; and
  - (c) approve the terms and conditions of the collective sale agreement (CSA)<sup>5</sup>.

#### Stage 2: Securing requisite majority consent

4.3 The collective sale committee must obtain the requisite majority consent for CSA within 12 months from the date the first property owner signs CSA. Failure to do so will result in the dissolution of the committee.

#### Stage 3: Sale by public tender or auction

4.4 Having obtained the requisite majority to sign CSA, the collective sale committee will proceed with marketing the property. All collective sales must be launched by public tender or public auction except in the event that no suitable offer is received, the sale committee may enter into a private contract with a purchaser. The collective sale committee will enter into a conditional sale and purchase agreement with the successful bidder or purchaser.

#### Stage 4: Application to strata titles board

4.5 An application by the consenting majority property owners must be made to the strata titles board to confirm the proposed collective sale. A strata titles board is a body constituted under the *Building Maintenance and Strata Management Act* to hear applications:

- (a) for orders for collective sales under the *Land Titles (Strata) Act*; and
- (b) relating to certain types of disputes or matters arising in respect of the strata units or the strata development including the common property.

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<sup>5</sup> CSA generally covers: (a) provision for the 80% or 90% majority agreement, (b) reserve price for sale of units and common property in the development, (c) method of apportioning the sale proceeds, (d) validity period of the agreement, and (e) date of delivery of vacant possession by property owners and retention of money by the purchaser until delivery of vacant possession.

4.6 A notice of application for collective sale must be served by registered post to all property owners and affixed in four official languages to a conspicuous part of each building within the development. A dissenting minority owner who has not signed CSA may lodge an application with the strata titles board, stating the grounds for objection, within 21 days from the date the notice of the application for approval by the strata titles board is served or such further period as the strata titles board may allow.

4.7 The strata titles board will generally render its decision on the application for a collective sale within four to six months. If the application is successful, the strata titles board will make an order that:

- (a) all the units and land in the development be sold collectively;
- (b) all property owners are bound by all the terms of the sale and purchase agreement as if they were parties to it; and
- (c) all property owners execute, sign, deliver and perfect all the necessary instruments to convey the development to the buyer.

## **5. Operations of strata titles boards**

5.1 In Singapore, the strata titles board serves as an administrative tribunal assessing all collective sale transactions that have achieved the 80% or 90% majority consent requirement. The board will ensure that for all collective sales, the requisite consent percentage is met, procedures are followed, and the sale is in good faith and at arm's length. It also considers the interests of all owners and evaluates the minority's objections. These pertain to matters such as the offer price, the method of apportioning the sale proceeds, and the relationship of the purchaser with other owners. In short, the strata titles board serves as a safeguard to protect the minority by ensuring that the minority receives a fair share of the proceeds.

5.2 There can be more than one strata titles board for hearing the applications for collective sales. The organisation which is in charge of the administration of all these boards is the Strata Titles Boards established within the Ministry of National Development. The Strata Titles Boards is presided over by a President and Deputy President(s) appointed by the Minister for National Development.

5.3 Each time an application for collective sale is made, a strata titles board will be constituted. It will consist of the President (or alternatively a Deputy President) sitting with either two other persons or four other persons drawn from a panel of not more than 30 persons appointed by the Minister of National Development. The panel members have a wide range of experience, and include accountants, architects, engineers, lawyers, property consultants and surveyors.

#### Approval of collective sale applications

5.4 Collective sale applications by majority property owners are subject to the approval by the strata titles board. Where no objection is filed against the application, the board will approve the application unless it considers that the transaction is not entered into good faith after taking into account:

- (a) the sale price for the whole development;
- (b) the method of distribution of the sale proceeds; and
- (c) the relationship of the purchaser to any of the property owners.

5.5 Alternatively, the strata titles board will not approve an application for collective sale if the collective sale committee does not consent to an order made by the board in relation to an increase in the sale proceeds to be received by the property owners objecting to the collective sale (see paragraph 6.3 below for details).

5.6 Where objections have been filed against the collective sale, the strata titles board will not approve the sale if it considers that (a) the property owner objecting to the deal will suffer a financial loss, or (b) the sale proceeds to be received are insufficient to redeem any mortgage or charge against the flat. Such a provision is to ensure that none of the property owners will suffer financially under the collective sale. According to the *Land Titles (Strata) Act*, a property owner will be considered to suffer a financial loss if the sale proceeds for his or her unit, after any deductions (such as stamp duty and legal fees paid on purchase of the unit and costs incurred in the collective sale) allowed by the strata titles board, are less than what he or she paid for the unit.

5.7 The decision by the strata titles board is final, and no appeal can be made to the High Court except on points of law or when there has been an alleged irregularity in the process. Nevertheless, dissenting property owners can seek judicial review where there is illegality, irrationality or procedural impropriety involved in the strata titles board's decisions.

## **6. Safeguards for interests of minority owners in collective sales**

6.1 The *Land Titles (Strata) Act* provides for the following procedural safeguards and powers to the strata titles board to protect the interests of the minority owners in collective sales:

### Transparency in collective sales

6.2 In 2007, the Singapore Parliament amended the *Land Titles (Strata) Act* to set out new rules regulating the signing of CSA. This was in response to the complaints by property owners of being pressurized into signing CSA without full knowledge of the content of the agreement. The new rules require:

- (a) the collective sale committee to highlight in a preface to CSA where to find such information as the reserve price for the development, the method of apportioning the sale proceeds, fees payable to lawyers, marketing agent and others involved in handling the sale and the date of delivery of vacant possession of the lot or flat;
- (b) the solicitor engaged in the collective sale to be present during the signing of CSA to explain the legal terms and liabilities and clarify any doubts that the property owners may have. This is to ensure that property owners are fully aware of the legal implications of the agreement they are signing; and
- (c) a five-day cooling-off period for property owners who have signed CSA. They can rescind the agreement at any time within the cooling-off period without the need to provide the reason for their decision.

### Increase in sale proceeds to minority owners

6.3 There may be situations where there is no financial loss suffered by the objecting minority owners or a lack of good faith to justify dismissal of the sale application. In such situations, where it will be fair and equitable to do so, the strata titles board is empowered to increase the sale proceeds for a property owner who has filed valid objections and will authorize the sale only if the collective sale committee consents to the increase. This increase will be paid from the sale proceeds of all property owners. It is capped at an aggregate sum of S\$2,000 (HK\$10,680) or 0.25% of the sale proceeds from each unit, whichever is the higher. Any unused sum will be returned to all the property owners.

### Fairness of collective sales

6.4 Collective sales are normally conducted by public tender or auction. The collective sale committee must provide the property owners with information on the bids received as soon as practicable after the close of tender or auction. Furthermore, a valuation report by an independent valuer on the value of the development as at the date of the close of the tender or auction must be obtained by the committee on that date. This addresses concerns over whether the collective sale committee has used its best efforts to get the best price and whether the proposed transaction of the collective sale is fair.

6.5 When an objection is lodged with the strata titles board, two or more valuation reports will be tendered, at least one from the majority owners who ask for the collective sale, and the other from the minority owners who disagree with the sale. The board may need to adjudicate on the matter.

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### Two-year restriction period after failed attempt on collective sale

6.6 The *Land Titles (Strata) Act* imposes strict requirements on property owners for restarting collective sale attempts after failing an earlier attempt. A two-year restriction period will be imposed after a potential collective sale falls through, in order to discourage repeated attempts and harassment of property owners even when there is insufficient interest for the deal. Within the two-year period, those who wish to restart the collective sale process will have to abide by strict rules. The first re-attempt to convene a general meeting for the purpose of a collective sale will require consent from at least 50% of the total number of property owners or from those property owners controlling at least 50% of the aggregate share value of all lots in a strata development. This threshold will be increased to 80% for subsequent attempts to convene a general meeting during the two-year period. At the end of the restriction period, the requisite consent level will reset to 20% by share value or 25% by the total number of property owners. If there is another failed attempt, it will start another two-year restriction period.

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