

立法會
Legislative Council

LC Paper No. CB(3) 236/10-11

Ref : CB(3)/M/MM

Tel : 2869 9205

Date : 25 November 2010

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 1 December 2010

**Proposed amendments to motion on
“Reviewing the operation of
the Land (Compulsory Sale for Redevelopment) Ordinance”**

Further to LC Paper No. CB(3) 212/10-11 issued on 19 November 2010, seven Members (Hon CHAN Kam-lam, Dr Hon Priscilla LEUNG Mei-fun, Dr Hon Margaret NG, Hon WONG Yuk-man, Hon Ronny TONG Ka-wah, Hon CHEUNG Kwok-che and Hon James TO Kun-sun) have respectively given notice of their intention to move separate amendments to Hon Mrs Regina IP LAU Suk-yee’s motion on “Reviewing the operation of the Land (Compulsory Sale for Redevelopment) Ordinance” scheduled for the Council meeting of 1 December 2010. As directed by the President, the respective proposed amendments will be printed in the terms in which they were handed in on the Agenda of the Council.

2. The President will order a joint debate on the above motion and amendments. To assist Members in debating the motion and amendments, I set out below the procedure to be followed during the debate:

- (a) the President calls upon Hon Mrs Regina IP to speak and move her motion;
- (b) the President proposes the question on Hon Mrs Regina IP’s motion;
- (c) the President calls upon the seven Members, who intend to move amendments, to speak in the following order, but no amendment is to be moved at this stage:

- (i) Hon CHAN Kam-lam;
 - (ii) Dr Hon Priscilla LEUNG;
 - (iii) Dr Hon Margaret NG;
 - (iv) Hon WONG Yuk-man;
 - (v) Hon Ronny TONG;
 - (vi) Hon CHEUNG Kwok-che; and
 - (vii) Hon James TO;
- (d) the President calls upon the designated public officer(s) to speak;
 - (e) the President invites other Members to speak;
 - (f) the President gives leave to Hon Mrs Regina IP to speak for the second time on the amendments;
 - (g) the President calls upon the designated public officer(s) again to speak;
 - (h) in accordance with Rule 34(5) of the Rules of Procedure, the President has decided that he will call upon the seven Members to move their respective amendments in the order set out in paragraph (c) above. The President invites Hon CHAN Kam-lam to move his amendment to the motion, and forthwith proposes and puts to vote the question on Hon CHAN Kam-lam's amendment;
 - (i) after Hon CHAN Kam-lam's amendment has been voted upon, the President deals with the other six amendments; and
 - (j) after all amendments have been dealt with, the President calls upon Hon Mrs Regina IP to reply. Thereafter, the President puts to vote the question on Hon Mrs Regina IP's motion, or her motion as amended, as the case may be.

3. For Members' ease of reference, the terms of the original motion and of the motion, if amended, are set out in the **Appendix**.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

(Translation)

**Motion debate on
“Reviewing the operation of
the Land (Compulsory Sale for Redevelopment) Ordinance”
to be held at the Legislative Council meeting
of Wednesday, 1 December 2010**

1. Hon Mrs Regina IP LAU Suk-yee’s original motion

That the Administration, by publication of the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice in the Gazette in January this year, specified that with effect from 1 April this year, in respect of three classes of land lot, the application threshold for compulsory sale shall be lowered from 90% to 80%; although the lowering of the threshold can help facilitate urban renewal, the existing old building acquisition mechanism lacks transparency, and owners of old buildings are unable to negotiate with developers on a more equal footing; in the half year since the implementation of the new legislation, the acquisition of old buildings for private redevelopment has mostly occurred in prime land lots or even the Mid-levels, while no one is interested in the dilapidated communities that are in great need of redevelopment, indicating that the legislation has failed to fully fulfil its objectives; in this connection, this Council urges the Administration to review the Land (Compulsory Sale for Redevelopment) Ordinance (‘the Ordinance’), including:

- (a) to examine the operational problems in old building acquisition: when dealing with experienced developers or agents, individual flat owners often cope with very great mental stress, and many of them are even subject to harassment suspected to be acquisition-related, which causes anxiety and seriously affects the life of individual flat owners;
- (b) to review the compensation mechanism for old building acquisition: flat owners at present have to fight lone battles against developers or agents who are financially powerful and influential in sale price negotiations and, given their lack of help and support, the sale prices often fail to reach the price levels of similar properties they look for in nearby places of the same districts and even fall far short of many flat owners’ expectation of ‘flat for flat, shop for shop’ for urban renewal; and

- (c) to conduct an overall review of the Ordinance: given that compulsory sale involves deprivation of private property rights and the Ordinance currently has various deficiencies, it is necessary to conduct an overall review of the Ordinance (including the administrative arrangements therein), in order to enhance the protection of the rights of flat owners.

2. Motion as amended by Hon CHAN Kam-lam

That, *in order to speed up the pace of redeveloping old districts*, the Administration, by publication of the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice in the Gazette in January this year, specified that with effect from 1 April this year, in respect of three classes of land lot, the application threshold for compulsory sale shall be lowered from 90% to 80%; ~~although~~ the lowering of the threshold can help facilitate urban renewal, *and is conducive to expediting the renewal development of old districts, improving the living environments therein and reducing the potential dangers posed to the community by old buildings in disrepair*, but the existing old building acquisition mechanism lacks transparency, and owners of old buildings are unable to negotiate with developers on a more equal footing; in the half year since the implementation of the new legislation, the acquisition of old buildings for private redevelopment has mostly occurred in prime land lots or even the Mid-levels, while ~~no one is interested in the dilapidated~~ *such cases are comparatively rare in the communities that are in great need of redevelopment*, indicating that the legislation has failed to fully fulfil its objectives; in this connection, this Council urges the Administration to review the Land (Compulsory Sale for Redevelopment) Ordinance ('the Ordinance'), including:

- (a) to examine the operational problems in old building acquisition: when dealing with experienced developers or agents, individual flat owners often cope with very great mental stress, and many of them are even subject to harassment suspected to be acquisition-related, which causes anxiety and seriously affects the life of individual flat owners;
- (b) *to step up law enforcement by government departments: the relevant departments should step up law enforcement and prosecution to eradicate the unlawful nuisances caused by developers or agents in the course of property acquisition, so as to protect flat owners against any harassment;*
- ~~(b)~~(c) to review the compensation mechanism for old building acquisition: flat owners at present have to fight lone battles against developers or agents who are financially powerful and influential in sale price negotiations

and, given their lack of help and support, the sale prices often fail to reach the price levels of similar properties they look for in nearby places of the same districts and even fall far short of many flat owners' expectation of 'flat for flat, shop for shop' for urban renewal; and

- (e)(d) to conduct an overall review of the Ordinance: ~~given that compulsory sale involves deprivation of private property rights and the Ordinance currently has various deficiencies,~~ ***notwithstanding that compulsory sale is in line with the overall interest of society, at the same time it also undermines private property rights, and thus*** it is necessary to ***continuously*** conduct an overall review of the Ordinance (including the administrative arrangements therein), in order to ~~enhance the protection of the rights of flat owners~~ ***ensure that on the premise of protecting the rights of flat owners, the redevelopment of old districts can be effectively facilitated.***

Note: Hon CHAN Kam-lam's amendment is marked in ***bold and italic type*** or with deletion line.

3. Motion as amended by Dr Hon Priscilla LEUNG Mei-fun

That, ***amidst the concern of numerous owners of old buildings,*** the Administration, by publication of the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice in the Gazette in January this year, specified that with effect from 1 April this year, in respect of three classes of land lot, the application threshold for compulsory sale shall be lowered from 90% to 80%; although the lowering of the threshold can help facilitate urban renewal, the existing old building acquisition mechanism lacks transparency, and owners of old buildings are unable to negotiate with developers on a more equal footing; in the half year since the implementation of the new legislation, the acquisition of old buildings for private redevelopment has mostly occurred in prime land lots or even the Mid-levels, while no one is interested in the dilapidated communities that are in great need of redevelopment, indicating that the legislation has failed to fully fulfil its objectives; in this connection, this Council urges the Administration to review the Land (Compulsory Sale for Redevelopment) Ordinance ('the Ordinance'), including:

- (a) to examine the operational problems in old building acquisition: when dealing with experienced developers or agents, individual flat owners often cope with very great mental stress, and many of them are even

subject to harassment suspected to be acquisition-related, which causes anxiety and seriously affects the life of individual flat owners;

- (b) to review the compensation mechanism for old building acquisition: flat owners at present have to fight lone battles against developers or agents who are financially powerful and influential in sale price negotiations and, given their lack of help and support, the sale prices often fail to reach the price levels of similar properties they look for in nearby places of the same districts and even fall far short of many flat owners' expectation of 'flat for flat, shop for shop' for urban renewal; ~~and~~
- (c) to conduct an overall review of the Ordinance: given that compulsory sale involves deprivation of private property rights and the Ordinance currently has various deficiencies, it is necessary to conduct an overall review of the Ordinance (including the administrative arrangements therein), in order to enhance the protection of the rights of flat owners; *and*
- (d) *to expeditiously conduct studies on establishing a mediation or arbitration mechanism for compulsory sale other than the Lands Tribunal, so that when flat owners are faced with developers or agents who resort to unreasonable prices or acts in the course of property acquisition, they can have a simple and legally binding channel for negotiations and appeal, thereby preventing them from being dragged into protracted lawsuits that may plunge them into bankruptcy and exert mental pressure on them.*

Note: Dr Hon Priscilla LEUNG Mei-fun's amendment is marked in *bold and italic type* or with deletion line.

4. Motion as amended by Dr Hon Margaret NG

That the Administration, by publication of the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice in the Gazette in January this year, specified that with effect from 1 April this year, in respect of three classes of land lot, the application threshold for compulsory sale shall be lowered from 90% to 80%, *compelling flat owners to sell their property titles without the involvement of the public interest factor; besides contravening the principle of respecting private property rights, this in effect often compels flat owners to leave their original communities*; although the lowering of the threshold can help facilitate urban renewal, the existing old building acquisition mechanism lacks transparency, and owners of old buildings are unable to

negotiate with developers on a more equal footing; in the half year since the implementation of the new legislation, the acquisition of old buildings for private redevelopment has mostly occurred in prime land lots or even the Mid-levels, while no one is interested in the dilapidated communities that are in great need of redevelopment, indicating that the legislation ~~has failed to fully fulfil its objectives~~ ***runs counter to the policy of encouraging old district redevelopment***; in this connection, this Council urges the Administration to review the Land (Compulsory Sale for Redevelopment) Ordinance ('the Ordinance'), including:

- (a) to examine the operational problems in old building acquisition: when dealing with experienced developers or agents, individual flat owners often cope with very great mental stress, and many of them are even subject to harassment suspected to be acquisition-related, ~~which causes anxiety and seriously affects~~ ***apart from causing anxiety and seriously affecting*** the life of individual flat owners, ***it will also aggravate the dilapidation and disrepair of buildings, making such buildings even more dangerous and uninhabitable***;
- (b) to review the compensation mechanism for old building acquisition: flat owners at present have to fight lone battles against developers or agents who are financially powerful and influential in sale price negotiations and, given their lack of help and support, the sale prices often fail to reach the price levels of similar properties they look for in nearby places of the same districts and even fall far short of many flat owners' expectation of 'flat for flat, shop for shop' for urban renewal; and
- (c) to conduct an overall review of the Ordinance: given that compulsory sale involves deprivation of private property rights and the Ordinance currently has various deficiencies, it is necessary to conduct an overall review of the Ordinance (including the administrative arrangements therein), in order to enhance the protection of the rights of flat owners, ***truly promote the redevelopment of old communities and enable affected flat owners to acquire other properties in the original districts.***

Note: Dr Hon Margaret NG's amendment is marked in ***bold and italic type*** or with deletion line.

5. Motion as amended by Hon WONG Yuk-man

That the Administration, by publication of the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice in the Gazette in

January this year, specified that with effect from 1 April this year, in respect of three classes of land lot, the application threshold for compulsory sale shall be lowered from 90% to 80%; ~~although the lowering of the threshold can help facilitate urban renewal~~, the existing old building acquisition mechanism lacks transparency, and owners of old buildings are unable to negotiate with developers on a more equal footing; in the half year since the implementation of the new legislation, the acquisition of old buildings for private redevelopment has mostly occurred in prime land lots or even the Mid-levels, while no one is interested in the dilapidated communities that are in great need of redevelopment, indicating that the legislation has failed to fully fulfil its objectives; in this connection, this Council urges the Administration to review the Land (Compulsory Sale for Redevelopment) Ordinance ('the Ordinance'), including:

- (a) to examine the operational problems in old building acquisition: when dealing with experienced developers or agents, individual flat owners often cope with very great mental stress, and many of them are even subject to harassment suspected to be acquisition-related, which causes anxiety and seriously affects the life of individual flat owners;
- (b) to review the compensation mechanism for old building acquisition: flat owners at present have to fight lone battles against developers or agents who are financially powerful and influential in sale price negotiations and, given their lack of help and support, the sale prices often fail to reach the price levels of similar properties they look for in nearby places of the same districts and even fall far short of many flat owners' expectation of 'flat for flat, shop for shop' for urban renewal; and
- (c) to conduct an overall review of the Ordinance: given that compulsory sale involves deprivation of private property rights and the Ordinance currently has various deficiencies, it is necessary to conduct an overall review of the Ordinance (including the administrative arrangements therein), ***including restoring the application threshold for compulsory sale to 90% of the undivided shares of a lot***, in order to enhance the protection of the rights of flat owners.

Note: Hon WONG Yuk-man's amendment is marked in ***bold and italic type*** or with deletion line.

6. Motion as amended by Hon Ronny TONG Ka-wah

That the Administration, by publication of the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice in the Gazette in January this year, specified that with effect from 1 April this year, in respect of three classes of land lot, the application threshold for compulsory sale shall be lowered from 90% to 80%; although the lowering of the threshold can help facilitate urban renewal, the existing old building acquisition mechanism lacks transparency, and owners of old buildings are unable to negotiate with developers on a more equal footing; in the half year since the implementation of the new legislation, the acquisition of old buildings for private redevelopment has mostly occurred in prime land lots or even the Mid-levels, while no one is interested in the dilapidated communities that are in great need of redevelopment, indicating that the legislation has failed to fully fulfil its objectives; in this connection, this Council urges the Administration to review the Land (Compulsory Sale for Redevelopment) Ordinance ('the Ordinance'), including:

- (a) to conduct studies on improving the existing adjudication system and reinforce the gate-keeping role of the Lands Tribunal: it is proposed that the Lands Tribunal should recruit professionals to conduct independent property valuations; if a flat owner is not satisfied with the acquisition price and requests a court ruling, the developer concerned should bear all the litigation fees; and the developer should also submit a 'final development blueprint' to the Lands Tribunal before property acquisition and use it as the basis of valuation;*
- ~~(a)~~(b) to examine the operational problems in old building acquisition: when dealing with experienced developers or agents, individual flat owners often cope with very great mental stress, and many of them are even subject to harassment suspected to be acquisition-related, which causes anxiety and seriously affects the life of individual flat owners;
- ~~(b)~~(c) to review the compensation mechanism for old building acquisition: flat owners at present have to fight lone battles against developers or agents who are financially powerful and influential in sale price negotiations and, given their lack of help and support, the sale prices often fail to reach the price levels of similar properties they look for in nearby places of the same districts and even fall far short of many flat owners' expectation of 'flat for flat, shop for shop' for urban renewal; and
- ~~(e)~~(d) to conduct an overall review of the Ordinance: given that compulsory sale involves deprivation of private property rights and the Ordinance

currently has various deficiencies, it is necessary to conduct an overall review of the Ordinance (including the administrative arrangements therein), in order to enhance the protection of the rights of flat owners.

Note: Hon Ronny TONG Ka-wah's amendment is marked in *bold and italic type* or with deletion line.

7. Motion as amended by Hon CHEUNG Kwok-che

That the Administration, by publication of the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice in the Gazette in January this year, specified that with effect from 1 April this year, in respect of three classes of land lot, the application threshold for compulsory sale shall be lowered from 90% to 80%; although the lowering of the threshold can help facilitate urban renewal, the existing old building acquisition mechanism lacks transparency, and owners of old buildings are unable to negotiate with developers on a more equal footing; in the half year since the implementation of the new legislation, the acquisition of old buildings for private redevelopment has mostly occurred in prime land lots or even the Mid-levels, while no one is interested in the dilapidated communities that are in great need of redevelopment, indicating that the legislation has failed to fully fulfil its objectives; in this connection, this Council urges the Administration to review the Land (Compulsory Sale for Redevelopment) Ordinance ('the Ordinance'), including:

- (a) to examine the operational problems in old building acquisition: when dealing with experienced developers or agents, individual flat owners often cope with very great mental stress, and many of them are even subject to harassment suspected to be acquisition-related, which causes anxiety and seriously affects the life of individual flat owners;
- (b) to review the compensation mechanism for old building acquisition: flat owners at present have to fight lone battles against developers or agents who are financially powerful and influential in sale price negotiations and, given their lack of help and support, the sale prices often fail to reach the price levels of similar properties they look for in nearby places of the same districts and even fall far short of many flat owners' expectation of 'flat for flat, shop for shop' for urban renewal; ~~and~~
- (c) *to review the mechanism for determining acquisition prices of old buildings: after the independent surveyors employed by flat owners have assessed the market values of the units, all professional valuation*

fees should be borne by the acquisition parties, and in assessing acquisition prices, the values of new buildings upon their completion should also be considered; and

- (e)(d) to conduct an overall review of the Ordinance: given that compulsory sale involves deprivation of private property rights and the Ordinance currently has various deficiencies, it is necessary to conduct an overall review of the Ordinance (including the administrative arrangements therein), in order to enhance the protection of the rights of flat owners.

Note: Hon CHEUNG Kwok-che's amendment is marked in *bold and italic type* or with deletion line.

8. Motion as amended by Hon James TO Kun-sun

That the Administration, by publication of the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice in the Gazette in January this year, specified that with effect from 1 April this year, in respect of three classes of land lot, the application threshold for compulsory sale shall be lowered from 90% to 80%; although the lowering of the threshold can help facilitate urban renewal, the existing old building acquisition mechanism lacks transparency, and owners of old buildings are unable to negotiate with developers on a more equal footing; in the half year since the implementation of the new legislation, the acquisition of old buildings for private redevelopment has mostly occurred in prime land lots or even the Mid-levels, while no one is interested in the dilapidated communities that are in great need of redevelopment, indicating that the legislation has failed to fully fulfil its objectives; in this connection, this Council urges the Administration to review the Land (Compulsory Sale for Redevelopment) Ordinance ('the Ordinance'), including:

- (a) to examine the operational problems in old building acquisition: when dealing with experienced developers or agents, individual flat owners often cope with very great mental stress, and many of them are even subject to harassment suspected to be acquisition-related, which causes anxiety and seriously affects the life of individual flat owners;
- (b) to review the compensation mechanism for old building acquisition: flat owners at present have to fight lone battles against developers or agents who are financially powerful and influential in sale price negotiations and, given their lack of help and support, the sale prices often fail to reach the price levels of similar properties they look for in nearby places

of the same districts and even fall far short of many flat owners' expectation of 'flat for flat, shop for shop' for urban renewal; ~~and~~

- (c) to conduct an overall review of the Ordinance: given that compulsory sale involves deprivation of private property rights and the Ordinance currently has various deficiencies, it is necessary to conduct an overall review of the Ordinance (including the administrative arrangements therein), in order to enhance the protection of the rights of flat owners;
- (d) *to explore the incorporation of various other elements, including the practice of mediation before application for compulsory sale, the actual timing of compulsory sale and independent valuation by the Lands Tribunal, etc., and require the Lands Tribunal to hand down judgments from the perspectives of protecting residents and public safety, while at the same time taking account of the ages and states of maintenance of the buildings concerned;*
- (e) *to enhance the Government's assistance for residents of old buildings, including making arrangement for professionals to explain the legislation and the mechanism for compulsory sale application and its operation, providing legal or other kinds of advice on individual cases, and assisting in organizing flat owners to increase their bargaining power when dealing with acquisition companies or developers, so as to prevent residents from being easily misled and lured to sell their flats at low prices, or from suffering losses of rights and interests due to their unfamiliarity with the legislation; and*
- (f) *to step up the effort of monitoring the management and safety problems of old buildings susceptible to the impact of the Ordinance; if necessary, the Government should intervene in a timely manner, lest the reluctance of those owners holding the majority titles, after acquiring the majority of fragmented titles, to participate in building management and maintenance works, resulting in the deterioration of the safety and environmental hygiene of the buildings and making them unfit for human habitation, thereby protecting flat owners' rights and interests and ensure building safety.*

Note: Hon James TO Kun-sun's amendment is marked in *bold and italic type* or with deletion line.