
INFORMATION NOTE

Implementation of the Land (Compulsory Sale for Redevelopment) Ordinance

1. Introduction

1.1 This information note provides an overview of the assistance schemes and outreach services provided by the Government to property owners after the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice ("Notice") came into operation on 1 April 2010. The Notice specifies the lowering of the compulsory sale application threshold from 90% to 80% for three classes of land lot, namely:

- (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. Urban redevelopment in Hong Kong

2.1 According to the Administration, the design working life of an ordinary building in Hong Kong is 50 years. At present, there are about 41 000 buildings in Hong Kong, of which about 4 000 buildings are aged 50 years or above and about 2 600 of them are for residential/composite use. It is estimated that the number of buildings reaching the age of 50 will rise to 9 500 in 2019.¹

¹ Development Bureau (2010).

2.2 The Urban Renewal Authority ("URA") established in 2001 has been carrying out redevelopment projects to help arrest urban decay in Hong Kong. The pace of URA's urban renewal work has been much slower than originally envisaged, and many URA projects have been highly controversial, attracting considerable resistance from affected owners/tenants and concern groups. The Administration considers it necessary to enhance the ability of private property owners in redeveloping their aged and dilapidated buildings to better complement URA's effort and to meet Hong Kong's changing economic needs. This is particularly the case in view of the anticipated rapid increase in the number of old buildings in Hong Kong in the coming decade and the slow pace of urban renewal work in the past ten years both in the public and private sectors. It has been noted that the difficulty in unifying multiple ownership in a land lot is a major hurdle to private sector redevelopment efforts.

2.3 As part of the Government's urban renewal strategy promulgated in the 1996 policy statement "Urban Renewal in Hong Kong", the *Land (Compulsory Sale for Redevelopment) Ordinance* (Cap. 545) ("Ordinance") was enacted in 1998 and came into operation in June 1999 to facilitate owners of buildings in multiple ownership to redevelop the lots under specified conditions, including that:

- (a) a person (otherwise than as a mortgagee) who owns not less than 90% of undivided shares in a lot may apply to the Lands Tribunal for an order for the compulsory sale of all of the undivided shares in the lot for the purpose of redevelopment; and
- (b) the majority owner² of a lot who has made an application is required to:
 - (i) serve a copy of the application on each minority owner;
 - (ii) cause a copy of the application to be registered under the *Land Registration Ordinance* (Cap. 128) against the lot; and

² Majority owners are owners who have acquired sufficient undivided shares of a land lot with regard to the applications for compulsory sale that has been made or is intended to be submitted to the Lands Tribunal. Minority owners are the other owners of the land lot for which the application for compulsory sale has been made or intended to be submitted by the majority owner.

- (iii) cause a notice to be published in both Chinese and English newspapers and to be affixed upon a conspicuous part of the lot or a conspicuous part of the building on the lot.

2.4 Section 3(5) of the Ordinance further provides that the Chief Executive in Council may make a notice for a lower compulsory sale application threshold of no less than 80% in respect of a specified class of lots.

Proposal in 2006

2.5 As part of the strategy to tackle the problem of building deterioration, the Administration launched a public consultation exercise in 2006 to solicit public views on whether the compulsory sale application threshold should be lowered for lots with (a) "all units but one acquired"; (b) all buildings aged 40 years or above; and (c) lots with missing or untraceable owners.

2.6 The results of the consultation showed that there was general support for the policy direction to lower the application threshold to facilitate privately-led redevelopment, but the community would also like to ensure that there was adequate protection of the property rights of minority owners. As regards the proposed classes of lots to benefit from a reduced application threshold (i.e. 80%), many people expressed concerns about the proposal involving missing or untraceable owners, in particular the possibility of erroneously categorizing some owners as missing or untraceable.

Proposal in 2008

2.7 On 22 January 2008, the Administration briefed the Panel on Development ("Panel") on a revised proposal to lower the compulsory land sale application threshold to 80% under the Ordinance for two specified classes of lots, namely (a) a lot with "all units but one" acquired; and (b) a lot with all buildings aged 40 or above. As regards the third class of lot included in the 2006 proposal, the Administration advised that in view of diverse views on the relaxation in respect of "missing or untraceable owners" and the difficulty in introducing a safe mechanism to protect private property rights under the proposed requirement, it would be prudent to drop this class of lots.

Proposal in 2009

2.8 On 23 June 2009, the Administration briefed the Panel on its latest proposal to lower the application threshold for compulsory sale to 80%. Under the proposal, the building age criterion was revised to 50 years or above, and a new class of lot, i.e. a lot with all industrial buildings aged 30 years or above not located within an industrial zone, was added. The latter reflected the Administration's policy to ensure optimum use of land resources amid the migration of Hong Kong's traditional manufacturing activities to the Mainland.

The Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice

2.9 After taking into account the public views, the Administration tabled the Notice at the Legislative Council meeting on 27 January 2010. The Notice proposed to specify a lower application threshold of 80% of the undivided shares in the lot for the three classes of land lot mentioned in paragraph 1.1.

2.10 A Subcommittee was formed to study the Notice. In examining the subsidiary legislation, members expressed views and concerns over a range of issues, including the operation of the Ordinance, protection of minority owners' interest, owner participation in private redevelopment, establishment of a mediation mechanism, social impacts of private redevelopments, compensation to affected tenants, and effect of lowering the threshold to 80%.

2.11 At the meeting held on 1 March 2010, the Subcommittee passed the following motion:

"Given that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice cannot provide effective protection for minority owners' interests nor resolve building safety issues, and that the authorities have failed to set up a mediation mechanism promptly, the Subcommittee considers that the authorities should withdraw the Notice."

Council meeting

2.12 At the Council meeting on 17 March 2010, six Members proposed to move a total of 14 motions under the *Interpretation and General Clauses Ordinance* to amend the Notice, including an amendment to repeal the Notice. The Notice was eventually passed without amendments at the Council meeting and came into operation on 1 April 2010.

3. Assistance to property owners in cases of compulsory sale of land for redevelopment

The Pilot Mediation Scheme

3.1 In order to assist owners involved in or contemplating applications for compulsory sale for redevelopment subsequent to the passage of the Notice, the Development Bureau has provided financial support for the establishment of the Pilot Mediation Scheme to facilitate owners to undertake mediation on a voluntary basis. The Scheme is financially supported by the Development Bureau, including the setup cost of \$1.24 million and operating costs of \$1.6 million. The Development Bureau has also reserved \$0.5 million to provide financial assistance for eligible elderly owners to cover the fees of mediators.

3.2 The Joint Mediation Helpline Office Limited ("JMHO")³ was commissioned by the Development Bureau to set up and operate the mediation scheme for an initial period of 12 months from January 2011. After reviewing the scheme's effectiveness in the third quarter of 2011, the Development Bureau has decided to extend the Pilot Mediation Scheme for another year up to January 2013.

3.3 The aim of the Pilot Mediation Scheme is to mediate dispute or difference between owners arising out of or in relation to applications for compulsory sale of land lot that has been made or is intended to be submitted to the Lands Tribunal. The Pilot Mediation Scheme affords owners the opportunities to come to agreement and reach settlement during the information gathering stage or, when necessary, after adopting voluntary mediation process to resolve disputes or differences.

³ JMHO is jointly founded by the Hong Kong Mediation Council, the Hong Kong Bar Association, the Law Society of Hong Kong, the Chartered Institute of Arbitrators (East Asia Branch), the Hong Kong Institute of Arbitrators, the Hong Kong Institute of Architects, the Hong Kong Institute of Surveyors and the Hong Kong Mediation Centre. It is set up as a non-profit-making organization with a view to promoting the use of mediation as a means of dispute resolution in Hong Kong.

3.4 Mediation under the Pilot Mediation Scheme is initiated by a request for mediation from the property owner concerned. It will be conducted in accordance with the mediation rules to facilitate settling the dispute on terms agreed by both the majority owner and minority owner or narrowing their differences. Mediation is a wholly voluntary process and either party may choose to terminate the mediation at any time.

3.5 If reached, a settlement agreement has the force of law and is binding on the parties. In the event that there is no overall settlement agreement reached, the parties and the mediator may still endeavour to agree on common facts or the steps ahead, which may be of assistance in the future determination of the dispute by subsequent litigation if any.

Fee and venue support

3.6 The Hong Kong Housing Society and URA provide venue at no costs to the parties of the dispute. A uniform application fee and rate of mediator fee is charged for mediation under the Pilot Mediation Scheme as follows:

Table – Application fee and rate of mediator fee under the Pilot Mediation Scheme

Type of fee	Amount
Application fee	HK\$500 per party
Mediator fee (shared equally by parties)	
Pre-mediation session (up to 3 hours)	HK\$3,000 per hour
Subsequent mediation session (from 4 th to 15 th hour)	HK\$3,000 per hour

3.7 The application fee is non-refundable once agreement to mediate has been reached. For mediation under the Pilot Mediation Scheme, the mediator fee for the first 15 hours, which is at a fixed rate, is paid in equal shares by the owners, save for eligible elderly minority owners. Eligible elderly minority owners who have paid the application fee and satisfied the means test may receive the mediation service free of charge under the Pilot Mediation Scheme. These eligible elderly owners are granted the waiver of the mediator fee for up to a total of 15 hours of mediation (including the pre-mediation session of no more than three hours).

The Pilot Scheme on outreach support service for elderly owners

3.8 To provide assistance to elderly minority owners of old buildings, the Development Bureau has commissioned Senior Citizen Home Safety Association ("SCHSA"), a non-profit-making charitable organization, at \$1.43 million to provide outreach support service for the elderly owners. The social workers of SCHSA will approach elderly owners and explain to them the general practice of property acquisition and the process of compulsory sale under the Ordinance.

Scope of service

3.9 SCHSA provides the following support service to the elderly owners:

- (a) enquiry — telephone and online enquiry are available to elderly owners. Information provided by SCHSA include the application and procedure of compulsory sale, the rights of minority owners, the application and appeal procedure with the Lands Tribunal, reference prices of properties, and reserve prices of compulsory sale cases in the past.
- (b) community education — SCHSA organizes talks, workshops and outreaching programmes in elderly centers as well as providing information leaflets on compulsory sale to the public.

- (c) case consultation — consultation services provided by SCHSA include:
 - (i) explanation to elderly owners the general practice of property acquisition and the process of compulsory sale under the Ordinance;
 - (ii) free-of-charge checking for elderly owners to see whether their properties fall within the class of land lot under which 80% application threshold for compulsory sale applies;
 - (iii) referral of elderly owners to other social services agencies if relocation is required; and
 - (iv) referral of elderly owners to professionals such as surveyors for advice and assistance.

3.10 In view of the need to strengthen the manpower support for the Pilot Scheme on outreach support service for elderly owners, the Administration has expanded the current service from one outreach service team to two teams in 2012. The contract will be awarded through open tender which is still in progress. The Administration will review the effectiveness of the two pilot schemes again in the second half of 2012.

Public education

3.11 The Development Bureau has stepped up publicity and public education on voluntary acquisition or compulsory sale of land by launching a video on the Ordinance to enable minority owners to better understand their rights and protection under the Ordinance. The video explains the scope of the Ordinance, the process of compulsory sale, and the caveats that owners should watch out for when approached by developers or their intermediaries. The video also introduces to the public the support and assistance provided by various agencies, including information service available at the 10 Property Management Advisory Centres of the Hong Kong Housing Society, the role of the Estate Agents Authority in regulating the practice of estate agents in the acquisition of old buildings and the assistance rendered to the minority owners. The Pilot Mediation Scheme and the Pilot Scheme on outreach support service for elderly owners are also highlighted in the video.

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