

From the Desk
of
David Lai,
Chair, *Independent Owners' Association for Fair Treatment*

The Secretary
Planning, Environment and Lands Bureau
9/F, Murray Building
Garden Road
Central
Hong Kong

8th November, 1999

RE: Comments on the Urban Renewal Bill

Dear Secretary,

Our association is a board-based organization which help analyze redevelopment situations in Hong Kong and how it affects owners, tenants, property rights, the society and their respective rights and help to ease problems related to the redevelopment.

After careful analysis of the proposed bill and have feedback from our members, we would like to address the bill point-by-point as well as suggesting solutions to the problems of the bill in its current wordings. We would also analyze problems faced by the LDC first and further address the issue of the Bill in its current form.

The Urban Renewal Authority Bill (URAB) addressed the issue of redevelopment and specifically spelled out one of its objectives is to “preserve...cultural or architectural interest” and trying to address the public interest in Sec. 13 and to finalize the bill “in light of public comments” before it is introduced into the Legislative Council. It is in the public interest that our association is responding and providing inputs to the Secretary’s Bureau. We are doing so formally as we post this correspondence and input of our interests to the government so that the bill can be revised and adjusted to practically speed up redevelopment while addressing the rights and interest of the independent owners, tenants, residents, business owners in the affected owners.

The LDC’s problems with redevelopment needs to be addressed and resolved

The Urban Renewal Authority Bill addressed the problems faced by the Land Development Corporation (LDC) but failed to address the real reasons that “prolonged the land assembly process” and therefore increased the financial burden of the LDC’s projects. Let me remind the Bureau that the LDC had more problems with owners than the Housing Authority and confronted much more problems than private developers. We need to ask why. Why is there so much resentment against the LDC? Why is the press so critical against the LDC in pedicular? Do we need to examine the LDC’s process per se? Or should we examine the execution of the LDC? There are lessons to be learned from the LDC’s failure to carry out the process quickly, but shouldn’t the LDC be examined in the first place before taking a drastic action in not needing to negotiate with owners.

Delays caused by LDC's lack of sincerity in negotiating with owners

It is the LDC's unfair actions that may raise out of its profit making motivation that caused the problem in negotiating with owners. The Bureau have reviewed many cases when the LDC applied for resumption against owners and have rejected many applications against the LDC because the LDC had not demonstrated that the LDC had treated owners fairly and reasonably either in the misevaluation of owners' properties or misuse the procedure against owners and tenants. In the Tseun Wan case, the LDC placed different valuation on similar shops on practically the same block. In the Kennedy Town case, the LDC failed to do any real negotiation with owners and even after some owners accepted the LDC's offered price, the LDC was not willing to negotiate with owners on terms, adding and unwilling to negotiate terms that is abnormal to any normal business transaction, therefore causing unnecessary delay and resentment from owners. In the TST Hanoi Road project, the LDC delayed for over 10 months after the project was approved by the Governor-in-Council for no real reason other than its own profit motive, causing unreasonable delays which caused owners unnecessary sufferings.

Two valuations, both from LDC; owners' valuers are often ignored

The LDC's practice misuses the law, which required at least 2 surveyors to value the owners' properties and the higher one will be used. It sounds fair and reasonable if one of the surveyors is representing the LDC and the other representing owners. Unfortunately, the way it is practice is that the LDC utilized BOTH surveyors and have not allowed the value proposed by the owners' valuers to be any part of a mechanism to arrive at a comprise. In the case of TST Hanoi Road project, the LDC has ignored all other valuation provided by 5 different surveyors and insisted on its original value. No compromise was sought by the LDC despite repeated effort by owners to negotiate.

The failure of the "one set price" policy

The "one set price policy" is already being practice by the LDC and has caused more and more problems. By not doing any real negotiation with owners, the LDC is in fact using the "one price" policy, that the owners are being compensated at the one set price offered by the LDC. Unfortunately, the "one price" is always set at the low range and sometimes comparable not from the same area is used in order to arrive at the low price the LDC desire in order to profit more from the redevelopment. With the TST Hanoi Road project, the LDC's valuers used Yau Ma Tei and Hung Hom as comparable areas as TST and made a 5% adjustment to it; therefore arriving at a price substantially less than a normal flat of similar size and in the similar area.

The need of real negotiation with owners

The lack of negotiation also introduced pressure to owners, tenants and affected business. Such pressure is unwarranted from a social point of view. A lot of times, owners, tenants and businesses want to cooperate and often not objecting to the redevelopment. What people need is a picture of what their futures are going to be. Monetary compensation by the LDC or the new authority is only one factor and often not the most important one. By introducing a redevelopment, or should I say the redevelopment in the current practice by the LDC, thousands of residents, owners and businesses are affected in each of the affected areas; their communities and their lives are affected. In an ideal situation, changes of such scale needed to be dealt with by having the communities putting their own destiny together, having the communities be part of the planning team, empower them and involve them. On the other hand, the LDC has failed to

incorporate communities' need to the redevelopment and introduce factors which owners, tenants and businesses can participate and replant themselves into the area once the redevelopment is completed. Without any control of their lives but to accept a fixed monetary compensation, owners, residents and businesses felt pressed to a corner and the only way is to reject the monetary offers as their homes and livelihood are frightened. The government, in reviewing the Urban Redevelopment Authority Bill should learn from the failure of the LDC and try to improve their dealing with the owners, residents and local business. Owners and resident, often view a "one-price" policy and a limited (i.e. 90 days) time for long-time residents and owners to relocate, as a threat alike. Although the Nov 15,99 incident in Sheung Shui is an extreme case of residents fighting for their **illegal** homes, we should learn a lesson from the Sheung Shui village case and avoid putting the government in confrontation with residents.

The question is whether the redevelopment is going to eliminate the communities or to help them. The LDC's policy has been to eliminate the communities and replace them by a format liken by major developers in Hong Kong. The "Kai Fong" businesses are being replaced by major brand names that can afford to lease a shop front from the LDC/ New World (or another major developer) new indoor shopping mall. The communities which lives on the interrelations of the owners, residents and the small businesses are killed and replaced by chain stores, expansive restaurants, brand names. The multi-ownships of the older areas is now replaced by single ownership by the LDC, a Joint Venture of the LDC and a major developer. With the new bill, is the Urban Redevelopment Authority going to replace the hundred and thousands of independent owners as the biggest landlord in the redeveloped areas? **Is the purpose of the urban Renewal Authority trying to help the communities or to eliminate them?**

The LDC's Hanoi Road project is a good example of how the LDC, using the "Owners' Participation Scheme," obtaining 70% of participation by New World or its affiliates, together owning properties by "shell companies" tactfully eliminate the community by putting a 62 story office tower in lieu of the small shops owners and independent owners and allows one large ownership in lieu of individual ownerships.

The "missing sum" of the value between reduced amount to owners and compensation to tenants

In the issue of rehousing, the LDC's unfair practices have caused further problems in the affected areas. By reducing offer price to owners when the property is not vacant, the LDC, by providing only a much smaller amount to tenants, profited from the transactions when there is a tenant involved. The fair way would have been providing the legally required and clear amount to tenant and deduct the same amount to owners in the offer price.

The Urban Renewal Authority Bill neglects social issues

While problems of the LDC's practice are many and it is impossible to exhaustively, the New Urban Renewal Bill neglected to address many social issues. Issues that affect the livelihood long-time residents, independent flat owners, shop operators and owners, tenants and small businesses. The core of the problem raise from the Bill's negligent of addressing and attempting to put the social issue at hand. What we read from the bill is to address the "fabric" of the buildings of Hong Kong, not the people of Hong Kong.

In order to make any governmental department or any public institutions successful, major social issues has to be addressed.

1. The need of the people, namely the independent owners, residents, small business owners alike. The LDC has clearly favors the development for development sake while transfer the multiple ownership of the affected areas into single or limited ownership by LDC and or major developers.
2. The property rights of the people In Hong Kong. Property rights are now well recognized in China. The threat of having citizens' properties taken away had failed to promote social justice, economic investments alike. The failed economics systems in old China has been recognized by Beijing and have now residents of each affected redeveloped areas are given new flats before any redevelopment scheme is proposed. It is oddly enough that in Hong Kong, which the economic system built on the property rights protections of the capitalist mode, would end up having the issue of homeownership invasion by an authority.
3. The need of getting the communities' involvement. If the Bill is to help the people of Hong Kong, then the involvement of the communities are needed in order to know what do the communities need and want as a result of the redevelopment. Centralized bureaucratic decisions often do realized how that can be done. I have already use the LDC's Hanoi Road "Owners' Participation Scheme" as a clear example of the failure of such centralize decision. The result, none of the intrinsic owners of the areas participated in the development of the office tower. Being a participant in a development for one of the tallest building in Hong Kong simply does not serve the needs of the communities.
4. The need to decentralize the planning and redevelopment process. At the current version of the Bill, there are limited, if any check-and-balance bodies or mechanism built into the decision making process. Such bodies should be inclusive of affected owners, businesses in the affected areas, elected council members, professionals, tenants, and people from many walks of life. It is only through a decentralized system of decision we can incorporate the inputs of the communities. The current LDC's centralized, or should I say, decision by the few, has been a great failure as evidenced by the many objections to the LDC's type of redevelopment.
5. We, therefore, suggest that :
 1. The Bill needs to address the needs of the people, especially the affected ones,
 2. The bill needs to set a decentralized decision making process,
 3. Bodies with the abilities to check-and -balance the centralized decision making process to ensure the needs of the public are met. Such bodies must be able to intervene, if necessary, the execution of the process because it is often during the execution, problems arise.
 4. The "public interest" must include the public. Simple enough, but the current behavior of the LDC seems not to be inclusive but exclusive. The simplest is to bring in the communities to the planning and during execution process.
 5. A way to set a fair compensation plan for the affected owners. Currently, the LDC's practice has been a "One Price Policy" which owners' valuers' and professional' opinions are completely ignored, or should I say, that the input have provide zero effect because of the LDC's behavior.

It is only with a system that is set up correctly that the system will work. Many owners have been affected by centralized redevelopment projects. It is absolutely possible, and actually inevitable that such a good system will smoothen out of the problems we have already learned from the LDC's problems. It is with that sprit that our association submits the above inputs.

We request to be informed of any hearings or any input sessions with enough time notifications so that our members can be informed and be responsive to the process.

Thank you for the opportunity in providing the inputs.

Sincerely,

David Lai
Chair, IOAFT

Cc. LEGCO