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Report of the Bills Committee on Urban Renewal Authority Bill

Purpose

This paper reports on the deliberations of the Bills Committee on Urban Renewal Authority Bill.

Background

2. In July 1995, the Government issued a public consultation document on urban renewal which put forward a package of proposals to expedite the urban renewal process. As a result of the consultation exercise, the Government published a policy statement entitled "Urban Renewal in Hong Kong" in June 1996. The policy statement proposed, amongst other things, the establishment of a new statutory authority to take forward a new urban renewal strategy.

3. The Chief Executive announced in his 1999 Policy Address the establishment of the Urban Renewal Authority (URA) in 2000 to replace the existing Land Development Corporation (LDC) to implement a new rigorous and comprehensive approach to overcome the problem of urban decay. On 22 October 1999 the Government published in the Gazette the Urban Renewal Authority Bill in the form of a White Bill for public consultation.

4. The Legislative Council formed a Subcommittee on 29 October 1999 to study the White Bill. The Subcommittee comprising 17 members elected Hon Edward HO Sing-tin and Hon Gary CHENG Kai-nam as its Chairman and Deputy Chairman respectively. During the period from November 1999 to February 2000, the Subcommittee held nine meetings, met 15 deputations and received 22 submissions. The Administration attended each of its meetings to explain the major issues associated with urban renewal. At the request of members, the Administration extended the consultation period on the White Bill from 3 December 1999 to 31 December 1999. The Subcommittee submitted a report on its deliberations on the White Bill to the House Committee on 11 February 2000.

The Blue Bill

5. The Urban Renewal Authority Blue Bill was gazetted on 3 February 2000. The objects of the Bill are -

(a) to establish a new statutory body, named URA, to replace LDC, for the purpose of undertaking urban renewal;

(b) to provide for the structure, purposes and powers of URA; and

(c) to set out the procedures for planning and land resumption in respect of redevelopment projects to be implemented by URA.

6. The provisions of the Blue Bill are essentially the same as those of the White Bill except on some drafting and technical points.

The Bills Committee

7. Members agreed at the House Committee meeting on 18 February 2000 to form a Bills Committee on the Blue Bill. It was also agreed that members of the Subcommittee became members of the Bills Committee and membership of the Bills Committee be re-opened. Hon Edward HO Sing-tin and Hon Gary CHENG Kai-nam were elected Chairman and Deputy Chairman of the Bills Committee respectively. The membership list of the Bills Committee is at **Appendix I**.

8. Although the Subcommittee had invited public views on the White Bill and the contents of the Blue Bill do not differ from those of the White Bill in any significant aspect, members of the Bills Committee considered it necessary to seek views again given the far-reaching impacts of the Bill. An advertisement was posted in a Chinese language and an English language newspapers to invite public views on 16 March 2000. 47 written submissions were received and 29 deputations made oral presentation to the Bills Committee. The Bills Committee held 18 meetings and all of which were attended by the Administration. A list of the deputations which have made oral presentation to the Bills Committee is at **Appendix II**.

Deliberations of the Bills Committee

9. Members of the Bills Committee fully appreciate that urban renewal is an arduous task. In 1999 about 8,500 urban buildings are over 30 years old. The number will increase by 50% in 10 years' time. If the present

pace of urban renewal continues, the overall deterioration of the urban areas could not be arrested. An overhaul of the existing approach to urban renewal is thus necessary to overcome the difficulties faced by LDC which include the scarcity of sites for profitable development, lengthy land assembly process and inadequate rehousing resources. Nevertheless, given the far-reaching consequences of urban renewal, members consider it of utmost importance to ensure the adherence to certain principles in embarking on the new approach. These principles are as follows -

(a) that the new urban renewal strategy must be able to improve the dilapidated conditions of old urban areas;

(b) that the structure and powers of URA are appropriate for the discharge of its specified purposes;

(c) that a proper mechanism is put in place to ensure public accountability of the work of the new authority;

(d) that sufficient resources are made available to URA to implement the urban renewal programme;

(e) that the planning procedures for redevelopment projects are transparent and the public could participate in the process ;

(f) that compensation payable to affected landowners is fair and reasonable;

(g) that affected tenants are given appropriate and affordable rehousing; and

(h) that the transition from LDC to URA is seamless and smooth.

10. In accordance with the afore-mentioned principles, members of the Bills Committee consider the views of deputations and scrutinize the provisions of the Bill. The deliberations of the Bills Committee on the major issues in relation to each of these principles are set out seriatim below.

Formulation of urban renewal strategy

11. Recognizing that the urban renewal strategy will serve as a road map for the future urban renewal programme, members note with concern the silence of the Bill on the strategy and on the way in which it is formulated. As the Urban Renewal Strategy Study was completed by the Planning Department in September 1999, its findings and recommendations should have been reflected in the provisions of the Bill which was introduced into the Legislative Council in February 2000.

12. According to the Administration, the main elements of the urban renewal strategy have already been announced by the Chief Executive in his 1999 Policy Address and in the Consultation Paper on the URA Bill. These elements include, amongst other things, restructuring and replanning designated older built-up areas; designing more effective and environmentally friendly transport networks; providing more open space and community facilities; rehabilitating buildings in need of repairs; preserving heritage; and redeveloping or revitalizing under-utilized industrial areas. To a certain extent, the purposes of URA as provided in clause 5 of the Bill have reflected these elements. Based on the findings of the Urban Renewal Strategy Study, 200 projects in nine target areas have been identified for priority redevelopment. The Administration's intention is to finalize the urban renewal strategy after consultation with URA and thereafter to issue a policy document on the strategy for public information.

13. Given the significance of the urban renewal strategy, members of the Bills Committee unanimously consider that the public must be consulted on its formulation. The Administration accepts members' suggestion to provide expressly in the Bill for the need to consult the public before finalizing the urban renewal strategy. A Committee Stage amendment will be moved to add a new clause 17A to the Bill.

14. A strong call from deputations has been made to the Bills Committee for the adoption of a people-oriented approach in implementing the urban renewal programme. Members submit to this view entirely and uphold the principle to regard the well-being of people above anything else in charting the course of urban renewal. Having regard to the practical difficulties in defining the term "people-oriented approach" in legal language in the Bill, members accept the alternative proposed by the Administration to state the adoption of such an approach in the urban renewal strategy.

Rehabilitation of buildings (Clause 5(d))

15. Members fully endorse that redevelopment of buildings is but one of the ways to regenerate the urban fabric. Rehabilitation of buildings is an indispensable element of urban renewal. Proper maintenance of buildings improves the built environment and reduces the need for redevelopment. In this respect, members take note of a proposed statutory scheme of preventive maintenance of buildings to be announced later this year for public consultation. Under this scheme, owners of old buildings which are not properly maintained will be required by law to carry out preventive maintenance. URA and the Building Authority will share the task of implementing this scheme jointly. URA will be empowered to operate the scheme in the nine target areas, whereas the Building Authority will be responsible for its implementation in the rest of the territory. According to the Administration, buildings in respect

of which a maintenance order has been issued will not be earmarked for redevelopment in the following seven years. Members consider this a reasonable arrangement. They also support the Administration's plan to grant loans to owners concerned who have financial difficulties in meeting the costs of the necessary maintenance works. The Bills Committee takes note that the implementation of the proposed statutory scheme will require amendments to the Buildings Ordinance (Cap. 123).

Preservation of heritage (Clause 5(e))

16. The Bills Committee welcomes the explicit reference to preservation of heritage in the Bill as one of the purposes of URA, a suggestion made by the Subcommittee to study the White Bill. According to the Administration, 23 buildings of historical, cultural, or architectural interests have been identified for preservation in the Urban Renewal Strategy Study. As far as practicable, the preserved historical buildings would be put to proper community use. This would enable the buildings to become a living and functional part of the community and not mere historical artifacts for display. Consideration would also be given to using heritage buildings as a means to promote tourism. The Bills Committee supports these proposed arrangements.

17. As regards the concern about the lack of public participation in selecting sites and buildings for preservation, the Administration has pointed out to members the different channels through which the public may give inputs. To start with, the 23 buildings are chosen after consultation with the Antiquities Advisory Board the members of which come from different strata. The locations of these buildings will be announced together with the urban renewal strategy later for public consultation. Members of the public could also raise objections to the designation of these buildings as protected monuments when the areas where they are located are included in a proposed redevelopment project published in the Gazette. Members accept the explanations.

<u>Structure and power of URA (Clause 4)</u>

18. The Bill provides that the URA Board shall comprise 14 members, including a Chairman who is at the same time an executive director, two other executive directors, seven non-executive directors who are not being public officers and four non-executive directors who are being public officers. All members of the Board will be appointed by the Chief Executive. The concerns of members lie with three aspects, namely the executive-chairman model for URA, the proportion of non-executive official directors to non-official directors in the Board, and the appointment of all members of the Board by the Chief Executive

Chairmanship of URA

19. The proposal to adopt an executive-chairman model for URA is unanimously objected by members of the Bills Committee. Members are gravely concerned about the lack of checks and balances in the decision-making process if the Chairman of the URA Board is at the same time an executive director. Similar concern has been raised by a number of deputations received by the Bills Committee. The reason provided by the Administration for adopting the executive-chairman model is that this will be more efficient and effective in implementing the urban renewal programme as the executive-chairman will be accountable for the work and performance of URA at both the decision-making and operational levels. Such a model is adopted currently by the two railway corporations and the Securities and Futures Commission.

20. Members of the Bills Committee are unconvinced of the merits of the executive-chairman model for URA. Given the far-reaching implications of decisions made by the URA Board, members strongly favour the appointment of a non-executive chairman who would oversee the work of the chief executive officer. For the purpose of enhancing public acceptance of URA, the Administration agrees to revise the proposed structure and adopt the model of the Mandatory Provident Fund Schemes Authority, i.e., there would be a non-executive Chairman and a Managing Director for URA, both appointed by the Chief Executive. The Chairman will guide the URA Board in making decisions, whereas the Managing Director, who will be the Deputy Chairman , will be responsible for administering the day-to-day affairs of URA. Committee Stage amendments will be moved by the Administration to clause 4.

Composition of URA Board

21. On the proportion of official directors to non-official directors in the Board, members have pointed out that under the original proposal in the Bill, the executive-chairman and the two other executive directors, all appointed by the Chief Executive, together with the four non-executive directors who are public officers, would take up half of the 14 seats of the URA Board. This will enable the Government to have overwhelming influences on the Board. Although the Administration does not agree with such an analysis, it nevertheless proposes to increase the number of non-executive directors who are not being public officers to not less than seven. The number of these directors would then exceed the number of official non-executive directors plus the executive directors. Committee Stage amendments will be moved to clause 4 to achieve the effect.

Appointment of Board members

22. Notwithstanding the proposed changes to the executive-chairman model and the composition of the Board, some members of the Bills Committee consider that these have not gone far enough. They have reservations about the arrangement that all members of the URA Board shall be appointed by the Chief Executive. This would allow the Government to decide entirely on her own as to who should be appointed. Some members have also expressed concern about the line of accountability with such an appointment system. With the appointment made by the Chief Executive, the appointed members would be accountable more to the Chief Executive, and not the URA Board. The power of the non-executive Chairman of the Board would also be curtailed considerably as he could not dismiss the Managing Director and the two other executive directors who are appointed by the Chief Executive direct.

23. The Administration has assured members that the URA Board will be representative of the community and of different interests in society. The Board will have members coming from the Legislative Council, as in the present LDC Board. As to the appointment of the Managing Director and the two other executive directors, since they are also members of the Board, it is more appropriate that an authority other than the URA Board should make the appointment and determine their remuneration packages. Although the Managing Director is appointed by the Chief Executive, he would be accountable to the Chairman and the Board for his work. The Chief Executive would consult the Chairman in assessing the performance of the executive directors and in deciding whether their employment contracts should be renewed.

24. Hon LEE Wing-tat has indicated that he may move amendments to the Bill to require that the appointment of all the non-executive directors who are not being public officers including the Chairman be endorsed by the Legislative Council.

25. Hon LEE Cheuk-yan has indicated that he may move amendments to the Bill to provide that four non-executive directors of the URA Board shall be elected by Members of the Legislative Council from among their own number. Mr LEE considers that his proposal would ensure the representation of the URA Board.

Remuneration of members of the URA Board

26. In recognition of the wide executive power and functions of the URA Board, members have stressed the importance of making it categorically clear to prospective non-executive directors before appointment the time they need to spend and the responsibilities they have to shoulder. In this connection,

members have discussed how members of the URA Board should be remunerated. The majority of members of the Bills Committee consider that given the expectations on the Chairman of the URA Board in terms of time commitment and the extent of responsibilities to be borne, he should be reasonably remunerated. Members take note that the Chairman and the non-executive directors of LDC are now receiving an honorarium of $100,000 and $65,000 per annum respectively. The Administration proposes to peg the remuneration for the Chairman of the URA Board to about one-quarter or one-fifth of D8 of the Directorate Pay Scale of the Civil Service. The present salary for a D8 office-holder is $2,172,600 per annum.

27. As regards the remuneration packages for the Managing Director and the two other executive directors of the URA Board, members take note that a consultant has been commissioned to make recommendations in this respect. The present thinking of the Administration is that their remuneration packages will not be pegged to the Civil Service Directorate Pay Scale. In the Administration's view, the remuneration package for civil servants cannot attract suitable candidates from the private sector to take up such posts of great responsibilities. Some members disagree with this assessment and have cautioned against over-generosity in fixing the remuneration packages for the three executive directors of the URA Board The view of the Bills Committee is that the remuneration packages for the executive directors of URA should be commensurate with their duties and responsibilities.

Public accountability

28. Apart from building into the composition of the URA Board a mechanism of checks and balances, members of the Bills Committee have examined other measures through which the work of URA could be monitored. A number of suggestions have been made by the Bills Committee to strengthen public accountability of URA's work as described below.

Declaration of interests (Clause 7)

29. Members support the provisions in the Bill to require members of the URA Board to declare interests and to make available the register of declared interests for public inspection. They however note with concern the way in which the Bill deals with the situation where a member has disclosed his interests in relation to a subject matter under consideration by the Board. The Bill allows such a member to participate in the discussion and to vote on a question concerning that matter should the majority of members present at the meeting so permit. This arrangement is different from the present practice adopted by LDC which disallows such a member to vote in any event. The Bills Committee favours the present stringent rule of LDC in this respect and requests the Administration to revise the clause in the Bill along the line of the relevant provision in the Land Development Corporation Ordinance (LDC

Ordinance) (Cap. 15). The Administration agrees and will move amendments to clause 7.

Opening up meetings of the URA Board

30. For the purpose of enhancing the transparency of the operation of URA, the Bills Committee has discussed whether its Board meetings should be held in public. The Administration has pointed out to members the practical difficulties in holding open meetings. Sensitive issues such as the priority and the time-table for the implementation of redevelopment projects, the delineation of boundaries of project areas, and the assessment of tenders for URA works will be discussed at Board meetings.

31. Some members appreciate that it is undesirable to release prematurely the above information quoted by the Administration. However, they are of the view that there are certain issues on which the URA Board could discuss in the open. In view of members' concern, the Administration agrees to recommend to URA to hold regular open meetings to collect public views on matters relating to urban renewal and to report on its work.

32. Hon LEE Wing tat has indicated that he may move amendments to the Bill to require all meetings of URA be open to the public unless URA considers it not desirable to do so.

Attendance at meetings of the Legislative Council (Clause 9)

33. Members welcome the inclusion of a provision in the Bill requiring the Chairman and the executive directors of the URA Board to attend meetings of committees and subcommittees of the Legislative Council upon request. In view of the adoption of the non-executive chairman model for URA, the Administration proposes to substitute the "Managing Director" for "the Chairman" in the provision on the grounds that the non-executive Chairman is not a full time office-bearer and could not afford to attend frequent committee or subcommittee meetings of the Legislative Council. The Administration is also worried that if a non-executive Chairman is answerable to the legislature, the choice of potential candidates will be limited as some public figures are not accustomed to being questioned in the open. Besides, the non-executive Chairman will not be as well versed as the Managing Director in the day-to-day operation of URA.

34. Some members of the Bills Committee find the Administration's explanations unconvincing. They hold the view that as the Chairman would play a vital role in guiding the Board in making decisions, he is in the best position to explain the policies made by URA. The Legislative Council will only invite the Chairman and the executive directors of the URA Board to attend its committee or subcommittee meetings where necessary. Such

invitation is unlikely to be frequent. As the present drafting of clause 9 has already required the Managing Director who is an executive director to attend the meetings of committees and subcommittees of the Legislative Council, some members of the Bills Committee have indicated that they do not support the Committee Stage amendment proposed by the Administration .

Financial arrangement

35. Providing URA with sufficient resources is upheld as a pre-requisite by members for making the future urban renewal programme a success. The Bills Committee supports the introduction of a proposed package of both financial and non-financial tools to enhance the financial viability of urban renewal projects, in particular in a less exuberant property market. These include waiving land premia, exempting Government/Institution/Community facilities of URA projects from the calculation of gross floor area, relaxing the plot ratio controls up to the maximum levels permitted under the Buildings Ordinance and its regulations, and packaging financially viable projects with non-viable ones. The aim, according to the Administration, is that URA should be self-financing in the long run.

Modes of implementation of URA's projects

36. Against this long-term objective, members of the Bills Committee have critically assessed the three modes of implementation of redevelopment projects contemplated by the Administration. These are selling the land to private developers for redevelopment, redeveloping the land jointly with a private developer(s), and implementing a project by URA itself. Based on the Administration's analysis, disposing of land by auction or tender for redevelopment by private developers will ensure the quickest return of capital and the abundance of cash flow of URA. However, such a mode cannot sustain the work of URA financially. The reason is that the land could only be sold at its existing value but not the full value after redevelopment. Given the great costs of resuming the land which include compensation to owners and rehousing of tenants, the selling price will unlikely cover the costs, resulting in net loss to URA. On this account, URA could not simply act as a land assembly agent, as suggested by some deputations. Nevertheless, under certain circumstances, it may be in the public interest to sell a piece of resumed land to a private developer, for example, for the purpose of avoiding fragmented redevelopment. To ensure the disposal of resumed land in the public interest, the Administration has taken on board members' suggestion to explicitly state in the Bill that the Chief Executive in Council may approve the selling of resumed land by URA if he considers the public interest so requires. Committee Stage amendments will be moved to clause 25.

37. Members accept that in most cases, URA will implement a project in association with a joint venture partner. This mode allows URA to tap into

the resources and the expertise of the private sector and to share the benefits as well as spread the risk of redevelopment. Provided that owners of resumed land are prepared to shoulder the financial risk of redevelopment, members support that they should also be given an opportunity to participate in redevelopment projects. Although partnerships would be adopted as the principal mode of implementation, members agree that URA will need to undertake a redevelopment project by itself in some circumstances where the project is assessed to be unprofitable but is desirable from the community angle.

38. Albeit the aim of achieving self-financing of urban renewal in the long run, members consider it important that the Government should grant loans and inject capital into URA where necessary. Members are satisfied with the inclusion of provisions in the Bill (Clauses 10 and 11) in this respect.

Account and audit arrangements (Clause 16)

39. Professional accountants have criticized the loose way in which the Bill deals with accounting and auditing arrangements. Members share their view on the need to stipulate the elaborate procedures for keeping of proper accounts, preparation and auditing of financial statements by URA. The Administration accepts the suggestion to redraft the relevant provision for members' scrutiny. Members are satisfied that the revised clause 16 and the new clauses 16A and 16B could adequately address the professional concern. Committee Stage amendments will be moved by the Administration.

40. In this connection, members have examined whether URA should be under the purview of the Director of Audit. The Administration's view is that URA would have to operate along commercial lines in its joint venture partnerships with private developers. It is therefore not appropriate to apply the same assessment standards of value-for-money to URA as in the case of Government departments. To address members' concern, the Administration undertakes to recommend to URA that it should set up an independent audit team and should make available the annual report prepared by the audit team to the Legislative Council for information.

<u>Planning procedures</u>

Corporate plan (Clause 18) and business plan (Clause 19)

41. The Bill requires URA to submit to the Financial Secretary (FS) for approval before the end of each calendar year a draft corporate plan and a draft business plan which shall be prepared in accordance with the guidelines set out in the urban renewal strategy. A draft corporate plan shall include, amongst other things, a programme of proposed projects for the next five financial years, the implementation timetable and the financial arrangements. The same types

of information shall be included in a draft business plan except that the relevant period is for the coming financial year.

42. Members appreciate that FS needs to consider the resource implications in deciding whether a draft corporate plan or business plan should be approved. They however have reservations about the empowering provisions which enable FS to amend the draft plans. Members' view is that the draft plans should have been thoroughly discussed by the URA Board before submission to FS and the views of the Administration should have been taken into account by virtue of the representation of the four official non-executive directors on the Board. Should FS have any query about the draft plans, he should return them to the URA Board for revision instead of amending them by himself. The Administration accepts members' suggestion to remove the power of FS in this respect. Committee Stage amendments will be moved to clause 18(4) and clause 19(5) to achieve the purpose.

43. Whether the approved corporate plan and business plan should be made known to the public has been considered by members. Recognizing that sensitive information such as the boundaries of proposed projects, the priority of implementation of projects, etc will be contained therein, the Bills Committee accepts that the approved plans should be kept confidential.

Objection and appeal mechanisms (Clause 21)

44. Two defects have been identified by members in relation to the planning procedures for a development project, namely the short duration for raising objections and the lack of an appeal mechanism. A development project refers to a project which requires no amendment to the zoning of the project site on the relevant outline zoning plan. The Bill provides for a statutory channel for raising objections to a development project to URA within the one-month publication period of the project in the Gazette. Objections will be considered by URA who should, within three months after the expiration of the publication period, submit its deliberations on the objections and any unwithdrawn objections to the Secretary for Planning and Lands (SPL) for consideration. Where an amendment is made by SPL to the proposed development project to meet an objection, persons who are not covered by the original plan but are affected by the amended plan may raise objections within 14 days after the service of a written notice of the amendment by SPL. Members consider the proposed objection periods unreasonably short for preparing a substantial objection. Moreover, irrespective of whether persons are affected by the original plan or the amended plan, they should be given the same period for raising objections. The Bills Committee suggests that the objection periods for both cases should be raised to two months. The Administration agrees and will move Committee Stage amendments to clause 20(1) and clause 21(7) to achieve the effect.

45. The lack of an appeal mechanism for a proposed development project has been severely criticized by members. Members notice that if a redevelopment proposal is implemented by way of a development scheme which requires amendments to the relevant outline zoning plan, it needs to be approved by the Town Planning Board. Any objections and appeals to the development scheme will be dealt with under the provisions of the Town Planning Ordinance (Cap. 131). However, in the case of a development project, all objections will be considered by SPL and whose decision will be final. Members are gravely concerned that without inputs from an independent third party in consideration of objections, the impartiality and credibility of the objection process will be called into question. Although they acknowledge the Administration's concern that a further tier of appeal mechanism will inevitably prolong the whole approval process, members are of unanimous view that speed and expediency should not compromise impartiality and credibility. Any objections must be handled in a fair, impartial and transparent way. This principle is particularly important given the power of URA to apply for direct resumption of the land required for a redevelopment project without the need for negotiation with the landowners concerned about compensation.

46. To rectify the shortcoming of the objection process, the Administration agrees to put in place a statutory appeal mechanism for a development project. Under the proposed arrangement, an objector who is aggrieved by SPL's decision on his objection to a development project may lodge an appeal to an appeal board panel which shall be composed of non-official members appointed by the Chief Executive. Upon receipt of an appeal, the Chairman of the panel will nominate himself or the Deputy Chairman and four other members from the panel to form an appeal board to hear the appeal in public. The appeal board may order any party to the appeal to pay the costs and expenses incurred by the board in determining the appeal. Members are satisfied with the proposed elaborate procedures for lodging and hearing of an appeal. The Administration will move Committee Stage amendments to add new clauses 23A and 23B to the Bill.

Social impact assessment

47. The Bills Committee has received a united call from deputations on the need to conduct a social impact assessment of each redevelopment project proposed by URA. Members lend unanimous support to this idea. The questions then followed are when this assessment should be done and what should be included. On practical reasons, members agree with the Administration that it would not be possible to conduct a social impact assessment before the publication of the project in the Gazette, otherwise imposters may take up residence in the project areas. To prevent unintended leakage of the location of a proposed project, the Administration proposes to conduct an impact assessment in two stages. A non-obtrusive impact

assessment will be conducted before the publication of a proposed project, followed by a detailed impact assessment after the proposed project has been published in the Gazette. The former impact assessment will focus on the general characteristics of the proposed project areas covering historical, social, economical, cultural, and communal aspects, whereas the latter will concentrate on the specific conditions and needs of the affected residents. The results of both assessments will be made available for public inspection after the publication of the project in the Gazette. SPL will take into account the results in deciding whether or not to authorize a proposed project. Members support the proposed arrangement which will be set out in the urban renewal strategy.

Compensation to landowners for land resumed

48. Unlike LDC, URA need not negotiate with affected landowners about compensation before requesting SPL to make a recommendation to the Chief Executive in Council for resumption of the land under the Lands Resumption Ordinance (Cap. 124). Members appreciate that for the overall benefits of the community, this is a necessary measure to overcome the problem of protracted land acquisition experienced by LDC in undertaking urban renewal over the past years. Nevertheless, the public concern remains valid that compulsory resumption of land infringes private property rights, no matter how good the purpose may be. The only way left to protect the lawful interests of landowners under these circumstances is by paying them a fair and reasonable compensation.

Domestic properties

49. Whether the existing compensation formula for resuming land under the Lands Resumption Ordinance is fair and reasonable for future URA's redevelopment projects is therefore the central issue considered by the Bills Committee. Under the present formula, a statutory compensation based on the fair market value of the resumed properties will be payable to owners of domestic premises. On top of the statutory compensation, owner-occupiers will be eligible for Home Purchase Allowance (HPA), which is an ex-gratia allowance payable to enable owner-occupiers to purchase a ten-year old flat comparable to the size of the resumed property in the same locality. For a tenanted flat, HPA is paid at 50% of the full amount. Irrespective of the number of flats held by a person, he will be entitled to no more than two HPA payments in a resumption exercise.

50. The Bills Committee has received divided views on the issue of compensation. A limited number of deputations hold that the present compensation formula should apply to URA's redevelopment projects. They are worried that providing a too generous compensation package would encourage speculation of aging properties in the nine target redevelopment

areas. This will also increase the costs of redevelopment, thus slowing down the overall pace of urban renewal which will be governed by the availability of resources. A considerable number of social service organizations and residents' associations, on the other hand, call for an enhancement of the existing compensation formula. These deputations have stressed that affected landowners have no choice but to surrender their premises once their buildings are targeted for redevelopment. They should therefore be adequately compensated for giving away their properties involuntarily. Moreover, if the Administration is sincere in improving the living conditions of residents staying in aging properties , the amount of compensation should enable them to purchase a newer replacement flat and not a flat of 10 years' old. A range of requests for enhanced compensation calculated on the basis of a new flat to a flat of three to five years' old have been put forth to members for consideration. These organizations also request that full HPA should be paid to owners of self-occupied and tenanted flats alike.

51. The majority of members of the Bills Committee consider that there are justifiable reasons to enhance the existing compensation formula. Apart from the fact that owners are forced to surrender their properties and should therefore be reasonably compensated, the interests saved as a result of expeditious completion of the land assembly process for redevelopment would be more than sufficient to offset the extra costs incurred for improved compensation. In this connection, members take note that according to the Administration, the estimated total amount of HPA required for the 200 priority projects calculated on the basis of a 10-year old replacement flat is about $21.2 billion at today's value. An additional $0.9 billion will be incurred with the lowering by each year of the age of the replacement flat used as the calculation basis.

52. In the Administration' view, the existing compensation formula is already fair and reasonable. Nevertheless, to enable affected owners to purchase a flat in the same locality, the Administration proposes to improve the compensation such that the basis for calculating HPA be revised from a replacement flat of 10 years' old to about 8 to 10 years' old. Where the line will be drawn would depend on the age of properties transacted in the redevelopment area in question. If the majority of property transactions in the area involve flats of around 8 years' old or below, HPA will be calculated with reference to the transaction prices of a 8 years' old flat. Where property transactions in the redevelopment area mainly relate to flats of 10 years' old or above, the basis for calculating HPA will be drawn upon the transaction prices of a 10 years' old flat. Under this proposal, the estimated total amount of HPA required for the 20-year urban renewal programme is about $22.1 billion at today's value.

53. The Bills Committee could not accept the Administration's proposal. Members feel strongly that no matter how HPA is calculated, the same

principle must apply across the board. The proposed compensation mechanism creates unfairness and unnecessary disputes. Some members propose to make reference to the value of a 5 years' old flat as the compensation basis. The majority of members of the Bills Committee suggest that HPA should be calculated on the basis of a replacement flat of 8 years' old. The Administration agrees to consider the Bills Committee's view.

54. On the eligibility criteria for HPA, some members have asked for a review of the existing rules that only half of HPA will be payable to an owner of a tenanted flat and that an owner will be paid no more than two HPAs in a resumption exercise. These members are concerned that some owners may live on the incomes generated by letting out the flats. The resumption of the tenanted flats may adversely affect their livelihood. The Administration's view is that an owner is entitled to a statutory compensation based on the existing value of the flat, be it self-occupied or tenanted. This amount of compensation will be sufficient to purchase a replacement flat of the same age and same size as the resumed flat. By letting it out, the owner could collect the same amount of rent as the resumed flat. With the payment of 50% HPA for the first tenanted flat, he could buy a flat younger than the resumed flat and charge a higher rent. Thus, the livelihood of landlords would not be adversely affected in any event as a result of land resumption.

55. To address the concern of deputations about disputes on HPA cases, members welcome the Administration's proposal to establish a non-statutory appeals committee comprising non-official members to hear appeals lodged by owners of residential properties who feel aggrieved by the decisions of the Director of Lands. These decisions could be in relation to the eligibility for the payment of HPA, or the calculation of the payment of HPA in a particular case, or other related matters. The appeals committee will make a determination on the case. If the Director of Lands does not accept the determination, the case would then go to SPL who would make a final decision.

Non-domestic properties

56. A call for enhancement of compensation to non-domestic properties has similarly been put forth by community groups to the Bills Committee. Under the Lands Resumption Ordinance, owner-occupiers of non-domestic properties are offered the fair market value of their properties, plus an ex-gratia allowance, or the option to claim business loss and disturbance payment, if substantiated. Owners of tenanted premises are eligible for a statutory compensation which is the fair market value of the properties without any ex-gratia allowance payment. As for tenants of non-domestic properties, they are offered the same ex-gratia allowance as owner-occupiers. Alternatively they may claim business loss and disturbance payment, if substantiated.

57. The Bills Committee takes note of the pledge of the Administration to

review the compensation mechanism for non-domestic properties. In this respect, members observe that disputes on business loss have been one of the major obstacles in land resumption over the past years. As a possible way to address this problem, the Administration is exploring the viability of fixing business loss at a certain percentage of the value of the non-domestic premises. Members welcome the pro-active attitude of the Administration but have pointed out the importance of taking a scientific approach in determining the percentage such that business operators will consider it fair and reasonable.

Hardship cases

58. In recognition of the stumble of property prices over the past three years, members are alert to the possibility that the amount of compensation payable to owners of domestic or non-domestic properties may be insufficient for the repayment of the mortgage loan. The owner concerned may go bankrupt if he has to top up the remaining amount in order to redeem the property. Some members are sympathetic in particular to the plight of owners of small businesses who may have financial difficulties in relocating their trades. The Administration has assured members that LDC has never come across "negative asset" cases. Nevertheless, to allay members' concern, the Administration proposes that URA may provide a bridging loan to affected tenants and owners to tie them over the difficult period.

59. Hon LEE Wing-tat has indicated that he may move amendments to clause 12 to explicitly require URA to consider the needs of persons and business operators affected by the implementation of URA's projects when exercising its power to lend money.

60. Given that the compensation arrangements are not provided in the Bill and that any change to the compensation formula for domestic and non-domestic properties affected by land resumption has to be approved by the Finance Committee of the Legislative Council, members of the Bills Committee agree that the matter should be further pursued in that context.

<u>Rehousing of tenants affected by redevelopment projects</u>

61. Rehousing of tenants affected by the implementation of URA's redevelopment projects has been one of the most thorny issues tackled by the Bills Committee. According to the Administration, about 16,000 rehousing units will be required to accommodate tenants affected by the 20-year urban renewal programme. On average, URA will require about 1,000 rehousing units a year in the first five years of the programme. Although the Administration has pledged that no one will be rendered homeless by the implementation of redevelopment projects and that affected tenants will have a choice of flats in different districts as the Housing Society (HS) and the Housing Authority (HA) have agreed to be the rehousing agents for URA,

members hold strongly that rehousing is the bottom line only. Affected tenants have to be rehoused properly in local or nearby districts. With this principle in mind, members have closely examined the preliminary agreements reached by the Administration with HS and HA in this respect.

Rehousing to public rental flats

62. The major provisions in the preliminary agreement reached with HS are that HS will provide an annual quota of 1,000 public rental flats from its existing housing stock or newly-built blocks to URA for rehousing affected tenants. HS will also construct pump-priming blocks to URA on sites granted to it for the purpose of rehousing affected tenants. Over every five-year period, Government will provide sufficient land for HS to construct an equivalent number of flats it has assigned to URA and URA will reimburse HS the full construction costs. Affected tenants have to meet the existing eligibility criteria set by HS for rehousing to its public rental flats.

63. Similarly HA agrees under the preliminary agreement to provide an annual quota of up to 1,000 public rental flats and interim housing units to URA for rehousing purpose in the initial five years of its operation. The quota will be drawn mainly from casual vacancies which may arise from existing public housing estates in various districts. Over a period of five years, Government will grant land to HA for the construction of an equivalent number of public rental housing units and interim housing units it has provided to URA and URA shall reimburse HA the development costs. As in the case of the preliminary agreement reached with HS, affected tenants have to fulfil the established eligibility criteria laid down by HA for rehousing to its public rental flats.

64. According to the Administration, the agreed annual quotas should be sufficient to rehouse all the tenants affected by URA' redevelopment projects over a period of 20 years. Moreover, HS has indicated its readiness to increase the annual quota should there be such a need. In terms of number, members accept that the annual quotas could probably meet the need. Their concern, however, lies with the requirement that affected tenants have to meet either the established eligibility criteria set by HS or HA for rehousing to their respective public rental flats. Members observe that HS has adopted a relatively flexible attitude in assessing the eligibility criteria of persons applying for its flats. HA, however, requires strict observance of its criteria in screening the eligibility of persons for public rental housing no matter through registration in the Waiting List, or squatter clearance, or land resumption.

65. Members hold the view that since affected tenants are forced to vacate their rented premises to make way for redevelopment, a lenient approach in screening their eligibility for rehousing to public rental flats should be adopted. URA thus needs to have a certain number of public rental units from HS and

HA for allocation at its discretion. This would enable URA to rehouse affected tenants who slightly fall short of the eligibility criteria and tenants on compassionate grounds. The Bills Committee therefore unanimously requests the Administration to negotiate with HS and HA to secure their consent to reserve 20% of the annual quotas for URA for allocation at its discretion.

66. HS accepts the Bills Committee's suggestion readily. The Housing Department, however, has initially expressed reservations about the proposal. The reason put forth is that there is only one set of eligibility criteria for all categories of applicants for public rental housing and this principle has been incorporated in the 1998 White Paper on Long Term Housing Strategy. Affected tenants who do not meet HA's public rental housing eligibility criteria can choose HS' rental flats, HA's interim housing or other form of housing assistance such as joining the Home Ownership Scheme or the Home Purchase Loan Scheme.

67. Members are very disappointed with the stance of the Housing Department. Given the wide distribution of HA's public rental flats all over the territory, having the flexibility to allocate 20% of the annual quota from HA at the discretion of URA is very important in achieving the objective of rehousing affected tenants in local or nearby districts. To pursue its request, the Bills Committee has taken a series of actions, including writing to the Chief Executive and inviting representatives of the Housing Bureau and then the Secretary for Housing to attend its meetings. After long and hard discussions by the Bills Committee, the Strategic Planning Committee of HA eventually accedes to members' request to reserve 20% of the annual quota for allocation at the discretion of URA, subject to certain riders. The riders are that URA has to exercise the discretion in an open, fair and transparent way; that clear criteria have to be laid down as to how URA would exercise its discretion; and that tenants allocated a public rental flat under the discretion of URA are subject to the same rules and conditions as other tenants of HA. The decision of the Strategic Planning Committee needs to be endorsed by HA at its meeting on 6 July 2000.

68. Members consider the proposed riders acceptable. They request the Administration to take a lenient approach in working out the criteria with URA as to how the discretion will be exercised and to pool the rehousing units from HS and HA in order to achieve the optimal result.

Cash compensation in lieu of rehousing

69. The Bills Committee supports the policy intention that rehousing affected tenants and not granting them cash compensation should be the way to solve the housing problem of residents living in dilapidated conditions. Nevertheless, members reckon the need to retain cash compensation as an option in certain circumstances. Tenants eligible for rehousing to public

rental units may have a justifiable reason in some cases for not accepting the rehousing arrangement. For example, an elderly person may wish to retire to his home town in the Mainland. Besides, tenants who are not yet eligible for rehousing to public rental flats may have practical difficulties in accepting interim housing units in either Tuen Mun or Yuen Long because of the long distance from their workplace and/or the schools of their children. Allowing tenants to opt for cash compensation in these circumstances is reasonable. To prevent double housing benefits, the Administration proposes to impose a condition such that tenants who have received cash compensation will not be eligible for any form of rehousing or housing assistance for a period of three years. As tenants may be due for allocation of a public housing flat through the Waiting List of HA during the three-year period, members suggest that they be given a choice to reimburse URA on a pro rata basis in order to be qualified for housing before expiry of the three years. The Administration considers the proposal viable and agrees to work out the details with URA on how this could be implemented.

70. On the amount of cash compensation payable to tenants, members take note that this will be determined by URA. The Administration has pledged that the amount will not be less than the statutory compensation under the Landlord and Tenant (Consolidation) Ordinance (Cap.7). As the number of persons who are eligible or would opt for cash compensation are expected to be limited and the amount of money involved would be minimal, the Bills Committee has requested the Administration to be more generous in formulating the policy on cash compensation to tenants.

Other housing assistance

71. Members take note that eligible affected tenants will be offered Green Form status for the purpose of applying for the various subsidized home ownership schemes administered by HA, such as the Home Ownership Scheme, Private Sector Participation Scheme, the Buy or Rent Option and the Home Purchase Loan.

Transitional arrangements

Uncompleted projects of LDC (Clause 31)

72. Many deputations received by the Bills Committee have anxiously sought for an answer as to how URA will handle the uncompleted projects of LDC. There would be two types of uncompleted projects upon the dissolution of LDC, namely ongoing projects and announced projects. Ongoing projects refer to those projects where land acquisition has commenced. Announced projects are projects announced by LDC in 1998 but which have not yet started. If the Bill is passed, URA would continue to implement the seven ongoing projects of LDC as if the LDC Ordinance had been not repealed, as provided

under clause 31. As regards the 25 announced projects, members take note that URA will give priority in implementing these projects but the Administration has not made any commitment on the time-table for implementation.

73. The Bills Committee notices with concern that freezing surveys have been conducted on all the announced projects of LDC but the Administration has yet to decide whether persons taking up residence in the project areas after the freezing surveys will be eligible for rehousing. Some members are of the view that to discourage the flooding in of new residents in the project areas and the temptation of making dishonest declarations, it should be categorically stated that persons moving into the project areas after the freezing surveys would not be eligible for rehousing. The Administration notes the view but has pointed out to members the possibility of legal challenge should the announced projects be implemented many years after the conduct of the freezing surveys.

Employment related matters (Clause 32)

74. Members take note of the provisions in the Bill to ensure the seamless transition from LDC to URA in respect of transfer of properties, liabilities and contracts, etc. In this respect, a Provisional URA will be set up in July 2000 to prepare for the establishment of URA in November 2000. To put the mind of employees of LDC at ease, the Administration has taken on board the Bills Committee's suggestion to add a new provision to explicitly state that employment with LDC and URA should for all purposes be deemed to be a single continuing employment. Committee Stage amendments will be moved to add a new clause 32(8A) to the Bill.

Conclusion

75. Since there are still uncertainties over two major issues, namely the compensation arrangements for owners of domestic and non-domestic properties and the endorsement or otherwise by HA of the Bills Committee's proposal to reserve 20% of the annual quota for allocation at the discretion of URA, some members of the Bills Committee are of the view that these need to be settled in a satisfactory manner before the Bill comes into operation. For the purpose of ensuring that members will have sufficient time to deal with these issues in the next term, they suggest that the commencement notice for the Bill to come into operation should be subject to the approval of the Legislative Council. The Administration has objected to this proposal strongly on the grounds that this is tantamount to requiring the passing of the Bill twice. Nevertheless, Hon James TO has indicated that he may move amendments to clause 1 of the Bill in this respect.

Committee Stage amendments

76. Apart from the major Committee Stage amendments mentioned in the foregoing paragraphs, the Administration has accepted the Bills Committee's suggestions to move a number of amendments to improve the text of the Bill. A copy of the Committee Stage amendments to be moved by the Administration is at **Appendix III** .

Recommendation

77. The Bills Committee recommends the resumption of the Second Reading debate on the Bill on 26 June 2000.

Advice sought

78. Members are requested to support the recommendation of the Bills Committee at paragraph 77 above.

Legislative Council Secretariat
21 June 2000

Appendix I

Bills Committee on Urban Renewal Authority Bill

Membership list

Hon Edward HO Sing-tin, SBS, JP (Chairman)
Hon Gary CHENG Kai-nam, JP (Deputy Chairman)
Hon HO Sai-chu, SBS, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Wing-tat
Hon LEE Cheuk-yan
Hon NG Leung-sing
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon Christine LOH
Hon CHAN Yuen-han
Dr Hon LEONG Che-hung, JP
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon FUNG Chi-kin
Dr Hon TANG Siu-tong, JP

Total : 19 Members

Appendix II

Bills Committee on Urban Renewal Authority Bill

Names of organizations which have made oral presentation to the Bills Committee

(1) Association of Residents of Private Properties in Kwai Chung
(2) Centre of Urban Planning and Environmental Management, the University of Hong Kong
(3) Concern Group on the Redevelopment of West Kowloon
(4) Concern Group on the Rights of Tenants upon Redevelopment of Tai Kok Tsui
(5) Hong Kong Bar Association
(6) Hong Kong Institute of Architects
(7) Hong Kong Institute of Planners
(8) Hong Kong Institute of Real Estate Administration
(9) Hong Kong Institute of Surveyors
(10) Hong Kong Institution of Engineers
(11) Hong Kong People's Council on Housing Policy
(12) Hong Kong Society of Urban Renewal
(13) Hong Kong YWCA Urban Renewal Social Services Team
(14) Independent Owners' Association for Fair Treatment
(15) Joint Assembly of Owners and Tenants Affected by the Redevelopment of the To Kwa Wan Thirteen Streets
(16) Joint Committee on Urban Renewal
(17) Land and Building Advisory Committee
(18) Land Development Corporation
(19) Mr Albert LAI Chi-lap
(20) M Y Wan and Associates Limited
(21) Mong Kok Kaifong Association - Chan Hing Social Service Centre
(22) Real Estate Developers Association of Hong Kong
(23) Resident Group Concerning about the Redevelopment
(24) Resident Group Concerning about the Redevelopment of Old Districts (Kwun Tong)
(25) Resource Group on Town Planning of the Hong Kong Council of Social Service
(26) Sham Shui Po District Council
(27) SKH Kei Oi Social Service Centre
(28) St. James' Settlement Group and Community Work Division
(29) The Federation of Hong Kong, Kowloon and New Territories Public Housing Estates Resident and Shopowner Organization

URBAN RENEWAL AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Planning and Lands

Clause	Amendment Proposed
2	In the definition "project", in paragraphs (c) and (d) by deleting "of the description mentioned in" and substituting "prepared in accordance with".
4	(a) By deleting subclause (1) and substituting - "(1) There shall be established a Board to be named the Board of the

Urban Renewal Authority comprised of the following members -

(a) a Chairman of the Board of the Authority ("the Chairman"), who is at the same time a non-executive director and is not a public officer;

(b) a Managing Director of the Authority ("the Managing Director"), who is at the same time an executive director and is not a public officer;

(c) 2 other executive directors, not being public officers;

(d) not less than 7 other non-executive directors, not being public officers; and

(e) 4 other non-executive directors who are public officers.".

(b) In subclause (2), by adding "and the Managing Director" after "Chairman".

(c) By deleting subclause (3) and substituting -

"(3) The Managing Director is, by virtue of holding that office, the Deputy Chairman of the Board of the Authority.".

(d) By deleting subclause (5) and substituting -

"(5) The Managing Director is the administrative head of the Authority. Together with the other executive directors, the Managing Director is responsible, subject to the direction of the Board of the Authority, for administering the affairs of the Authority and, subject to that direction, has such other responsibilities as may be assigned by the Board of the Authority.".

6 (a) In subclause (1), by deleting "by way of development".

(b) In subclause (2) –

(i) in paragraph (e), by deleting "or repair" and substituting ", repair, preserve or restore";

(ii) by deleting paragraph (k) and substituting -

"(k) subject to section 25, grant, sell, convey, assign, surrender, yield up, demise, let, license, transfer or otherwise dispose of any land or building, messuages,

tenements, vessels, goods and chattels for the time being owned or held by the Authority on such terms and conditions as the Authority thinks fit;".

7 (a) In subclause (1), by deleting "Deputy Chairman, if any" and substituting "Managing Director".

(b) By deleting subclause (5) and substituting -

"(5) A member of the Board of the Authority, including the Chairman and the Managing Director, who is in any way directly or

indirectly interested in a contract made or proposed to be made by the Authority, or in a contract made or proposed to be made by a servant or an agent or a partner of the Authority, or, by a body corporate established by the Authority which is brought up for consideration by the Board, shall disclose the nature of his interest at a meeting of the Board; and the disclosure shall be recorded in the minutes of the meeting of the Board, and the member shall not without the permission of the Chairman, and in the case of the Chairman, the permission of the majority of the members present at the meeting, take any part in any deliberation

of the Board with respect to that contract and shall not in any event vote on any question concerning it.".

(c) In subclause (6), by deleting "neither required to withdraw from the relevant meeting nor permitted to vote" and substituting "not required to withdraw from the relevant meeting".

9 By deleting "Chairman" where it twice appears and substituting "Managing Director".

16 By deleting the clause and substituting -

"16. Authority to keep proper accounting records and to prepare financial statements

(1) The Authority shall keep such accounting records as correctly explain its financial transactions and financial position and so that -

(a) true and fair financial statements can be prepared from time to time; and

(b) those statements can be conveniently and properly audited in accordance with section 16B.

(2) The Authority shall ensure that the following financial statements are prepared as soon as practicable and in any case not later than 3 months after the end of each financial year -

(a) an income and expenditure account that gives a true and fair view of the Authority's income and

expenditure for that year;

(b) a balance sheet as at the end of that year that gives a true and fair view of the Authority's financial position as at the end of that year.

(3) The Authority shall ensure that the financial statements comply with any accounting standards notified to the Authority in writing by the Financial Secretary.

16A. Authority to appoint auditor

(1) The Authority shall appoint an auditor to audit the accounts of the Authority.

(2) As soon as practicable after a vacancy occurs in the office of auditor,

the Authority shall appoint another auditor to fill the vacancy.

16B. Authority's financial statements to be audited

(1) Not later than 3 months after the end of each financial year, the Authority shall submit the financial statements prepared for that year to the Authority's auditor for auditing.

(2) As soon as practicable after receiving the financial statements submitted by the Authority, the Authority's auditor shall audit those statements and prepare an auditor's report on audit of those statements.

(3) The auditor's report shall state whether or not the financial statements are, in the opinion of the Authority's auditor, properly drawn up so as to give

a true and fair view of the matters referred to in section 16(2) and in compliance with the accounting standards, if any, notified under section 16(3) and, if not, the reasons for that opinion.

(4) The Authority's auditor is entitled –

(a) to have access at all reasonable times to the Authority's accounting records; and

(b) to require the Managing Director, the executive directors and any member of the staff of the Authority to provide the auditor with such explanations and

information as the auditor considers necessary for the purpose of conducting the audit.

(5) As soon as practicable after completing the audit and preparing the auditor's report, the Authority's auditor shall –

(a) attach the report to, or endorse the report on, the financial statements that were audited; and

(b) deliver those statements and the report to the Authority.

(6) The Authority shall, as soon as practicable and in any case not later

than 6 months after the end of each financial year, furnish –

(a) a report of the affairs of the Authority for that year;

(b) a copy of the audited financial statements thereof; and

(c) the auditor's report on audit of those statements,

to the Financial Secretary who shall cause the same to be tabled in the Legislative Council.".

New By adding in Part V –

"17A. Urban renewal strategy

(1) The Secretary may prepare from time to time an urban renewal strategy

for the purposes of this Part relating to the carrying out of urban renewal.

(2) The Secretary shall consult the public before finalizing the urban renewal strategy prepared under subsection (1) in such manner as he may determine. The Secretary need not consult the public before revising or amending the urban renewal strategy prepared under that subsection if he considers that such revision or amendment is of a minor, technical or insignificant nature.

(3) In the course of consultation under subsection (2), the Secretary need not disclose information which, in his opinion, would not be in the public interest to disclose.".

18 (a) By deleting subclause (3)(a) and substituting –

"(a) shall follow any guidelines set out in an urban renewal strategy prepared under section 17A(1) in relation to the implementation of those proposals and projects;".

(b) In subclause (4)(a), by deleting "with or without amendments".

19(5)(a) By deleting "with or without amendments".

20(1) By deleting "one month" and substituting "2 months".

21 (a) By deleting subclauses (3) and (4) and substituting –

"(3) The Authority shall consider all objections and shall, not later than 3 months after the expiration of the publication period, submit -

(a) the development project;

(b) the Authority's deliberations on the objections;

(c) any objections which are not withdrawn; and

(d) an assessment by the Authority as to the likely effect of the implementation of the development

project including, in relation to the residential accommodation of persons who will be displaced by the implementation of the development project, an assessment as to whether or not, insofar as suitable residential accommodation for such persons does not already exist, arrangements can be made for the

provision of such residential accommodation in advance of any such displacement which will result as the development project is implemented,

to the Secretary for his consideration.

(4) The Secretary shall consider the development project and any objections which are not withdrawn and determine, consequent upon those objections, whether –

(a) to authorize the Authority to proceed with the

development project without any amendment;

(b) to make an amendment to the development project to meet an objection raised under subsection (1); or

(c) to decline to authorize the development project.".

(b) By deleting subclauses (6), (7) and (8) and substituting –

"(6) Where the Secretary makes an amendment to a development project under subsection (4)(b) to

meet an objection raised under subsection (1), he shall order the Authority to publish in the Gazette notice of the amendment to the development project. Where the amendment appears to the Secretary to affect any land, other than that of the objector, the Secretary shall serve notice in writing of that amendment on the owner of that other land or give such other notice by advertisement or otherwise as he deems desirable and practicable to the owner of that other land to inform that owner of the amendment.

(7) The owner of the other land mentioned in subsection (6) who wishes to object to the amendment made by the Secretary under

subsection (4)(b) shall send to the Secretary a written statement of that objection within –

(a) 14 days in the case of an owner of the land included in the original development project submitted to the Secretary under subsection (3); or

(b) 2 months in the case of an owner of the land affected by the amendment made by the Secretary under subsection (4)(b) and not included in

the original development project submitted to the Secretary under subsection (3),

after the service or giving of notice by the Secretary under subsection (6). The Secretary shall consider the written statement to determine, in view of that objection, whether to authorize the Authority to proceed with the development project with or without the amendment made by the Secretary or, whether to decline to authorize the development project and shall serve notice in writing

of that determination on the owner who made the objection.

(8) Where the Secretary makes an amendment to a development project under subsection (4)(b) with amendments which include an expansion of the boundaries of the project, the commencement date of the implementation of the part of the project concerning the land not included in the original development project submitted to the Secretary under subsection (3) shall be the date when notice was published in the Gazette under subsection (6). The commencement date of the implementation of the part of the project concerning the land included in the original

development project submitted to the Secretary under subsection (3) shall remain as provided under section 20(2).".

(c) In subclause (9), by adding "(a)" after "(4)".

(d) By adding –

"(10) Where the Secretary declines to authorize a development project under subsection (4)(c) or (7), he shall order the Authority to publish in the Gazette notice of withdrawal of the project. The Authority shall serve notice in writing of that decision on the owner of the land or give such other notice by advertisement or otherwise as the Authority deems desirable and practicable to the

owner of the land to inform that owner of the decision. Any such withdrawal shall be without prejudice to the preparation of a new project and the publication thereof under section 20.".

New By adding in Part V –

"23A. Appeal Board

(1) The Chief Executive may appoint a panel of persons ("the Appeal Board panel") whom he considers suitable to sit as members of an Appeal Board to hear an appeal under section 23B.

(2) The Chief Executive shall not appoint –

(a) a director of the Board of the Authority;

(b) an employee of the Authority; or

(c) a public officer,

to the Appeal Board panel.

(3) In subsection (2), "public officer" (公職人員) does not include a judge of the Court of First Instance, a recorder of the Court of First Instance, a deputy judge of the Court of First Instance or a District Judge.

(4) The Chief Executive may appoint a member of the Appeal Board panel as Chairman of the panel and may appoint one or more members as Deputy Chairmen of the panel as he thinks fit.

(5) The Chief Executive may appoint a public officer to be the secretary to the Appeal Board panel who at the same time

serves as the secretary to an Appeal Board.

(6) Members of the Appeal Board panel shall be appointed for a term not exceeding 3 years but shall be eligible for reappointment.

(7) Members of the Appeal Board panel may resign at any time by notice in writing given to the Chief Executive.

(8) On receipt of a notice of appeal, the secretary to the Appeal Board panel shall notify the Chairman of the panel who shall, subject to subsections (9), (10), (15) and (20), nominate an Appeal Board to hear the appeal.

(9) The Chairman of the Appeal Board panel shall not nominate an Appeal Board to hear an appeal or act as its Chairman

if he has a direct or indirect interest in the appeal.

(10) A Deputy Chairman of the Appeal Board panel designated for the purpose by the Chairman of the panel shall, in the absence of the Chairman of the panel, or if the Chairman of the panel has a direct or indirect interest in an appeal, nominate an Appeal Board to hear the appeal.

(11) Subsection (9) shall apply to a Deputy Chairman of the Appeal Board panel as it applies to the Chairman of the panel.

(12) A member of the Appeal Board panel shall not be nominated to an Appeal Board to hear an appeal or act as its member if he has a direct or indirect interest in the appeal.

(13) Subject to subsections (9), (10), (12), (15) and (20), the Chairman or a Deputy Chairman and 4 other members of the Appeal Board panel shall constitute an Appeal Board to hear an appeal.

(14) Subject to subsections (9), (10), (15) and (20), the Chairman or a Deputy Chairman of the Appeal Board panel shall act as the Chairman of an Appeal Board.

(15) If the Chairman of the Appeal Board panel and the Deputy Chairman designated under subsection (10) have a direct or indirect interest in an appeal, the Chief Executive may appoint another Deputy Chairman or another member of the panel, who does not have a direct or indirect interest in the appeal, to

nominate an Appeal Board to hear the appeal and to act as the Chairman of the Appeal Board.

(16) At least 3 members, one of whom must be the Chairman of the Appeal Board, shall be present to hear and determine an appeal.

(17) The Appeal Board shall hear the appeal and a majority of the members hearing the appeal shall determine questions before it.

(18) Where there is an equality of votes in respect of any question to be determined in an appeal, the Chairman of the Appeal Board shall have a casting vote in addition to his original vote.

(19) A member shall not take part in determining the questions before the Appeal Board unless he has been present

at all the Appeal Board hearings held in respect of the appeal concerned.

(20) If the Chairman of the Appeal Board panel is precluded by illness or absence from Hong Kong from exercising his functions –

(a) the Deputy Chairman designated under subsection (10) shall act as Chairman; or

(b) if the Deputy Chairman designated under that subsection is unable to act as Chairman, the Chief Executive may appoint another Deputy Chairman or another member to act as Chairman.

(21) The Chairman and the members of an Appeal Board may be paid such remuneration and allowances as the Financial Secretary may determine.

23B. Appeals

(1) An objector to a development project who is aggrieved by a decision of the Secretary under section 21(4)(a) or (7) may appeal by lodging a notice of appeal with the secretary to the Appeal Board panel, with a copy to the Secretary, within 30 days after notification of the Secretary's decision under section 21(9).

(2) A notice of appeal under subsection (1) shall contain the following information –

(a) the name, address and telephone number of the appellant and of the appellant's authorized representative, if any;

(b) details of the decision appealed against;

(c) the grounds of the appeal;

(d) the name, address and telephone number of all proposed witnesses; and

(e) particulars of the evidence to be given by the witnesses and documents and any other thing to be produced by or on behalf of the appellant sufficient to

ensure that the Appeal Board and the Secretary are fully and fairly informed of the grounds of appeal.

(3) On receipt of a notice under subsection (1), the secretary to the Appeal Board panel shall fix a date, time and place for the hearing of the appeal, which shall be a date not sooner than 30 days but not more than 60 days of receipt of such notice and shall give at least 14 days' notice thereof to the appellant and the Secretary.

(4) The Secretary shall, within 30 days of receipt of a copy of a notice under subsection (1), serve on the secretary to the Appeal Board panel and

on the appellant a notice containing the following information –

(a) the name, address and telephone number of the Secretary's authorized representative;

(b) the grounds for opposing the appeal;

(c) the name, address and telephone number of all proposed witnesses; and

(d) particulars of the evidence to be given by the witnesses and documents and any other thing to be produced by or on behalf of the Secretary sufficient to ensure that the

appellant and the Appeal Board are fully and fairly informed of the grounds of opposing the appeal.

(5) Not less than 7 days prior to the date set for the hearing of the appeal, the appellant and the Secretary shall –

(a) lodge with the secretary to the Appeal Board panel a copy of witness statements, documents and any other thing to be given or produced in evidence at the hearing of the appeal; and

(b) serve on each other a copy of witness statements and

documents and shall give details of any other thing lodged with the secretary to the Appeal Board panel, which statement, document or thing is to be given or produced in evidence at the hearing of the appeal.

(6) The appellant may abandon the whole or any part of his appeal before the date set for hearing or any adjourned date by giving the secretary to the Appeal Board panel and the Secretary not less than 7 days' notice in writing of his intention to abandon the whole or part of the appeal.

(7) The hearing of an appeal shall be in public.

(8) The appellant and the Secretary may appear before an Appeal Board in person or by an authorized representative.

(9) Prior to or at the hearing of an appeal, an Appeal Board may –

(a) consider and determine whether a party should have access to documents, records, books of account or other exhibits which the party claims are relevant to the appeal and which are in the possession or control of another person and order that

other person to give the party access to such documents, records, books of account or other exhibits as it may think fit;

(b) hear evidence on oath and administer any oath necessary to swear in a witness;

(c) admit or take into account any statement, document, record, book of account, other exhibit, information or matter whether or not it would be admissible as evidence in a court of law; and

(d) by notice in writing (a "summons"), summon any person to appear before it to give evidence and to produce any document, record, book of account or other exhibit specified in the summons.

(10) A witness who is called to give evidence at an appeal shall have all of the rights and privileges of a witness in a civil action in the Court of First Instance.

(11) Any person who –

(a) is served with a summons under subsection (9)(d) and who –

(i) refuses or neglects without sufficient cause to appear or to produce any document, record, book of account or other exhibit required to be produced; or

(ii) refuses to be sworn or give evidence; or

(b) refuses to comply with an order of the Appeal Board under subsection (9),

commits an offence and is liable to a fine at level 5.

(12) The Appeal Board shall inquire into any matter which it may consider relevant to the appeal, whether or not it has been raised by a party.

(13) No decision of an Appeal Board shall be questioned by virtue of the absence of a member of the Appeal Board during the hearing of an appeal provided that member does not participate in the final decision of the Appeal Board.

(14) At the completion of the hearing of an appeal, the Appeal Board may –

(a) confirm, reverse or vary the decision appealed against as it thinks fit;

(b) order any party to the appeal to pay only the costs and expenses incurred by the Appeal Board in hearing and determining the appeal, and the amount of such costs and expenses shall be determined by the Appeal Board having regard to –

(i) the amount of remuneration and allowances payable to

the Chairman and the members of the Appeal Board under section 23A(21); and

(ii) the amount of administrative or other costs and expenses incurred by the Appeal Board in relation to the hearing and determinatio

n of an

appeal.

(15) Where an Appeal Board makes an order for costs and expenses under subsection (14), the Appeal Board shall specify in the order –

(a) the time limit for making payment, not being earlier than 14 days from the date of the order; and

(b) the person to whom payment shall be made. Where an order for costs and expenses under this section is made against –

(i) the appellant,

the amount of the costs and expenses shall be recoverable as a civil debt; or

(ii) the Secretary, the amount of the costs and expenses shall be paid out of the general revenue.

(16) If a person mentioned in subsection (8) fails to appear on a date

set for the hearing of an appeal, an Appeal Board may –

(a) if it is satisfied that the failure to appear is due to reasonable cause, adjourn the hearing to a date, time and place that it thinks fit;

(b) proceed to hear the appeal; or

(c) dismiss the appeal, if the person who fails to appear as stated above is the appellant or the appellant's authorized representative.

(17) If an Appeal Board dismisses an appeal under subsection (16)(c), an appellant may, within 14 days of the

making of the order dismissing the appeal, apply in writing to the secretary to the Appeal Board for the Appeal Board to review its decision.

(18) On a review under subsection (17), the Appeal Board may, if it is satisfied that the failure to appear was due to reasonable cause, set aside the order and fix a date, time and place as it thinks fit for the hearing, and, unless the parties agree, the date shall be not less than 14 days from the date of the review.

(19) The secretary to the Appeal Board shall keep a written record for each appeal of –

(a) the name of the appellant;

(b) grounds of appeal;

(c) the name of the appellant's authorized representative, if any;

(d) the name of the Secretary's authorized representative;

(e) the name of any witness called by either party to the appeal;

(f) an outline of the evidence of each witness;

(g) the decision of the Appeal Board and the reasons for the decision; and

(h) any orders made by the Appeal Board.

(20) The secretary to the Appeal Board shall serve on both the appellant and the Secretary the decision of the Appeal Board, the reasons for the decision and any orders made by the Appeal Board.

(21) The secretary to the Appeal Board shall publish in the Gazette notice of decision of the Appeal Board concerning –

(a) any decision referred to in subsection (14), in the case where no review of the decision is applied under subsection (17); or

(b) any decision of the Appeal Board after consideration of the

review under subsection (17).

(22) Any notice or order of an Appeal Board shall be issued under the hand of the Chairman of the Appeal Board.

(23) The Chairman of the Appeal Board panel may, as regards the general application by all, determine the practice or procedure in relation to a matter if provision has not been made under this section and section 23A for the practice or procedure in respect thereof.

(24) The Chairman of an Appeal Board may, as regards a particular hearing, determine the practice or procedure in relation to a matter if provision has not been made under this

section and section 23A for the practice or procedure in respect thereof.".

24(1)(b) and (2)(b) By adding "(a)" after "(4)".

25 (a) In subclause (1), by deleting "it has" and substituting "has been".

(b) In subclause (2), by adding "if he considers the public interest so requires," before "in granting".

26 (a) In subclause (1), by adding "and for connected purposes" before the full stop.

(b) In subclause (4), by adding "reasonable" before "force".

(c) In subclause (7) –

(i) in paragraph (b), by deleting "or";

(ii) by adding -

"(ba) gives such information which he knows or reasonably ought to know to be false in a material particular; or";

(iii) in paragraph (i), by deleting "of $2,000" and substituting "at level 1";

(iv) in paragraph (ii), by deleting "of $10,000" and substituting "at level 3".

29(2)(a) By deleting "of $10,000" and substituting "at level 3".

32 (a) In subclause (5) -

(i) by deleting ", including every employment contract or other agreement with any person,";

(ii) by deleting "or other agreement".

(b) By adding –

"(8A) The effect of subsections (5) and (8) in relation to any employment contract with the Land Development Corporation which was in force immediately before the date of commencement of Parts II to VIII of this Ordinance is merely to modify that contract, as from that date, by substituting the Authority for the Land Development Corporation and, accordingly, employment with the Land Development Corporation and the

Authority under an employment contract to which those subsections apply is deemed for all purposes to be a single continuing employment.".

Schedule (a) In section 1 -

(i) by deleting subsection (1) and substituting –

"(1) The Chief Executive shall determine the terms and conditions of appointment of the Chairman.";

(ii) by adding -

"(1A) An executive director, including the Managing Director,

shall hold office on such terms and conditions of appointment, including remuneration and allowances, as the Chief Executive may from time to time determine in respect of an executive director.".

(b) In section 7(3) and (4), by deleting "Chairman of the Board of the Authority" and substituting "Managing Director".