

LegCo Panel on Planning, Lands and Works
Issues raised by Councillors of Heung Yee Kuk on 10 June 2003

Purpose

At a meeting between Members of the LegCo and Heung Yee Kuk (HYK) on 10 June 2003, HYK Councillors raised the issue of compensation relating to planning restrictions and requested the Administration to provide a response. This paper sets out the Administration's response on the issue.

The Administration's response

2. The existing Town Planning Ordinance has no provision for compensation for diminution of development rights due to planning actions except in the case of resumption under the Lands Resumption Ordinance. The present system has been operating in Hong Kong for many years and is in line with the common law principle. It is also a system generally adopted in other common law jurisdictions, such as Canada, Australia and New Zealand.

3. The issue of compensation relating to planning action had been considered in detail by the Special Committee on Compensation and Betterment (SCCB)¹ in 1992. The SCCB recommended that the best approach would be to build on the existing system of providing no compensation for partial loss of development rights due to planning actions but improve the planning process such that adequate consideration of private rights as well as the public interest could be ensured.

3. Under the existing Town Planning Ordinance, the affected land owners are allowed to raise objections to zoning restrictions on statutory plans. All objections raised would be thoroughly considered by the Town Planning Board under the provisions of the Ordinance. The Town Planning Board would take into account all public interests and strike a proper balance between public interests and private property right in the plan-making process.

¹ The SCCB was set up in July 1991 to consider and make recommendations on the complex issues of compensation and betterment. It was chaired by Mr. John Todd and comprised members from the legal, surveying, banking and accounting fields.

4. In the light of SCCB's recommendation, we have also included various proposals in the Town Planning (Amendment) Bill 2003 to enhance the openness and fairness of the plan-making process. In particular, we have expressly allowed for application for amendment of plans which will provide an opportunity for the land owner to submit their case to the Town Planning Board for consideration to address possible planning blight. Further, the applicant is entitled to be heard by the Board.

Housing, Planning and Lands Bureau
September 2003