

香港特別行政區政府

The Government of the Hong Kong Special Administrative Region

房屋及規劃地政局

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17 November 2006

Ms Anita Sit
Clerk to Panel on Planning, Lands and Works
Legislative Council Building
8 Jackson Road
Central
Hong Kong

By Fax
(Fax No. 2810 1691)

Dear Ms Sit,

**Proposal to Lower the Compulsory Land Sale
Application Threshold for Specified Classes of Lots under
the Land (Compulsory Sale for Redevelopment) Ordinance**

Thank you for your letter of 27 October 2006 conveying the questions and concerns raised by a member of the public on the above subject. As requested, we set out our response below.

Protecting Private Property Rights

There are provisions in the Land (Compulsory Sale for Redevelopment) Ordinance (LCSRO) protecting the interests of the minority owners of the buildings on a lot under a compulsory sale application/order. For example, the Lands Tribunal shall not make an order for sale unless it is satisfied, among other factors, that the applicant of the order has taken reasonable steps to acquire all the undivided shares in the lot on terms that are fair and reasonable. The Tribunal may also order the lot to be sold by auction, subject to a reserve price to be set by the Tribunal. All the proceeds

of the sale of the lot will be distributed to each majority owner and each minority owner on a pro rata basis in accordance with the requirements set out in the LCSRO.

Public Consultation

To further facilitate private redevelopment, we have earlier launched a public consultation on a proposal to make use of the existing mechanism under the LCSRO to specify three classes of lots to be subject to a lower compulsory land sale application threshold of not less than 80%.

During the consultation period, we have organized two public forums, two owner group discussion sessions and one focus group discussion session involving academics, owners' representatives and building professionals. A total of about 140 people attended the public forums and discussion sessions. We have also made use of the web-based discussion platform under the Public Affairs Forum maintained by the Home Affairs Bureau to facilitate greater participation in the discussion of this subject.

Apart from arranging public forums and discussion sessions, we have also consulted the Legislative Council Panel on Planning, Lands and Works, the Land and Building Advisory Committee, as well as the Chairmen and the Vice Chairmen of the District Councils (DCs). In addition, we have attended several briefings and meetings organized by various DCs as well as the industry.

We are now analysing the views received to work out a way forward, having regard to the need to strike a fine and careful balance between facilitating private redevelopment and protecting private property rights.

Telephone Poll

We have engaged an independent research institute to conduct a telephone poll from 21 to 30 April 2006 on our proposal in accordance with established practices and procedures of poll surveys. About 1,000 residents of private properties were successfully interviewed. About 70% of the respondents supported the general direction of the proposal. The three classes of lots proposed in the consultation paper also received support of the majority of the respondents.

Lands Tribunal

The Lands Tribunal is an independent judiciary body exercising its statutory functions of considering compulsory land sale applications under the LCSRO. As regards the valuation of properties, the LCSRO stipulates how the value of the properties on the lot should be assessed. The Tribunal may also appoint any person who has specialised knowledge or experience of a particular subject to assist in determining an application.

Missing/Untraceable Owners

We fully appreciate the importance of setting out clear and transparent procedures for an applicant to notify missing/untraceable owners under our proposed class of lots involving missing/untraceable owners. If the consultation results point to public support for this proposed class of lots, we will set out clearly in the subsidiary legislation the required steps and procedures to be followed by an applicant of a compulsory land sale order under this class of lot. We will make reference to similar arrangements under other ordinances or regulations in working out the required steps and procedures.

Adverse Possession

Both the LCSRO and our consultation paper do not feature this term.

Some 9,000 Buildings

At the meeting of the Legislative Council Panel on Planning, Lands and Works on 11 May 2006, in response to a query raised by a Legislative Council Member, the Administration advised that there were roughly 9,000 buildings with five to nine floors. Nonetheless, it does not imply that all of these buildings will be eligible for the proposed 80% application threshold. We do not have information on the number of occupants living in these buildings.

Singapore's Experience

In Singapore, a legislation entitled Land Titles (Strata) Act (the Act) came into effect in 1999 to put in place a mechanism to facilitate collective sale of properties for development. In gist, the Act stipulates that for a development of 10 years old or above, the threshold for application for compulsory sale is not less than 80% of the share values of the lots while that for development of less than 10 years old is not less than 90%. A tribunal named Strata Titles Board will consider the land sale applications and serve as a watchdog to provide adequate safeguards to protect the interests of minority owners.

We would like to point out that while we have studied the overseas practices in the preparation of our proposal, we will work out a finalised proposal for consideration by the Legislative Council, having regard to the circumstances of Hong Kong and the community's feedback.

Yours sincerely,

(YC Chan)
for Secretary for Housing, Planning and Lands