

立法會
Legislative Council

LC Paper No. CB(1)2282/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/PL/DEV/1

Panel on Development

Minutes of special meeting
held on Thursday, 6 March 2008, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon LAU Wong-fat, GBM, GBS, JP (Chairman)
Prof Hon Patrick LAU Sau-shing, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Abraham SHEK Lai-him, SBS, JP
Hon Albert CHAN Wai-yip
Hon Daniel LAM Wai-keung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki
Hon CHEUNG Hok-ming, SBS, JP

Members attending: Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Kwok-hung
Dr Hon Fernando CHEUNG Chiu-hung

Members absent : Hon James TIEN Pei-chun, GBS, JP
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Miriam LAU Kin-yee, GBS, JP
Hon CHOY So-yuk, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon LEE Wing-tat

**Public officers
attending**

: Mr Tommy YUEN
Deputy Secretary for Development
(Planning & Lands) 2

Ms Ivy LAW
Principal Assistant Secretary for Development
(Planning & Lands) 4

Mr Paul PANG
Assistant Director of Buildings/Existing Buildings 1

**Attendance by
invitation**

: The Real Estate Developers Association of Hong Kong

Mr Keith KERR/Mr Sunny YEUNG
Chairman, Executive Committee/
Convenor, PEL SubCommittee

Mr Louis LOONG
Secretary General

The Association of Tai Kok Tsui Building Owners
Organizations

Mr Julius LAU Ming-sum
Chairman

Individual

Ms Agnes TUNG Ki-chir

Individual

Mr Alan MOU Kung-yuen

Individual

Mr MOU Tsung-tzeng

金國大廈小業主

Mr LEUNG Kwok-keung
Representative

Mr KU Nai-hung
Representative

蒲崗樓業主立案法團

Mr CHAN Kam-man
Member

Mr TAM Kam-kui
Member

Hip Shing Hong Group

Mr David FONG
Deputy Managing Director

Mr Linus NG
Operation Manager

SOS 業主陣線

Mr Bull K S TSANG
Convenor

Ms Anna CHU
Representative

Individual

Miss TANG Kit-yee

Individual

Mr LEE Fong-nin

興泰大廈業主立案法團

Miss Kitty LAM
Secretary

The Hong Kong Institute of Surveyors

Mr YU Kam-hung
President

Mr Stephen YIP
Vice President

Robinson Place Owners' Committee

Miss June CHUNG
Member

Miss Queenie LEI
Owner

Central & Western Concern Group

Ms Katty LAW
Convener

Association of Engineering Professionals in Society

Mr YIM Kin-ping
Senior Vice Chairman

Green Sense

Miss HO Ka-po
Project Manager

Individual

Ms KWOK See-nai

Individual

Ms LU Ah-fong

San Po Kong Residents Association

Mr LEE Tat-yan
Chairperson

The Hong Kong Association for the Advancement of
Real Estate and Construction Technology Limited

Ms Serena LAU
Vice-President

United Social Service Centre

Miss Elina LI
Advisor

Central & Western Democratic Power

Mr YIM Ka-wing

Member

關注中西區規劃行動

Miss YUE Man-tuen

Member

Individual

Mr WONG Wai-shun

Yuen Long District Council Member

Individual

Mr NG Kam-chuen

Wan Chai District Council Vice-chairman

Individual

Ms YIP Mei-yung

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (1)4

Staff in attendance : Mr WONG Siu-yee
Senior Council Secretary (1)7

Ms Christina SHIU
Legislative Assistant (1)7

Action

I Proposal to facilitate private redevelopment

- (LC Paper No. CB(1)605/07-08(03) -- Information paper on "Proposal to facilitate private redevelopment" provided by the Administration
- LC Paper No. CB(1)861/07-08 -- Minutes of meeting on 22 January 2008

LC Paper No. CB(1)956/07-08(01) -- Information paper on "Land (Compulsory Sale for Redevelopment) Ordinance" provided by the Administration))

The Chairman invited the deputations to present their views on the Administration's proposal to lower the compulsory land sale application threshold (the threshold) for two specific classes of lots.

Presentation of views

*The Real Estate Developers Association of Hong Kong)
(LC Paper No. CB(1)1055/07-08(01), received after the meeting and issued on 13 March 2008)*

2. Mr Keith KERR, Chairman, Executive Committee of The Real Estate Developers Association of Hong Kong, presented his views, the details of which were given in the relevant submission. He expressed support for the Administration's proposal because it could better harness the resources of the private sector in a fair and reasonable manner to facilitate urban renewal and rejuvenation.

The Association of Tai Kok Tsui Building Owners Organizations

3. Mr Julius LAU Ming-sum, Chairman of The Association of Tai Kok Tsui Building Owners Organizations, said that if the threshold was lowered to 80%, it would be desirable to offer more reasonable, or preferably, higher acquisition prices to the affected owners.

*Ms Agnes TUNG Ki-chir
(LC Paper No. CB(1)916/07-08(01))*

4. Ms Agnes TUNG Ki-chir presented her views, the details of which were given in the relevant submission. She firmly objected to the Administration's proposal to lower the threshold from 90% to 80%. She considered that the acquisition price offered by developers was insufficient for owners to purchase back a similar flat and the proposal would deprive owners of their private property rights.

Mr Alan MOU Kung-yuen

5. Mr Alan MOU Kung-yuen said that he objected to lowering the threshold to 80%. He queried why the private property rights of owners should be deprived of. For every policy decision, some supported it because it would benefit them, and others who objected would be unhappy with the decision. While agreeing to the

view that city development was important, he pointed out that some parts of every city should be preserved.

Mr MOU Tsung-tzeng

6. Mr MOU Tsung-tzeng said that he strongly objected to the Administration's proposal of lowering the threshold to 80%. He said that many owners had worked for years to purchase their properties in pursuit of a better place to live and work in. He was worried that the acquisition price was insufficient for affected owners to purchase back a similar flat.

金國大廈小業主

(LC Paper No. CB(1)963/07-08(01); and LC Paper No. CB(1)1021/07-08(01), received after the meeting and issued on 11 March 2008)

7. Mr LEUNG Kwok-keung, Representative of 金國大廈小業主, presented his views, the details of which were given in LC Paper No. CB(1)963/07-08(01). He expressed concern about how to protect the rights of small property owners and considered that the existing legislation offered insufficient protection. Mr KU Nai-hung, Representative of 金國大廈小業主, presented his views, the details of which were given in LC Paper No. CB(1)1021/07-08(01). He said that compulsory land sale was in breach of the Basic Law in relation to protecting the right of private ownership of property.

蒲崗樓業主立案法團

(LC Paper No. CB(1)916/07-08(02))

8. Mr TAM Kam-kui, Member of 蒲崗樓業主立案法團, presented his views, the details of which were given in the relevant submission. He expressed support for the Administration's proposal but suggested that age or maintenance conditions of the buildings should not be factors for consideration when the Lands Tribunal vetted applications for compulsory land sale.

Hip Shing Hong Group

(LC Paper No. CB(1)1066/07-08(01), received after the meeting and issued on 14 March 2008)

9. Mr David FONG, Deputy Managing Director of Hip Shing Hong Group, presented his views, the details of which were given in the relevant submission. He suggested that the Administration's proposal should be applicable to buildings aged 15 or above irrespective of their conditions. The percentage of the undivided shares acquired should be based on a consolidated development site rather than a lot. For missing/untraceable owners, the Lands Tribunal could take custody of the compensation for the time being.

SOS 業主陣線

(LC Paper No. CB(1)963/07-08(02))

10. Ms Anna CHU, Representative of SOS 業主陣線, presented her views, the details of which were given in the relevant submission. Mr Bull K S TSANG, Convenor of SOS 業主陣線, added that the existing legislation on compulsory land sale was already an almighty tool for redevelopment. He objected to the Administration's proposal. The objective of urban renewal should be to renovate old districts rather than to squeeze out every bit of the city space through redevelopment. The effects of redevelopment on aspects such as air circulation, traffic and demand for facilities would affect future generations. He suggested that development could be carried out in the New Territories.

Miss TANG Kit-yee

11. Miss TANG Kit-yee said that as the 90% threshold had been implemented for a short period only, it would be too radical to lower the threshold to 80%. She also pointed out that the compensation offered by developers was often insufficient for owners to purchase back a similar flat.

Mr LEE Fong-nin

(LC Paper No. CB(1)1021/07-08(04), received after the meeting and issued on 11 March 2008)

12. Mr LEE Fong-nin presented his views, the details of which were given in the relevant submission. He expressed support for a threshold of 80% for a lot with "all units but one" acquired, but had reservations on a lot with all buildings aged 40 or above. The characters of old districts should be retained and owners should have the liberty to decide how to handle their properties.

興泰大廈業主立案法團

(LC Paper No. CB(1)1021/07-08(03), received after the meeting and issued on 11 March 2008)

13. Miss Kitty LAM, Secretary of 興泰大廈業主立案法團, presented her views, the details of which were given in the relevant submission. She said that there should be comprehensive planning of the affected districts before implementing the proposal. Otherwise, many high-rise buildings would emerge, leading to the wall effect and destroying the characters of districts.

The Hong Kong Institute of Surveyors

(LC Paper No. CB(1)963/07-08(03); and LC Paper No. CB(1)1169/07-08(01) received after the meeting and issued on 1 April 2008)

14. Mr YU Kam-hung, President of The Hong Kong Institute of Surveyors, presented his views, the details of which were given in the relevant submission. He supported the proposal because the pace of redevelopment was too slow at present. An 80% threshold should offer sufficient protection for owners. He

pointed out that the acquisition prices offered by developers were usually higher than the market prices of the properties.

Robinson Place Owners' Committee

(LC Paper No. CB(1)1169/07-08(02), received after the meeting and issued on 1 April 2008)

15. Miss June CHUNG, Member of Robinson Place Owners' Committee, presented her views, the details of which were given in the relevant submission. As the number of buildings that might become eligible for compulsory land sale after lowering the threshold remained unknown, the Administration had no basis to put forward its proposal. The proposal should only be considered after completing the review of the outline zoning plans (OZPs).

Central & Western Concern Group

(LC Paper No. CB(1)963/07-08(04))

16. Ms Katty LAW, Convener, Central & Western Concern Group, presented her views, the details of which were given in the relevant submission. She added that she supported renovation and rehabilitation because they could revive old buildings and restore them into good condition. The Administration should review the direction of urban renewal, and the public should be encouraged to treasure the place where they lived.

Association of Engineering Professionals in Society

17. Mr YIM Kin-ping, Senior Vice Chairman of Association of Engineering Professionals in Society, said that he supported the Administration's proposal because it could increase the success rate of redevelopment. He suggested that the vetting of applications for redevelopment could be tightened up and the Lands Tribunal could consider various factors, such as transport facilities, heritage conservation, community network and the possibility of renovation instead of redevelopment, before granting approval for compulsory land sale.

Green Sense

(LC Paper No. CB(1)713/07-08(01))

18. Miss HO Ka-po, Project Manager of Green Sense, presented her views, the details of which were given in the relevant submission. She objected to the proposal because many of the potential sites for redevelopment were not subject to planning controls on building height or plot ratio. She was worried that many high-rise buildings would emerge, leading to increased development intensity in the urban areas.

Ms KWOK See-nai

19. Ms KWOK See-nai said that she would not present any views.

Ms LU Ah-fong

20. Ms LU Ah-fong said that she would not present any views.

San Po Kong Residents Association

(LC Paper No. CB(1)1021/07-08(02), received after the meeting and issued on 11 March 2008)

21. Mr LEE Tat-yan, Chairperson of San Po Kong Residents Association, presented his views, the details of which were given in the relevant submission. As many aged buildings had serious problems such as water seepage and cracked and spalled concrete, the proposal should be implemented as soon as possible to improve the living environment.

The Hong Kong Association for the Advancement of Real Estate and Construction Technology Limited

(LC Paper No. CB(1)963/07-08(05))

22. Ms Serena LAU, Vice-President of The Hong Kong Association for the Advancement of Real Estate and Construction Technology Limited, presented her views, the details of which were given in the relevant submission. She added that she respected sustainable development and private property rights. Whether to redevelop or to renovate was an option and they were not mutually exclusive. The role of the Lands Tribunal could be expanded and lowering the compulsory land sale threshold to 80% was not unreasonable.

United Social Service Centre

23. Miss Elina LI, Advisor of United Social Service Centre, said that many elderly living in aged buildings were accustomed to their living environment and wished to stay where they were. Even if they were offered compensation, it would be insufficient for them to purchase back a flat of a similar size. Owners of ground floor shops might be more prone to be forced to sell their shops at a low price if the compulsory land sale threshold was lowered to 80%. She was also concerned about deteriorating air quality and traffic congestion arising from high-density redevelopments.

Central & Western Democratic Power

24. Mr YIM Ka-wing, Member of Central & Western Democratic Power, said that the Administration should review the OZPs and impose proper development controls first before lowering the compulsory sale threshold. He was concerned about the emergence of more high-rise buildings. The conditions of some buildings aged 40 to 50 years were still very sound. He had seen cases where owners refrained from maintaining their buildings in the hope of redevelopment. Some owners even relinquished building rehabilitation loans granted to them.

Apart from property owners, tenants would also be affected by the Administration's proposal, especially after the relaxation of the provisions governing tenancy rights of tenants under the Landlord and Tenant (Consolidation) Ordinance.

關注中西區規劃行動

25. Miss YUE Man-tuen, Member of 關注中西區規劃行動, said that she objected to the Administration's proposal because it was an irresponsible decision that would affect future generations. The proposal would lead to demolition of heritage buildings such as shophouses and create a lot of construction and demolition materials. She was worried that as some elderly owners might not know the real value of their properties, middlemen could take advantage of them. She suggested that redevelopment loans or funds could be provided to property owners, just like rehabilitation loans and funds, so that they could undertake redevelopment on their own.

Mr WONG Wai-shun, Yuen Long District Council Member

26. Mr WONG Wai-shun, Yuen Long District Council Member, said that he had reservations on the Administration's proposal in relation to a lot with "all units but one" acquired because the criterion was unrelated to the conditions of the buildings. The proposal gave him an impression that it was targeted at owners of low-density buildings, many of which were six to nine storeys tall. He considered that the Administration needed to conduct further consultation on the proposal.

Mr NG Kam-chuen, Wan Chai District Council Vice-chairman

27. Mr NG Kam-chuen, Wan Chai District Council Vice-chairman, said that many aged buildings in Wan Chai were dilapidated and owners often found it difficult to gather maintenance fees to carry out the necessary maintenance works, especially for those buildings without owners' corporations. Those dilapidated buildings posed a danger to public safety. As long as the Lands Tribunal protected the rights of the owners by ensuring that the reserve prices for auctions under compulsory land sale were reasonable, it was worthwhile to lower the threshold. It was a very common phenomenon that many owners requested developers to redevelop their buildings but a sufficient percentage of the undivided shares could not be acquired. He had seen a case where a redevelopment project long-awaited by most owners failed to materialize because an owner asked for three times the acquisition price offered by the developer.

Ms YIP Mei-yung

(LC Paper No. CB(1)1021/07-08(05), received after the meeting and issued on 11 March 2008)

28. Ms YIP Mei-yung presented her views, the details of which were given in the relevant submission. She added that development could be carried out at undeveloped locations in the New Territories. She also emphasized that owners' rights should be respected and compulsory land sale should only be used as a last resort.

Discussion

29. The Deputy Secretary (Planning and Lands)2 (DS/PL2) said that the proposal to lower the threshold was based on existing provisions in the legislation. The criteria were stringent and the proposed threshold was only applicable to two specified classes of lots. The Administration would be careful in striking a delicate balance between the interests of various parties concerned.

30. Dr KWOK Ka-ki said that lowering the threshold from 90% to 80% would run contrary to the Administration's work in reviewing the OZPs to reduce development intensity. As the current mechanism with the 90% threshold had been adopted for not a very long time, whether it could sufficiently protect the rights of the owners remained to be seen. It would be immature to lower the threshold at this stage. He also considered that the Administration should explore other redevelopment modes such as equity participation which would allow owners to opt to have stake in redevelopment projects.

31. Miss CHAN Yuen-han said that she did not even agree to the current threshold of 90% because owners should have the right to choose to retain their own properties. She wondered how the Administration could resolve the conflicts between majority owners and minority owners. She had the impression that the proposal would benefit large developers, not developers in general. If the administration insisted to lower the threshold, it would be even more difficult to defend against accusations of collusion between Government and developers.

32. Mr LEUNG Kwok-hung also considered that lowering the threshold would benefit developers the most. It would facilitate them to lure small property owners to sell their flats and then reap huge profits from redevelopment projects. He further pointed out that some owners did not want any compensation and just wanted to live in the same locality. The "compulsory sale" mode of redevelopment would go against community development. The Administration should devise a fair mechanism that would provide options of equity participation and flat-for-flat compensation. The Administration should also establish a body to take up the responsibility of maintaining buildings.

33. Mr Albert HO said that many law reforms were aimed at protecting the rights of owners. For instance, amending the deeds of mutual covenant required

the consent of all the owners concerned. He queried why the rights of owners were not accorded the same weight for private redevelopment. He doubted whether lowering the threshold would really be beneficial because regardless of the threshold chosen, there might still be one last owner who refused to sell the critical unit required for redevelopment. Citing an exemplary case of private redevelopment where owners were provided with cash compensation as well as a new flat at the redeveloped site by the developer, he considered that the Administration should explore other modes of private redevelopment that could sufficiently safeguard owners' private property rights.

34. Prof Patrick LAU queried whether the Lands Tribunal could adequately safeguard the rights of owners. He considered that increased transparency, a reasonable acquisition price and sharing of redevelopment benefits would lead to a higher chance of success in obtaining the consent from owners for redevelopment.

35. In response, DS/PL2 said that the existing legislation had stringent criteria for approving compulsory land sale to facilitate redevelopment. It offered sufficient protection for owners' private property rights. While some owners might want to continue to live in their flats, there were also owners who wanted alternative arrangements. Dilapidated buildings existed in many old districts and redevelopment would help improve the living environment. The proposal was to lower the threshold for applying for compulsory land sale. The Lands Tribunal would consider each case based on its own merits. The number of applications for compulsory land sale since enactment of the current legislation in June 1999 was only 47. Ten cases had been approved and one case rejected. The decisions made by the Lands Tribunal were made open to the public. As a measure to protect owners and to ensure fairness, auctions under compulsory land sale were conducted by trustees. The proposal to lower the threshold was made against such a background. The Administration would strike a delicate balance between the interests of various parties.

36. As owners did not have the financial resources to undertake redevelopment projects by themselves, Dr KWOK Ka-ki asked whether the Administration would provide a framework for owner participation in redevelopment projects.

37. In response, DS/PL2 said that there was at present no statutory requirement for owner participation in redevelopment projects. The existing legislation did not impose constraints on who could initiate a redevelopment project. Owners could participate in redevelopment, but this was not a statutory right. Enactment of legislation in this direction would involve very complicated considerations.

38. In this regard, Miss CHAN Yuen-han considered that the crux was that owners should be given the option to participate in redevelopment. They should be allowed to choose whether to take the risk involved in owner participation in redevelopment projects.

39. Mr Alan LEONG said that lowering the threshold might lead to development blunders. The existing town planning mechanism could not live up to the public's expectations. The review of the Urban Renewal Strategy (URS) would be instrumental to the redevelopment of old districts. The proposal to lower the threshold should only be considered after the URS and OZPs had been satisfactorily reviewed and proper re-housing arrangements for affected residents were put in place. The Urban Renewal Authority (URA) was a statutory public body with social responsibility and the Administration could exercise a certain degree of control over its work. He wondered what would happen if private developers could easily apply for compulsory land sale.

40. Mr Abraham SHEK said that the city had to develop and the proposal was not for the benefit of developers, but for the majority of owners who wished to sell their properties for redevelopment. The current proposal was fair and could strike a proper balance. There were many cases where nearly 90% of the owners agreed to sell their properties for redevelopment. If the threshold was lowered to 80%, owners would benefit from having a higher chance of redevelopment. The acquisition price under compulsory land sale was better than that offered by URA. Although URA's redevelopment projects were purported to be carried out in the public interest, the flats of its redevelopment projects were sold for profit. No specific threshold was required for URA to apply for land resumption for redevelopment.

41. Dr Fernando CHEUNG said that lowering the threshold would undermine the protection for minority owners. The most disputed issue was that redevelopment projects lacked transparency and were often carried out by subsidiary companies of developers. Owners were in fact selling their redevelopment rights, the value of which was much higher than the value of their properties. He queried whether owners were knowledgeable in this regard and whether they had the ability to initiate legal action against redevelopment. There was a large difference between the valuation conducted by the Lands Tribunal and the residents. He also objected to lowering the threshold before conducting the review of the URS. He was not opposed to redevelopment, but it had to be carried out in a people-oriented manner.

42. In response, DS/PL2 said that the proposal was a prudent one because the lots were limited to two specific classes only. The Lands Tribunal approved the reserve prices for auctions under compulsory land sale and redevelopment value would be taken into account in determining the reserve prices.

43. Mr Albert CHAN said that lowering the threshold from 90% to 80% involved a qualitative change rather than just a quantitative change. The 90% threshold was already the bottom line. As the social impact of further lowering the threshold would be great, the threshold should not be lowered lightly.

44. Mr LEUNG Kwok-hung pointed out that after compulsory land sale was granted, there was often no control over how the site would be redeveloped and high density developments might emerge. The Administration should first conduct a comprehensive planning review. In this regard, he suggested that the Administration could draw reference from overseas practices in that developers were not allowed to increase the intensity after redevelopment.

45. DS/PL2 said that in taking the matter forward, the Administration would carefully consider the views and suggestions made by members and deputations.

II Any other business

46. There being no other business, the meeting ended at 5:30 pm.

Council Business Division 1
Legislative Council Secretariat
5 September 2008