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Panel on Development

Meeting on 23 June 2009

**Background brief on
proposal to lower the application threshold
under the Land (Compulsory Sale for Redevelopment) Ordinance**

Purpose

This paper gives an account of the proposal to lower the compulsory land sale application threshold for specified classes of lots under the Land (Compulsory Sale for Redevelopment) Ordinance (LCSRO) (Cap. 545) to facilitate private redevelopment, and a summary of the views and concerns expressed by members on the subject during the discussions of the former Panel on Planning, Lands and Works¹ (the Panel).

Proposal discussed at the Panel in May 2006

2. The LCSRO was enacted in 1998 and came into operation in 1999. It provides for a person (other than as a mortgagee) who owns not less than 90% of undivided shares in a lot to apply to the Lands Tribunal for a compulsory sale of the whole lot for the purpose of redevelopment. To further facilitate private redevelopment efforts so as to arrest the aggravating problem of building deterioration, the Administration published for consultation on 8 March 2006 a proposal to make use of an existing mechanism under the LCSRO to specify, by way of subsidiary legislation in the form of a Gazette notice, the following three classes of lots to enjoy a threshold of not less than 80% when applying to the Lands Tribunal for a compulsory sale of the whole lot for the purpose of redevelopment --

¹ The Panel has been renamed as "Panel on Development" since the commencement of the 2007-2008 legislative session.

- (a) a lot with "all units but one" acquired;
- (b) a lot with building(s) aged 40 years or above; or
- (c) a lot with missing/untraceable owners (with the number of missing/untraceable owners accounting for at least 10% of undivided shares of the lot).

3. The consultation exercise lasted until the end of May 2006. The Administration briefed the Panel on the proposal on 11 May 2006. At the Panel meeting, members stressed the importance of protecting individual property rights. Some members were concerned that with the lowering of the compulsory sale threshold, minority owners would be placed in a less advantageous position in negotiating the terms of purchase with developers, and thus the interest of minority owners would not be adequately safeguarded. They also pointed out that there was no strong justification to pursue the proposal as there was already a mechanism in place for the Urban Renewal Authority to designate areas for redevelopment based on public interest, and the Urban Renewal Authority was already conferred the necessary powers for undertaking redevelopment projects.

4. The Administration explained that in working out the proposal, it had been mindful of the need to strike a careful and fine balance between facilitating private redevelopment efforts and protecting individual property rights. Redevelopment would provide a good opportunity to improve the living environment. The proposal was only to lower the threshold to 80%. The Lands Tribunal would vet each application carefully and would consider, inter alia, whether the conditions of the buildings warranted redevelopment and whether reasonable steps had been taken by the applicant to reach agreement with the respective owners, before deciding whether to grant approval. The Administration also assured members that it would continue to gauge the views of the community on the proposal through appropriate channels.

Revised proposal discussed at the Panel in 2008

5. On 22 January 2008, the Administration briefed the Panel on its revised proposal to lower the compulsory land sale application threshold to 80% under the LCSRO for two specified classes of lots; namely (i) a lot with "all units but one" acquired; or (ii) a lot with all building(s) aged 40 or above. As regards the third class of lot included in the original proposal, the Administration advised that given that there were diverse views on the relaxation in respect of "missing or untraceable owners" and the difficulty in introducing a safe mechanism to protect private property rights under the proposed requirement, it would be prudent to drop this class of lots for the time being.

6. The Panel held a meeting to receive views from interested parties on the subject on 6 March 2008. A total of 27 deputations attended the meeting. The deputations expressed diverse views on the Administration's proposal. Among those deputations in **support** of the proposal, there were the views that the pace of redevelopment was too slow at present. The proposal could better harness the resources of the private sector to facilitate urban renewal and rejuvenation in a fair and reasonable manner. An 80% threshold should offer sufficient protection for owners. As long as the Lands Tribunal protected the rights of the owners by ensuring that the reserve prices for auctions were reasonable, it was worthwhile to lower the compulsory sale threshold. Among those deputations **objecting** to the proposal, there were the views that the proposal did not provide adequate protection for private property rights. Compensation offered by developers was often insufficient for owners to purchase back a similar flat. 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 proposal should only be considered after completing the review of the existing outline zoning plans (OZPs).

7. Some Panels members considered that lowering the threshold from 90% to 80% would be a qualitative change rather than a quantitative change. The Administration should not become a tool to acquire properties for developers. There was often no control over how the sites concerned would be redeveloped. As a result, the redevelopment projects might eliminate the special characters of old areas and collective memories would be destroyed. Some other members considered that the proposal should only be considered after the Urban Renewal Strategy and the development parameters in existing OZPs had undergone proper review. On the other hand, there was a view that the city had to develop and the proposal was not for the benefit of developers but the majority of owners who wished to sell their properties for redevelopment. The acquisition prices offered by developers under the compulsory land sale mechanism were better than those offered by the Urban Renewal Authority.

8. The Administration explained that the proposal would not only benefit developers, and the interests of developers might not necessarily be at odds with the interests of small property owners. Although some owners might be unwilling to sell their properties, there were many others who were willing to do so to improve their living environment. Affected owners would also receive a reasonable compensation. In handling applications for compulsory land sale, the Lands Tribunal had to be satisfied that the applicant had already made reasonable effort to acquire all the shares of the lot².

² Subsequent to the Panel meeting on 22 January 2008, to facilitate members to better understand the operation of LCSRO, the Administration provided an information note (LC Paper No. CB(1)956/07-08(01)) highlighting the key points of operation of LCSRO based on the provisions of the Ordinance.

9. Members also expressed concern that some buildings which had historic value would be demolished if the threshold was lowered, and queried whether the mechanism to determine the reserve price for any land auction ordered by the Lands Tribunal for compulsory sale was fair to minority owners. The Administration explained that heritage buildings would not be affected by the proposal because the Administration had a comprehensive conservation policy and the Antiquities and Monuments Office would assess and grade historic buildings. Independent professional surveyors would determine a reasonable market price to be used as the reserve price, which would take into account the redevelopment value of the lot concerned.

10. On members' concern that property owners in the hope of successfully applying for compulsory land sale would be inclined to refrain from maintaining their buildings, the Administration explained that the Lands Tribunal would only issue an order for compulsory land sale after having considered various factors including the age and the state of repair of the buildings concerned. For well-maintained aged buildings, it was unlikely that the Lands Tribunal would approve applications for compulsory land sale. The Buildings Department would take enforcement actions on owners of dilapidated buildings that lacked proper maintenance.

Recent development

11. The Administration will brief the Panel on the proposed way forward for lowering the compulsory land sale applicable threshold for specified classes of lots under LCSRO.

Relevant papers

12. A list of relevant papers is in the **Appendix**.

Appendix

Proposal to lower the application threshold under the Land (Compulsory Sale for Redevelopment) Ordinance

List of relevant papers

Date	Meeting	References
1 March 2006	A written question on "Reducing Threshold for Compulsory Sale of Land for Redevelopment" was raised at the Council meeting.	Hansard (pages 78 to 81) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm0301ti-translate-e.pdf
11 May 2006	The PLW Panel discussed the Administration's proposal to lower the compulsory land sale application threshold for specified classes of lots under the Land (Compulsory Sale for Redevelopment) Ordinance.	Discussion paper http://www.legco.gov.hk/yr05-06/english/panels/plw/papers/plw0425cb1-1316-1e.pdf Minutes of meeting http://www.legco.gov.hk/yr05-06/english/panels/plw/minutes/pl060511.pdf Follow-up papers http://www.legco.gov.hk/yr05-06/english/panels/plw/papers/plw0511cb1-1757-1e.pdf http://www.legco.gov.hk/yr05-06/english/panels/plw/papers/plw0511cb1-323-1-e.pdf
22 January 2008	The Development Panel discussed the Administration's revised	Discussion paper http://www.legco.gov.hk/yr07-08/english/panels/plw/papers/dev0122cb1-605-3-e.pdf

Date	Meeting	References
	proposal to lower the compulsory land sale application threshold for specified classes of lots under the Land (Compulsory Sale for Redevelopment) Ordinance.	Minutes of meeting http://www.legco.gov.hk/yr07-08/english/panels/plw/minutes/de080122.pdf Information Note http://www.legco.gov.hk/yr07-08/english/panels/plw/papers/dev0306cb1-956-1-e.pdf
6 March 2008	The Development Panel received views from deputations on the Administration's revised proposal to lower the compulsory land sale application threshold for specified classes of lots under the Land (Compulsory Sale for Redevelopment) Ordinance.	Submissions http://www.legco.gov.hk/yr07-08/english/panels/plw/papers/plw_h1.htm Minutes of meeting http://www.legco.gov.hk/yr07-08/english/panels/plw/minutes/de080306.pdf