

立法會
Legislative Council

LC Paper No. CB(1)1702/09-10
(These minutes have been seen by
the Administration)

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**Subcommittee on Land (Compulsory Sale for Redevelopment)
(Specification of Lower Percentage) Notice**

**Minutes of the fifth meeting held on
Monday, 1 March 2010, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon Miriam LAU Kin-ye, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king
Hon WONG Kwok-kin, BBS
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Public Officers attending : Agenda item II

Mr Tommy YUEN, JP
Deputy Secretary (Planning and Lands)2
Development Bureau

Mr Laurie LO
Head/Development Opportunities Office
Development Bureau

Ms Winnie SO
Principal Assistant Secretary (Planning and Lands)4
Development Bureau

Mr Paul PANG
Assistant Director/ Existing Buildings(1)
Buildings Department

Mr Alex CHOW
Chief Building Surveyor/ Hong Kong East and
Heritage Unit
Buildings Department

Ms Francoise LAM
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Debbie YAU
Chief Council Secretary (1)6

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Angel SHEK
Senior Council Secretary (1)1

Action

- I Confirmation of minutes**
(LC Paper No. CB(1)1262/09-10 -- Minutes of meeting held on
19 February 2010)

The minutes of the meeting held on 19 February 2010 were confirmed.

- II Meeting with the Administration**
(LC Paper No. CB(1)1259/09-10(01) -- List of follow-up actions arising
from the discussion at the
meeting on 25 February 2010
- LC Paper No. CB(1)1259/09-10(02) -- Administration's response to
CB(1)1259/09-10(01)

- LC Paper No. CB(1)1293/09-10(04) *(tabled and a revised version subsequently issued on 3 March 2010)* A comparison on the development intensity of the lots before and after redevelopment after compulsory sale
- L.N. 6 of 2010 -- Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice
- LC Paper No. CB(1)1182/09-10(01) -- The Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545)
- LC Paper No. CB(1)1259/09-10(03) -- Information on the interview with Richfield Realty Limited on Cable TV News provided by Hon Mrs Regina IP LAU Suk-ye
- LC Paper No. CB(1)1273/09-10(01) *(tabled and subsequently issued via e-mail on 2 March 2010)* -- Letters from Soundwill Holdings Limited and Wong Poon Chan Law & Co on behalf of Mr SIN Ho-yuen provided by Hon Mrs Regina IP LAU Suk-ye (English version only)
- LC Paper No. CB(1)1273/09-10(02) *(tabled and subsequently issued via e-mail on 2 March 2010)* -- Submission from a member of the public (Chinese version only)
- LC Paper No. CB(1)1273/09-10(03) *(tabled and subsequently issued via e-mail on 2 March 2010)* -- Submission from RICS (Hong Kong) (English version only)
- LC Paper No. CB(1)1273/09-10(04) *(tabled and subsequently issued via e-mail on 2 March 2010)* -- Joint submission from a group of organizations and individuals (Chinese version only)
- LC Paper No. CB(1)1273/09-10(05) *(tabled and subsequently issued via e-mail on 2 March 2010)* -- Submission from Green Sense (Chinese version only)

2. The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions required to be taken by the Administration

3. The Subcommittee requested the Administration to provide written information in response to members' concerns and requests raised at the meeting –

- (a) details of the public opinion surveys done via telephone in 2006 and 2008 regarding the proposal to lower the threshold for compulsory land sale application for specified classes of lot, including information on the respective organization/institute commissioned to carry out the surveys, the number of respondents agreed and disagreed with the proposal, and questions asked in the surveys;
- (b) with regard to the recent compulsory sale of a lot at Upper Kai Yuen Lane, the total existing use value of the units on the lot, transaction price, and the average price of saleable area per square foot before and after redevelopment; and
- (c) measures to address members' concerns that the Lands Tribunal should need to be satisfied that both "the age and state of repair" (instead of "age or state of repair" as stated under section 4(2)(a)(i) of Cap. 545) of a building would justify redevelopment of the lot, such as confining the second class of lot to designated areas with genuine need for redevelopment by making reference to the results of recent inspection of all buildings aged 50 or above, limiting the scope of lots to areas which had already undergone town planning review of related outline zoning plans etc.

4. The Administration was also requested to –

- (a) consider deferring the implementation of the Notice until after a mediation mechanism was put in place;
- (b) consider disposing land under compulsory sale by open tendering instead of auction; and
- (c) set out in the speech to be delivered by the Secretary for Development on the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice at the Council meeting on 17 March 2010 its undertaking to –
 - (i) introduce a mediation mechanism to assist parties involved in a compulsory land sale application to resolve their disputes; and
 - (ii) conduct a thorough review of the Land (Compulsory Sale for Redevelopment) Ordinance.

Motion

5. The Subcommittee passed the following motion moved by Hon Cyd HO:

"鑒於《土地(為重新發展而強制售賣)(指明較低百分比)公告》不能有效保障小業主權益，不能解決樓宇安全問題，當局亦未能及時確立調解機制，小組委員會認為當局應撤回《公告》。"

Translation

"Given that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice cannot provide effective protection for minority owners' interests nor resolve building safety issues, and that the authorities have failed to set up a mediation mechanism promptly, the Subcommittee considers that the authorities should withdraw the Notice."

III Any other business

6. The Chairman advised that he would be out of town during 2 to 12 March 2010. Members elected Prof Patrick LAU to act as the Chairman during the latter's absence. Members also agreed to schedule an additional meeting to continue scrutinizing the Notice and discuss proposed amendments to be moved by individual members.

(Post-meeting note: An additional meeting was subsequently scheduled for Thursday, 4 March 2010, at 10:45 am in Conference Room A of the Legislative Council Building.)

7. There being no other business, the meeting ended at 6:43 pm.

Council Business Division 1
Legislative Council Secretariat
30 April 2010

**Proceedings of the fifth meeting of
the Subcommittee on Land (Compulsory Sale for Redevelopment)
(Specification of Lower Percentage) Notice
on Monday, 1 March 2010, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000415 – 000554	Chairman	The Chairman's introductory remarks. Confirmation of minutes of meeting held on 19 February 2010 (LC Paper No. CB(1)1262/09-10).	
000555 – 002255	Chairman Administration	The Administration briefed members on its response to the concerns raised at the meeting on 25 February 2010 (LC Paper Nos. CB(1)1259/09-10(02) and CB(1)1293/09-10(04)).	
002256 – 002709	Chairman Mr WONG Kwok-hing Administration	Discussion on the timeframe of establishing the mediation mechanism and the Chairman's request for the Secretary for Development to give an undertaking to introduce the mediation mechanism when she spoke on the Notice at the Council meeting on 17 March 2010.	The Administration to follow up as requested in paragraph 4(c)(i) of the minutes.
002710 – 003402	Chairman Mr James TO Administration	Mr James TO suggested disposing land under compulsory sale by open tender instead of auction. The Administration explained that the existing compulsory land sale mechanism had protected the interests of all owners concerned. The Administration had no plan at this stage to amend the relevant provision of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) (the Ordinance).	The Administration to provide written response as requested in paragraph 4(b) of the minutes.
003403 – 004149	Chairman Ms Miriam LAU Administration	Ms Miriam LAU urged that the Lands Tribunal should take both <u>age and</u> state of repair rather than <u>age or</u> state of repair as stipulated in the Ordinance into consideration in determination of compulsory land sale applications. Ms LAU observed that while the transaction price of the lot(s) under compulsory land sale in the past was on average about 2.5 times the total existing use value (EUV) of the lot(s), the ratio for the case of 55 & 57, Tai Yuen Street and 6 & 8 McGregor Street (LDCS 5000/2008) was only 0.97. She expressed concern whether the EUV had genuinely reflected the market value. The Administration responded that while the EUV was an assessed value based on recent transactions of similar properties in the market, it might not be exactly the same as the market price in the real market situation.	
004150 – 004613	Chairman Mrs Regina IP Administration	Mrs Regina IP referred to the proposed establishment of a Financial Dispute Resolution Centre by the Financial Services and the Treasury Bureau to strengthen investor protection, and considered that the Development Bureau should likewise act in public interests and defer	The Administration to provide written response as requested in

Time marker	Speaker	Subject(s)	Action required
		<p>implementation of the Notice until a mediation mechanism was put in place.</p> <p>The Administration advised on its consideration for lowering of the application threshold for the three specified classes of lots, and the setting up of a mediation mechanism in respect of applications under the Ordinance could and should proceed in parallel as they complemented each other.</p> <p>Mrs IP urged the Administration to withdraw the Notice, otherwise, she would move amendment to repeal section 4(1)(a) and (b) in respect of the first two classes of lots.</p>	<p>paragraph 4(a) of the minutes.</p>
004614 – 005030	Chairman Ms Cyd HO Administration	<p>Ms Cyd HO opined that the mediation mechanism should be put in place before the application threshold was lowered, and she enquired about the costs of mediation.</p> <p>The Administration responded that as details of the proposed mediation mechanism, such as the need or otherwise to engage legal representatives in the mediation process, had yet to be drawn up, it did not have the information on the mediation costs at this stage.</p> <p>Ms HO indicated that she would move a motion later at the meeting to urge the Administration to withdraw the Notice.</p>	
005031 – 005627	Chairman Ir Dr Raymond HO Administration	<p>Ir Dr Raymond HO doubted the need to engage legal representatives in mediation as it should be implemented with an aim to minimizing the cost burden on the parties involved.</p> <p>Discussion on the need to appoint qualified surveyors by majority and minority owners in compulsory land sale application.</p>	
005628 – 010319	Chairman Mr Albert HO Administration	<p>Mr Albert HO urged the Administration to review the operation of the Ordinance before lowering the application threshold. He was of the view that –</p> <ul style="list-style-type: none"> (a) the Lands Tribunal should take into account both age <u>and</u> state of repair (and not age <u>or</u> state of repair) of the building such that buildings in good state of repair would not be taken to compulsory land sale indiscriminately; (b) the proposed mediation mechanism should be made compulsory, similar to mediation in matrimonial disputes; and (c) consider disposing land under compulsory sale by open tendering instead of auction. <p>The Administration responded that the lowering of application threshold was considered appropriate to facilitate private owners having acquired 80% undivided shares of a lot to proceed to application for compulsory land sale of their lot for redevelopment.</p>	<p>The Administration to provide written response as requested in paragraph 3(c) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
010320 – 011221	Chairman Ms Audrey EU Administration	<p>Discussion on whether the transaction price at compulsory land sale auctions had indeed reflected the market price together with the redevelopment value of the subject lot, with reference to the recent compulsory sale of the lot at Upper Kai Yuen Lane.</p> <p>Ms EU queried about the urgency of implementing the Notice, and she suggested the Administration to confine the second class of lot to designated areas with genuine need for redevelopment (e.g. Kowloon City, Sham Shui Po and Yau Tsim Mong) by making reference to the results of the recent inspection of all buildings aged 50 years or above, and limiting the scope of lots to areas which had already undergone review of related outline zoning plans (OZPs) to lower the development density.</p> <p>The Administration responded that the legislative provisions in the Notice had undergone thorough consultation and discussion since 2006. Pursuant to the opinion survey result in 2008, the Administration had already amended the proposal in respect of the second class of lots to enhance its public acceptability.</p> <p>Ms EU requested for information on the details of the said opinion surveys.</p>	The Administration to provide information as requested in paragraphs 3 (a) and (b) of the minutes.
011222 – 011553	Chairman Mr James TO Administration	Mr James TO requested the Secretary for Development to give an undertaking to conduct a thorough review of the Ordinance when she spoke on the Notice at the Council meeting on 17 March 2010.	The Administration to provide a written response as requested in paragraph 4(c) (ii) of the minutes.
011554 – 012239	Chairman Dr Margaret NG Administration	<p>Dr Margaret NG remarked that compulsory land sale should not be undertaken unless there were overriding public interests to do so. She requested the Administration to consider confining the second class of lot to designated areas with genuine need for redevelopment.</p> <p>The Administration advised that not all buildings aged 50 years or above would be taken to redevelopment, subject to the compulsory land sale application threshold and the Lands Tribunal's approval.</p>	The Administration to provide written response as requested in paragraph 3(c) of the minutes.
012240 – 012814	Chairman Ms Starry LEE Administration	<p>Ms Starry LEE reiterated her view that the Administration should consider including owner participation arrangements in private sector-led redevelopment, and designating specific areas warranting redevelopment for lowering the application threshold.</p> <p>The Administration responded that the suggestions would be considered under the Urban Renewal Strategy (URS) Review. It further advised that the development of a lot after compulsory land sale was, apart from statutory planning</p>	

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		control and the requirements under OZPs, subject to applicable land lease conditions and building plan approval. As such, redevelopment of a lot could not be described as without control even if the OZP review for the district concerned was in progress.	
012815 – 013127	Chairman Mr Frederick FUNG	Mr Frederick FUNG held the view that – (a) the Lands Tribunal should determine the application based on the "age <u>and</u> state of repair", rather than "age <u>or</u> state of repair" of the existing developments on the lots; and (b) the Administration should withdraw the Notice and postpone its implementation until the URS Review had completed.	
013128 – 013509	Chairman Ms Miriam LAU Administration Assistant Legal Adviser (ALA)	Ms Miriam LAU urged the Lands Tribunal to consider both "age <u>and</u> state of repair" of the existing developments on the lots in determination of compulsory land sale applications. ALA advised that as compulsory land sale arrangements were made between private owners, and that in adjudicating relevant cases, if the Tribunal and other courts found the said provision "age <u>and</u> state of repair" unclear, they might make reference to case law and other relevant materials such as the speech of the Secretary for Development on the true meaning of the provision.	
013510 – 013800	Chairman Ms Audrey EU Administration	Ms Audrey EU observed that as revealed in the Lands Tribunal's judgment, the "state of repair" of developments was linked to the economic value of the subject lot. She reiterated her request for the Administration to consider narrowing the scope of the second class of lot to those in designated areas in need of redevelopment or where the OZPs had undergone review. The Administration responded that the second class of lot in the Notice was targeted at aged buildings but not specific districts or areas for redevelopment and the development of a lot after compulsory land sale would be subject to applicable land lease conditions and building plan approval.	
013801 – 014052	Chairman Mr Albert HO Administration	Mr Albert HO referred to the comparison on the development intensity of the lots before and after redevelopment upon compulsory sale (CB(1)1293/09-10(04)) and the comparison of the total EUV and transaction price of the lots in the past cases of compulsory land sale order granted (Annex III to CB(1)1229/09-10(02)), and pointed out that the transaction price did not reflect the increase in plot ratio, as in the redevelopment of 44-46 and 48-50 Haven Street and 1 Jones Street.	
014053 – 014439	Chairman Dr Margaret NG Administration	The Administration agreed to provide information on the results of the ongoing building inspection as far as practicable on or before 17 March 2010.	

Time marker	Speaker	Subject(s)	Action required
014440 – 014858	Chairman Prof Patrick LAU Administration	The Administration assured members that it would examine the suggestion to introduce a mediation mechanism.	
014859 – 015735	Chairman Mr James TO Ms Audrey EU Ms Miriam LAU Administration	Members requested that the Lands Tribunal should take into account the age <u>and</u> state of repair (but not age <u>or</u> state of repair) of the existing development in the lot when determining compulsory land sale applications. Ms Audrey EU reiterated her suggestion to amend the Notice by designating districts warranting redevelopment for the second class of lots. The Administration responded that as the Tribunal would consider, among other factors, the state of repair of the existing development on the subject lot in determination of compulsory land sale application under the Ordinance, the Administration did not see the need to specify particular district warranting redevelopment in defining the second class of lot.	
015736 – 020109	Chairman Clerk Administration	The Subcommittee passed a motion moved by Ms Cyd HO urging the Administration to withdraw the Notice.	
020110 – 020158	Chairman Dr Margaret NG	Dr Margaret NG urged the Administration to amend the Notice such that the lowered application threshold would only be applied to aged and dilapidated buildings in needy districts.	
020159 – 020302	Chairman Ms Audrey EU	Ms Audrey EU requested the Administration to provide written response to her request as stated in paragraph 3(c) of the minutes.	
020303 – 020556	Chairman Ms Cyd HO Prof Patrick LAU Mr James TO	Ms Cyd HO urged the Administration to withdraw the Notice or amend it in light of members' suggestions. Prof Patrick LAU shared Ms HO's view and suggested that the Administration should improve the existing mechanism for compulsory land sale to enhance protection of owners' interests and put in place mediation arrangements before lowering the application threshold. Discussion on Mr James TO's proposed amendments to the Notice.	
020557 – 020643	Chairman Mr James TO	Timeframe for making amendments to the Notice and meeting arrangements.	
020644 – 021136	Chairman Dr Margaret NG Mr James TO Prof Patrick LAU	Prof Patrick LAU was elected to act as the Chairman during the latter's absence.	