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

Meeting on 9 February 2010

Background brief

Purpose

This paper provides background information on the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (the Notice) and a summary of the views and concerns expressed by members of the Panel on Development (the Panel) on the subject.

Background

2. As part of its holistic strategy to tackle the urban decay problem, the Administration has attached great importance to facilitating private sector's redevelopment efforts. In this connection, the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) (the Ordinance) was enacted in 1998 and came into operation in 1999. It provides for a person (otherwise 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.

3. The Urban Renewal Authority (URA) established in 2001 has been carrying out redevelopment projects to help arrest urban decay in Hong Kong. The pace of URA's urban renewal work has been much slower than originally envisaged, and many URA projects have been highly controversial, attracting considerable resistance from affected owners/tenants and concern groups. In view of the difficulties that URA is facing, the Administration considers it necessary to enhance the ability of private property owners in redeveloping their buildings to better complement URA's effort in tackling building deterioration and meet Hong Kong's changing economic needs. At present, the greatest hurdle to private sector redevelopment efforts lies in the difficulty in unifying multiple ownership in a land lot.

Proposal in 2006

4. To further facilitate private redevelopment efforts, the Administration published for consultation on 8 March 2006 a proposal to make use of an existing mechanism under the Ordinance 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 --

- (a) a lot with "all units but one" acquired;
- (b) a lot with building(s) aged 40 years or above; and
- (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).

The consultation exercise lasted until the end of May 2006.

5. The Administration briefed the then Panel on Planning, Lands and Works (renamed as the Panel on Development since the 2007-2008 session) on the above proposal on 11 May 2006. Some Panel members expressed concern 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, hence the interest of minority owners would not be adequately safeguarded. They considered that there was no strong justification to pursue the proposal as there was already a mechanism in place for URA to designate areas for redevelopment based on public interest, and URA was already conferred the necessary powers for undertaking redevelopment projects.

Revised proposal in 2008

6. On 22 January 2008, the Administration briefed the Panel on a revised proposal to lower the compulsory land sale application threshold to 80% under the Ordinance for two specified classes of lots; namely (i) a lot with "all units but one" acquired; and (ii) a lot with all building(s) aged 40 or above. As regards the third class of lot included in the 2006 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. The Panel held a meeting to receive public views on the revised proposal on 6 March 2008.

7. During discussions in 2008, some members expressed the 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 URA. However, some other members held the view that lowering the threshold from 90% to 80% would be a qualitative change rather than a quantitative change. They considered that the Administration should not become a tool to acquire properties for developers. Some of these members considered that the proposal should only be considered after the Urban Renewal Strategy and the development parameters in existing Outline Zoning Plans had undergone proper review. Some 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.

8. At the Panel meeting on 6 March 2008, deputations of professional organizations, owners' organizations, property owners and concern groups expressed diverse views on the Administration's proposal. Those deputations in support of the proposal considered that the current pace of redevelopment was too slow, and 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 would be worthwhile to lower the compulsory sale threshold.

9. To those deputations objecting to the proposal, the proposal did not provide adequate protection for private property rights, and the compensation offered by developers was often insufficient for owners to purchase back a similar flat. They considered that there should be comprehensive planning of the affected districts before implementing the proposal. Otherwise, many high-rise buildings would emerge, creating wall effect and destroying the characters of districts. These deputations held the view that the proposal should only be considered after the review of existing Outline Zoning Plans was completed.

The proposal in 2009

10. On 23 June 2009, the Administration briefed the Panel on its latest proposal to lower the application threshold for compulsory sale to 80% for the three classes of lots specified in the Notice. Under the proposal, the building age criterion has been revised to 50 years or above, and a new class of lot, i.e. a lot with all industrial buildings aged 30 years or above not located within an industrial zone, has been added.

11. Some Panel members supported the proposal and opined that there were views in the community that the pace of urban renewal should be expedited, and the proposal would facilitate owners to improve their living conditions through private redevelopment. As the quality and conditions of some old buildings built in 1960s were highly unsatisfactory, there would be no solution except redevelopment. Since URA would not have sufficient resources to undertake all redevelopment projects by itself, the wish of the majority of the owners who supported redevelopment should be respected. If these owners were satisfied with the sale proceeds from compulsory land sale, they should be allowed the chance of choosing a new living environment through compulsory land sale. These members considered that the mechanism of conducting public auction for the sale of these properties would be able to provide sufficient protection for minority owners. Moreover, the Lands Tribunal would have to be satisfied that redevelopment of the lot was justified before making an order for compulsory sale. Some members also pointed out that there were speculators who asked for unreasonably high prices despite the wish of the majority owners to accept the offer prices, and this could hamper the pace of redevelopment.

12. Some other members had strong reservation about the proposal and raised concerns about the adequacy of protection for minority owners and tenants, if the application threshold was lowered to 80%. They considered that the Administration should put in place measures to protect minority owners and tenants, such as enhancing the fairness and transparency of the valuation and auction processes; providing financial and professional assistance to minority owners; deducting the necessary costs for compulsory land sale from the sale proceeds before distribution; and enhancing and designing the compulsory sale mechanism to enable layman owners to redevelop their properties through the mechanism. These members also suggested that developers should consider offering owner participation in the redevelopment process, and other forms of compensation such as flat-for-flat or shop-for-shop compensation, and also rental subsidy. Some members considered that the proposal should only be taken forward after a review of the Urban Renewal Strategy and the role of URA. They were also concerned that as the Town Planning Board had not yet completed the review of existing Outline Zoning Plans to impose appropriate development controls, the acceleration of privately-led redevelopment projects would result in undue increase in development density.

13. The Panel held a special meeting on 16 July 2009 to receive public views on the Administration's latest proposal. Again, deputations from professional organizations, owners' organizations, property owners and concern groups had diverse views on the proposal. Those in support of the proposal considered that it could facilitate urban renewal and improve the living conditions of those living in old buildings. They pointed out that many owners wanted to redevelop their old buildings because it was extremely difficult to maintain the structure of those buildings. Given the rapid pace of urban decay, it was impossible to rely on public bodies alone to implement redevelopment

projects. Deputations objecting to the proposal considered that the proposal did not provide adequate protection for private property rights. Minority owners would have little chance of taking their case to court because of the high costs. Some deputations suggested that social impact assessments should be conducted, and more options such as owner participation and flat-for-flat and shop-for-shop compensation should be provided.

14. As regards the proposed inclusion of lots with all industrial buildings aged 30 or above located in non-industrial zones, some members held the view that the Administration's proposal would facilitate those industrial buildings to be converted for other uses. Some other members considered that instead of redeveloping old industrial buildings, relaxation on the uses of those industrial buildings could be considered.

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15. The Notice was gazetted on 22 January 2010 and tabled at the Legislative Council meeting on 27 January 2010. The Administration proposes to specify a lower application threshold of 80% for the following three classes of land lot --

- (a) a lot with units each of which accounts for more than 10% of the undivided shares in the lot;
- (b) a lot with all buildings aged 50 years or above; and
- (c) a lot with all industrial buildings aged 30 years or above not located within an industrial zone.

The Notice is at Annex to the Legislative Council Brief (File Ref.: DEVB(PL-UR)70/41/85) issued by the Development Bureau on 21 January 2010. The Notice will come into operation on 1 April 2010.

Relevant papers

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

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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 Panel on Planning, Lands and Works 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 Panel on Development 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
	<p>proposal to lower the compulsory land sale application threshold for specified classes of lots under the Land (Compulsory Sale for Redevelopment) Ordinance.</p>	<p>Minutes of meeting http://www.legco.gov.hk/yr07-08/english/panels/plw/minutes/de080122.pdf</p> <p>Information Note http://www.legco.gov.hk/yr07-08/english/panels/plw/papers/dev0306cb1-956-1-e.pdf</p>
<p>6 March 2008</p>	<p>The Panel on Development 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.</p>	<p>Submissions http://www.legco.gov.hk/yr07-08/english/panels/plw/papers/plw_h1.htm</p> <p>Minutes of meeting http://www.legco.gov.hk/yr07-08/english/panels/plw/minutes/de080306.pdf</p>
<p>23 June 2009</p>	<p>The Panel on Development discussed the Administration's further revised proposal to lower the compulsory land sale application threshold for specified classes of lots</p>	<p>Discussion paper http://www.legco.gov.hk/yr08-09/english/panels/dev/papers/dev0623cb1-1947-5-e.pdf</p> <p>Minutes of meeting http://www.legco.gov.hk/yr08-09/english/panels/dev/minutes/dev20090623.pdf</p>

Date	Meeting	References
	under the Land (Compulsory Sale for Redevelopment) Ordinance.	
16 July 2009	The Panel on Development received views from deputations on the Administration's further 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/yr11-12/english/panels/dev/papers/dev_h1.htm Minutes of meeting http://www.legco.gov.hk/yr08-09/english/panels/dev/minutes/dev20090716.pdf