

For information on
19 February 2010

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

**Summary of Key Issues Covered in Past Lands Tribunal Judgments on
Applications for Compulsory Sale under the
Land (Compulsory Sale for Redevelopment) Ordinance**

Purpose

This paper provides a summary of the key issues covered in 11 past Lands Tribunal judgments on applications for compulsory sale under the Land (Compulsory Sale for Redevelopment) Ordinance (“the Ordinance”).

Case Summary

2. Since the coming into operation of the Ordinance in 1999 and until January 2010, there have been 21 cases for which compulsory sale orders were issued and one case in which the application for compulsory sale was dismissed. We have obtained from public channels written judgments on 10 of the cases for which sale orders were issued and on the one case in which application was dismissed. We have set out at **Annexes I to XI** our analyses of these cases, including how the minority owners can lodge disputes at the Lands Tribunal (“the Tribunal”) hearing; the considerations of the Tribunal before it decides whether redevelopment is justified; and how the minority owners can share the value of the redevelopment potential of the lot in question.

**Development Bureau
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(1) Case Study (Case no. LDCS 2000/2001)

- ◆ No. 28, Ming Yuen Western Street, was under application for compulsory sale.
- ◆ The judgments were handed down on 5 December 2002 and 20 April 2006.
- ◆ In this case, the Respondent disputed the application for compulsory sale. The major issues in dispute to be decided by the Tribunal in this case included:
 - (a) whether the assessment of the existing use value (EUV) was reasonable;
 - (b) whether redevelopment was justified on the ground of age or state of repair of the existing buildings sitting on the lot;
 - (c) whether the Applicant had taken reasonable steps to acquire all the undivided shares of the lot; and
 - (d) whether the redevelopment value (RDV) of the lot assessed by the Applicant was reasonable.

Assessment of EUV

- ◆ In the case, the Applicant followed the requirement in the Ordinance to submit its EUV report to the Tribunal. The Respondent also submitted its valuation report. After hearing the expert valuation reports of both sides, the Tribunal decided to adopt the EUV report of the Applicant.

Age or State of Repair of the Building

- ◆ Under section 4(2)(a) of the Ordinance, the Tribunal must be satisfied that the redevelopment of the lot is justified due to the age or state of repair of the existing development on the lot. In the present case, upon hearing the evidence of both parties, and upon consideration, the Tribunal decided that as the buildings were already demolished, the

Tribunal would only need to consider section 4(2)(b) and there was not need to consider section 4(2)(a).

Reasonable Steps Taken to Acquire All Undivided Shares of the Lot

- ◆ In the present case, there was only one Respondent who could not reach agreement for sale with the Applicant at the end. The Applicant had made repeated offers to the Respondent. The negotiation process is recapitulated as follows-

Date	Offers made
16.6.2001	The Applicant offered \$1,969,000
6.7.2001	The Applicant offered to increase the acquisition price to \$2,050,000
24.7.2001	The Applicant offered to increase the acquisition price to \$2,100,000
26.7.2001	The Applicant offered to increase the acquisition price to \$2,500,000

- ◆ The Respondent counter-offered an acquisition price of \$15,000,000 but without explanation on the basis.
- ◆ Having studied the evidence of both parties, the Tribunal was satisfied that the Applicant had taken reasonable steps to make offers to the Respondent. The Tribunal finally decided to issue the order for compulsory sale.

RDV of the Lot

- ◆ The Tribunal decided to adjourn the hearing until after the submission of details on the appointment of trustees etc by the parties. At the adjourned hearing, both parties could make further submission on the reserve price.

- ◆ The Tribunal resumed hearing in March 2006. The Applicant submitted the RDV of the lot. After considering the valuation report, the Tribunal handed down judgment and accepted the RDV of the lot in the sum of \$15,790,000 as submitted in the Applicant's valuation report as the reserve price.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that the lot is justified for redevelopment on the ground of age or state of repair; and the Applicant has taken reasonable steps to acquire the units of the minority owners by making fair and reasonable offers. As seen in this case, the Tribunal carefully examined the evidence produced before it decided on whether the Applicant had met the requirements set out in the Ordinance.
- ◆ In this case, the Tribunal had settled the issues in dispute and heard the grounds for opposition of the minority owners before it decided whether to issue the sale order. The Tribunal also determined the reserve price taking into account the redevelopment potential of the lot to ensure that the minority owners could get reasonable compensation and had a share in the value of the lot reflecting its redevelopment potential.

Supplementary Information

- ◆ The Respondent had, in the course of the case, taken leave to appeal to the Court of Final Appeal on the points that the Ordinance should not apply to "vacant land" and that the Applicant had not negotiated for the purchase of its undivided shares on terms that were fair and reasonable. The appeal was not successful.

(2) Case Study (Case no. LDCS 1000/2003)

- ◆ The lot under application lay at nos 13 and 15, Tai Hang Road. Lai Sing Court was erected on the lot. The building was completed 35 years ago.
- ◆ The judgment was handed down on 25 November 2004.
- ◆ In the case, there were 9 Respondents. At the time of the application, one Respondent passed away and the beneficiary had yet to be granted probate or letters of administration. Four others could have joined the Applicants but for title defects. The other three joined as Respondents because they were the predecessors in title of three of above four. The last was a mortgagee as one subject unit was foreclosed. Before the grant of a compulsory sale order, the Tribunal had to consider the conditions set out in the Ordinance. In the main, they were -
 - (a) whether the redevelopment was justified on the ground of age or state of repair of the existing building on the Lot; and
 - (b) whether the Applicants had taken reasonable steps to acquire all the undivided shares of the lot.

Assessment of Existing Use Value (EUV)

- ◆ In this case, the Applicants submitted an expert's valuation report. The Respondents did not dispute the Applicant's EUV assessment of the individual units.

Age or State of Repair of the Building

- ◆ In considering whether the lot is justified for redevelopment, the Tribunal will have regard to the age or state of repair of the building on the lot in question. In this case, upon hearing the evidence of the Applicant, after consideration, the Tribunal was satisfied that redevelopment of the lot was justified based on the state of repair of the existing building.

Reasonable Steps Taken to Acquire All Undivided Shares of the Lot

- ◆ In the case, the Respondents did not dispute the EUV of individual units. After hearing, the Tribunal was satisfied that the Applicants had taken reasonable steps to acquire all the undivided shares of the lot. The Tribunal finally decided to issue the compulsory sale order.

RDV of the Lot

- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at public auction after the grant of an order for compulsory sale shall be approved by the Tribunal, taking into account the redevelopment potential of the lot. In this case, the Applicants submitted the valuation report. After consideration, the Tribunal accepted the RDV of the lot provided in the valuation report in the sum of **\$1,209,000,000** as the reserve price for the public auction.

Decision on Cost

- ◆ The Tribunal gave liberty to the trustees, the Applicants and the Respondents to apply but would not make any order of costs.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that the lot is justified for redevelopment on the ground of its age or state of repair; the majority owner has taken reasonable steps to acquire the unit of the minority owner by making fair and reasonable offer. As seen in this case, the Tribunal has carefully examined the evidence produced before it decided on whether the Applicants had met the requirements as set out in the Ordinance.
- ◆ Further, in the case, the Tribunal had determined the reserve price, taking into account the redevelopment potential of the lot to ensure that

the minority owners could get reasonable compensation and had a share in the value of the lot reflecting its redevelopment potential.

(3) Case Study (Case no. LDCS 2000/2004)

- ◆ . The lots under application lay at nos. 4, 4A ,6 & 6A, Castle Steps. The occupation permit of the building on the lots was issued on 16 August 1955.
- ◆ . The judgment was handed down on 17 January 2005.
- ◆ . In the case, there were 3 Respondents, 2 of which could not be located and they were absent throughout the hearing. One Respondent objected to the application for sale order. In this case, the Tribunal had to decide on the following major issues in dispute before it could determine whether the order for compulsory sale should be made:
 - (a) whether the assessment of the existing use value (EUV) of individual units of the existing building was reasonable;
 - (b) whether the redevelopment was justified on the ground of age or state of repair of the existing building sitting on the lots; and
 - (c) whether the Applicants had taken reasonable steps to acquire all the undivided shares of the lots.

Assessment of Existing Use Value (EUV)

- ◆ . In this case, the Applicants submitted an expert's valuation report. Immediately before commencement of the trial, the Respondent who opposed the application for sale order reached a sale agreement with the Applicants and withdrew the opposition. As the whereabouts of the other 2 Respondents were still unknown, the Applicants were still required to satisfy the Tribunal that the EUV assessments of their properties were fair and reasonable. Having considered the Applicants' valuation report, the Tribunal decided to accept the valuation of the Applicants.

Age or State of Repair of the Building

- ◆ Although the Respondent who objected to the application for sale order had withdrawn the objection, the Applicants were still required to satisfy

the Tribunal that redevelopment was justified on the ground of age or state of repair of the development on the lots.

- ◆ The Applicants submitted expert reports to the Tribunal. The Tribunal finally decided that the Applicants had proved to the Tribunal's satisfaction that the redevelopment of the lots was justified on the ground of state of repair.

Reasonable Steps Taken to Acquire All Undivided Shares of the Lot

- ◆ The Applicants had reached a sale agreement with the Respondent. There was no dispute on whether the Applicants had taken reasonable steps to acquire all the undivided shares of the Lot. The Tribunal finally decided to issue the order for compulsory sale.

RDV of the Lot

- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at public auction after the grant of an order for sale shall be approved by the Tribunal, taking into account the redevelopment potential of the lot. In this case, the Applicant had submitted the valuation report. After consideration, the Tribunal accepted the RDV of the lots provided in the valuation report in the sum of **\$126,000,000** as the reserve price for the public auction.

Decision on Cost

- ◆ The Tribunal gave liberty to the trustees, the Applicants and the Respondents to apply but would not make any order of costs.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that redevelopment is justified on the ground of age or state of repair of the development on

the lot; and the Applicant has taken reasonable steps to acquire the unit of the minority owner by making fair and reasonable offer. As seen in this case, the Tribunal had carefully examined the evidence produced before it decided on whether the Applicants had met the requirements as set out in the Ordinance.

- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at public auction after the grant of an order for sale shall be approved by the Tribunal. When the Tribunal determines the reserve price, it shall take into account the redevelopment potential of the lot to ensure that the minority owner could get reasonable compensation and have a share in the value of the lot reflecting its redevelopment potential. As seen in the case, the Lands Tribunal had carefully followed the Ordinance to determine the reserve price to protect the interest of the minority owners.

(4) Case Study (Case no. LDCS 3000/2005)

- ◆ The lot under application lay at Chun Fai Terrace and Villa Splendor was erected on the lot. The building was built 40 years ago.
- ◆ The judgment was handed down on 26 February 2007.
- ◆ In the case, the Applicants had acquired all the properties except one. The owner of this one property had already passed away. According to his will, there were 5 beneficiaries of the estate. Eventually, there was only one beneficiary, that is, the only Respondent, who filed an opposition to the application for sale order. The Tribunal in the case Had to decide on the following major issues in dispute:
 - (a) whether the assessment on the existing use value (EUV) of individual units of the building was reasonable;
 - (b) whether the redevelopment was justified on the ground of age or state of repair of the existing building on the lot;
 - (c) whether the Applicants had taken reasonable steps to acquire all the undivided shares of the lot.

Assessment of EUV

- ◆ The Respondent eventually did not dispute whether the EUV assessment of individual units was reasonable or not.

Age and State of Repair of the Building

- ◆ In considering whether redevelopment is justified, the Tribunal will have regard to the age or state of repair of the existing buildings on the lot in question. In this case, the Tribunal heard the Applicants' evidence. After consideration, the Tribunal concluded that the Applicants had proved to the satisfaction of the Tribunal that redevelopment of the lot was justified on the ground of the age and state of repair of the existing building.

Reasonable Steps Taken to Acquire All Undivided Shares of the Lot

- ◆ In this case, the Applicants made several offers to acquire the property of the Respondent. The offers ranged from **\$30,000,000** up to **\$34,925,000**. After the submission of the application for sale order, the Applicants increased the offer to **\$42,500,000**. The Respondent asked for an acquisition price of **\$77,780,000**.
- ◆ The major dispute between the Applicants and the Respondent was the redevelopment plot ratio of the lot. The Tribunal, having heard the evidence from the experts of both parties, decided to accept the plot ratio given in the valuation report of the Applicants' expert. (The Respondent contended that although the relevant Outline Zoning Plan (OZP) permitted a plot ratio of 5 only, a related company of the Applicants had already obtained a set of approved plans with a plot ratio 9 before the OZP imposed the plot ratio. The redevelopment value therefore should be assessed on the plot ratio 9 but this point was not accepted by the Tribunal.)
- ◆ To calculate the RDV on the basis of the determined plot ratio, the Respondent's expert had assessed the RDV at **\$44,604,800**. The last offer from the Applicants was **\$42,500,000**. The Tribunal accepted that the Applicants' offer was apparently within the fair and reasonable range.
- ◆ The Tribunal was satisfied that the Applicants had taken reasonable steps to acquire all the undivided shares of the lot. The Tribunal finally decided to issue the compulsory sale order.

RDV of the Lot

- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at public auction after the grant of an order for sale shall be approved by the Tribunal, taking into account the redevelopment potential of the lot. In this case, the experts of both parties submitted valuation reports. The Tribunal, having considered their evidence, decided to accept the RDV in the Respondent's expert report based on the redevelopment plot ratio decided above. The RDV of the lot in the valuation report at **\$508,890,000** was adopted as the reserve price for the public auction.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that redevelopment is justified on the ground of age or state of repair of the existing building on the lot; and the majority owner has taken reasonable steps to acquire the unit of the minority owner by making fair and reasonable offer. As seen in this case, the Tribunal had carefully examined the evidence produced before it decided on whether the Applicants had met the requirements as set out in the Ordinance.
- ◆ In the case, the Tribunal had settled the issues in dispute and heard grounds for opposition of the minority owner before it decided to make the sale order. The Tribunal also determined the reserve price taking into account the redevelopment potential of the lot to ensure that the minority owner could get reasonable compensation and have a share in the value of the lot reflecting its redevelopment potential.

Decision on Cost

- ◆ The Tribunal decided that the Respondent should pay the Applicants their costs of application.

(5) Case Study (No. LDCS 11000 / 2006)

- ◆ Kam Kwok Building and National Building, built in 1961, were erected on the lots under application for compulsory sale.
- ◆ The judgment was handed down on 23 June 2008.
- ◆ The major issues in dispute to be decided by the Tribunal in this case included:
 - (a) whether the assessment of the existing use value (EUV) of individual units of the two buildings was reasonable;
 - (b) whether redevelopment was justified on the ground of age or state of repair of the existing buildings sitting on the lots;
 - (c) whether the Applicant had taken reasonable steps to acquire all the undivided shares of the Lots;
 - (d) whether the redevelopment value (RDV) of the lots assessed by the Applicant was reasonable.

Assessment of EUV

- ◆ If the Tribunal makes an order for sale for the application and the sale is completed, the minority owners shall receive their proportionate share of the sale proceeds by reference to the ratio between the determined EUV of their respective unit and the total EUV of the buildings as determined by the Tribunal.
- ◆ Both the Applicant and the Respondent submitted their expert valuation reports in this case. The dispute of these valuations mainly concerned which date was the correct valuation date; whether the transactions used as reference comparables for the valuation of the residential units were appropriate; and whether the methodology adopted in the valuation of the commercial/retail units was appropriate. The Tribunal had paid a site visit to the area and the two buildings. Having studied the evidence from the experts of both parties and the information collected during the visit, the Tribunal made a decision after stating clearly the grounds for accepting or declining the valuation reports of both parties

on the EUV of individual units as attached in the appendices to the judgment.

- ◆ The Tribunal finally decided that the total EUV of all residential units of the two buildings was \$453,850,816 (\$353,705,024 for Kam Kwok Building and \$100,145,792 for National Building).
- ◆ The Tribunal also decided that the total EUV of the commercial/retail units of the two Buildings was \$184,049,336 (\$146,982,314 for Kam Kwok Building and \$37,067,022 for National Building).

Age or State of Repair of the Buildings

- ◆ In considering whether redevelopment of the lot is justified, the Tribunal will have regard to the age or state of repair of the existing buildings on the lot in question.
- ◆ On the ground of age, whether the old building has reached the end of its physical life; whether the old building has reached the end of its economic lifespan. The economic lifespan of the building will have come to an end when the cleared site value of the lot significantly exceeds the existing use value of the building, provided that it can be demonstrated that the building has so come to the end of the economic lifespan because of its age as reflected by features of obsolescence. After the evidence of the experts of both parties was heard, the Tribunal decided that redevelopment of the lots was justified on the ground of age.
- ◆ On the ground of state of repair, the Tribunal is entitled to look at the following: the state of repair of the old building is such that it has rendered the building a danger to the residents or the public at large; the state of repair of the old building is such that it has rendered the building coming to the end of its economic lifespan in that it has become economically unworthy to repair. This will include the following situations where the cost of repair exceeds the existing use value of the building, or the cost of repair significantly exceeds the enhancement value arising from or attributable to the repair. After the evidence of the parties was heard, the Tribunal was of the view that given the substantial amount of repair cost that would need to be invested, a

reasonable person would not find it economically worthwhile to proceed with the repair and maintenance in the present case. Under such circumstances, the Tribunal decided that the Applicant had proved to the Tribunal's satisfaction that the redevelopment of the lot was justified for the two buildings on the ground of state of repair.

Reasonable Steps Taken to Acquire All the Undivided Shares of the Lots

- ◆ In the present case, the Applicant had altogether made four formal offers to the minority owners to purchase their units. The Applicant's representatives had also held various meetings with some of the minority owners. This was supported by meeting records. The Tribunal therefore decided that the Applicant had taken reasonable steps in acquisition.
- ◆ As regards the acquisition prices offered, the Tribunal, after the hearing, was satisfied that the offer made by the Applicant to the minority owners to purchase their units fell within the range of what might broadly be regarded as fair and reasonable compensation for the interests in question.

RDV of the Lots

- ◆ In determining the proper redevelopment value of the lots, the Lands Tribunal considered the respective valuations provided in the expert reports of the two parties and the evidences given by the respective expert surveyor firm acting for the Applicant and for the Respondent respectively. In this case, as the property market was on the rise at the material time, the Tribunal accepted the submission of the representative for the Respondent that the Tribunal should make upward adjustment to the redevelopment value based on valuation to reflect the likely increase in valuation with the passage of time between the date of the updated valuation and the anticipated auction date. The judgment recorded that the Tribunal accepted the submission of the representative for the Respondent, having considered that the legislative objective of the redevelopment value was to enable the Tribunal to fix a reserve price for the sale of the subject buildings in an auction that would protect the interests of the minority owners. The Tribunal also gave a view that it

could have directed a further hearing on the updated redevelopment valuations if this was possible and practicable without causing any injustice to any parties but it had decided against directing a further hearing to avoid further delay of the matter. The Tribunal decided that the reserve price for the sale by auction was \$1,421,124,000.

Decision on Cost

- ◆ Since the Applicant only asked for the payment of cost by that Respondent who purchased the unit after the application had been made, the Tribunal made a costs order nisi that the concerned Respondent shall pay the costs of the application to the Applicant in relation to the concerned Respondent's case.

On the Basic Law

- ◆ As three of the Respondents contended that the Ordinance was in contravention of Articles 29 and 105 of the Basic Law, the Tribunal had to decide whether the Ordinance contravened Article 29 which provides that the premises of Hong Kong residents shall be inviolable, and Article 105 which provides that the Hong Kong Special Administrative Region shall, in accordance with law, protect the right of private property and make compensation which shall correspond to the real value of the property concerned at the time and shall be in cash for lawful deprivation of their property. It was decided that the oppositions raised were invalid and without merits.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that redevelopment of the lot is justified on the ground of age or state of repair of the existing development on the lot; and the majority owner has taken reasonable steps to acquire the unit of the minority owner by making fair and reasonable offers. As seen in this case, the Tribunal had carefully examined the evidence produced before it decided on whether the

Applicant had met the requirements set out in the Ordinance.

- ◆ Further, in this case, the Tribunal had settled the issues in dispute and heard the grounds for opposition of the minority owners before it decided to make the sale order. The Tribunal also determined the reserve price taking into account the redevelopment potential and the current market price of the lots to ensure that the minority owners could get reasonable compensation and had a share in the value of the lot reflecting its redevelopment potential.

(6) Case Study (No. LDCS 5000/2007)

- ◆ The lot under application for compulsory sale was situated at 44-46 Haven Street. The occupation permit of the Building was issued on 16 May 1958.
- ◆ The judgment was handed down on 20 March 2009.
- ◆ In this case, there was only one remaining shop unit at ground floor, no. 44 of Haven Street where the Applicant failed to acquire through an agreement for sale with its owner. As such, there was only one Respondent. This Respondent opposed to the application for the order for compulsory sale. In the case, the Tribunal had to decide on the following major issues in dispute before it could determine whether the order for compulsory sale should be made:
 - (a) whether the assessment of the existing use value (EUV) of individual units of the existing building was reasonable;
 - (b) whether the redevelopment was justified on the ground of age or state of repair of the existing building sitting on the lot;
 - (c) whether the Applicant had taken reasonable steps to acquire all the undivided shares of the lot;
 - (d) whether the redevelopment value (RDV) of the lot assessed by the Applicant was reasonable.

Assessment of EUV

- ◆ In the case, the Applicant submitted to the Tribunal a valuation report of the EUV of all units of the existing building in accordance with the Ordinance. The EUV of the shop at no. 44 of Haven Street was valued at **\$3,590,000**. In the valuation report submitted by the Respondent to the Tribunal, the value of the shop at no. 44 of Haven Street was at **\$10,225,143**. There was much dispute between the surveyors of both parties on the valuation of the shop. The Tribunal paid a site visit to the shop units with transactions which were quoted as reference comparables in the valuation reports from both parties. Having studied the evidence from the experts of both parties and the information

collected during the visit, the Tribunal gave the view that it had obtained sufficient information to conduct its own assessment on the valuation of the shop to come up with a decision. The Tribunal decided that the EUV of the Respondent's shop unit should be **\$4,580,000**.

- ◆ The Respondent no longer contended the EUV assessment of the domestic units of the Applicant. After consideration, the Tribunal accepted the valuation report on the domestic units provided by the Applicant.

Age or State of Repair of the building

- ◆ In considering whether the lot is justified for redevelopment, the Tribunal will have regard to the age or state of repair of the existing buildings on the lot in question.
- ◆ On the ground of age, whether the old building has reached the end of its physical life; whether the old building has reached the end of its economic lifespan. According to the Tribunal, the economic lifespan of the building comes to an end when the cleared site value of the lot significantly exceeds the EUV of the building, provided that it can be demonstrated that the building has so come to the end of the economic lifespan because of its age as reflected by features of obsolescence. After the evidence of the experts of both parties was heard, the Tribunal decided after consideration that redevelopment of the lot was justified on the ground of age.
- ◆ On the ground of state of repair, the Tribunal is entitled to look at: the state of repair of the old building is such that it has rendered the building a danger to the residents or the public at large; the state of repair of the old building is such that it has rendered the building coming to the end of its economic lifespan in that it has become economically unworthy to repair. This includes situation where: the cost of repair exceeds the EUV of the building, or the cost of repair significantly exceeds the enhancement value arising from or attributable to the repair.
- ◆ In the case, the Respondent indicated that the owners of the building had completed in 2007 the essential repair works at a cost of approximately \$400,000 to comply with the Building Order issued by the Buildings

Department. It is indicated in the Applicant's expert report that \$400,000 spent for the repair works was mainly essential in nature. No work has been carried out in some areas including the internal areas of the flats nor had any improvement been made to the underground drainage, electrical, fire services and lift installations of the building.

- ◆ The Applicant submitted the expert's report to the Tribunal and stated that the cost of a full range of repairs for the Building was about **\$6,300,000** and the enhancement value was **\$2,900,000**. The Respondent considered that the cost of repair could be reduced. The Tribunal indicated that even if the Respondent's argument for reduced repair cost was accepted, the estimated repair cost, however, still remained at around **\$5,000,000** at the least. The Tribunal accepted that the building had reached the end of its economic lifespan and had become economically unworthy to repair as the cost of repair substantially exceeded the enhancement value. The Tribunal reached its final decision that the Applicant had proved to the satisfaction of the Tribunal that the lot was justified for redevelopment on the ground of state of repair.

Reasonable Steps Taken to Acquire All Undivided Shares of the Lot

- ◆ In the case, there was only one Respondent in the end who had not reached an agreement for sale with the Applicant. The Applicant had offered to acquire the unit from the Respondent five times. The negotiation process is recapitulated as follows-

Date	Offers Made
16.4.2007	The Applicant offered \$6,000,000
2.5.2007	The Applicant offered to increase the acquisition price to \$7,000,000
11.6.2007	The Applicant revised the acquisition price to \$8,000,000
27.7.2007	The acquisition price offered by the Applicant

	remained at \$8,000,000
22.4.2008	The Applicant offered to increase the acquisition price to \$11,715,000

- ◆ The Tribunal stated that the offer nearest to the date of application for the sale order was made on 27.7.2007. The Applicant made an offer of **\$8,000,000** at the time. Based on the RDV and the total EUV of the existing building stated in the valuation report, and the assessment of the value of the shop unit at no. 44 of Haven Street in the Respondent's valuation report, the Respondent might receive a proportionate share of **\$7,100,000** by reference to the ratio worked out. Comparing the proportionate share with the Applicant's offer of **\$8,000,000**, the Tribunal accepted that the Applicant's offer was within the fair and reasonable range.
- ◆ Having examined the evidence of the Applicant, the Tribunal was satisfied that the Applicant had taken reasonable steps to make offers to the Respondent. The Tribunal finally decided to issue the order for compulsory sale.

RDV of the Lot

- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at public auction after the grant of an order for sale shall be approved by the Tribunal, taking into account the redevelopment potential of the lot. In this case, the Applicant submitted his expert's valuation report. After consideration, the Tribunal gave the view that the expert's valuation report of the Applicant complied with the requirement of the Ordinance. The RDV of the lot in the sum of **\$70,500,000** set out in the Applicant's valuation report was accepted by the Tribunal as the reserve price.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that the redevelopment of

the lot is justified on the ground of age or state of repair; and the Applicant has taken reasonable steps to acquire the unit of the Respondent (i.e. the minority owner) by making fair and reasonable offers. As seen in this case, the Tribunal had carefully examined the evidence produced before it decided on whether the Applicant had met the requirements set out in the Ordinance.

- ◆ In this case, the Tribunal had settled the issues in dispute and heard the grounds for opposition of the minority owner before it decided to make the sale order. The Tribunal also determined the reserve price taking into account the redevelopment potential of the lot to ensure that the minority owner could get reasonable compensation and have a share in the value of the lot reflecting its redevelopment potential.
- ◆ As seen in the judgment, the Tribunal had taken full account of the essential repair works completed in 2007 for compliance with the Building Order, and noticed that the sum of about \$400,000 spent on the repair works was mainly essential in nature and failed to provide comprehensive improvement to the building conditions. This can help clarify the query why compulsory sale of the lot in question was allowed only two years after repair works had been undertaken.

Decision on Cost

- ◆ The Tribunal noted that voluminous expert reports had been filed by the Respondent concerned and it was not until in the course of the trial that the Respondent preferred not to call their experts, and the Tribunal finally accepted the Applicant's expert report. As extra efforts and costs had been incurred by the Applicant to deal with all the contentions submitted by the Respondent, the Tribunal determined that the Respondent shall bear 90% of the Applicant's costs in this application.

Supplementary Information

- ◆ According to the background information provided by the Applicant before the Tribunal, the Applicant had a plan to acquire the lots at nos. 32-50 at Haven Street for redevelopment. The Applicant made offers to the property owners of the building on the above lots during the

period between January and February of 2007.

- ◆ The records of the Land Registry show that the Applicant has yet to succeed in acquiring all the units of the buildings at nos. 36-42, Haven Street.

(7) Case Study (Case no. LDCS 6000/2007)

- ◆ The lot for compulsory sale lay at nos. 48-50 of Haven Street. The occupation permit of the building on the lot was dated 16 May 1958.
- ◆ The judgment was handed down on 27 March 2009.
- ◆ In this case, there was only one remaining shop unit at ground floor, no. 50 of Haven Street where the Applicant failed to acquire through an agreement for sale with its owner. The owner of the shop unit opposed the application for the order for compulsory sale. In the case, the Tribunal had to decide on the following major issues in dispute before it could determine whether the order for compulsory sale should be made:
 - (a) whether the assessment of the existing use value (EUV) of individual units of the existing Building was reasonable;
 - (b) whether the redevelopment was justified on the ground of age or state of repair of the existing building sitting on the lot;
 - (c) whether the Applicant had taken reasonable steps to acquire all the undivided shares of the lot;
 - (d) whether the redevelopment value (RDV) of the lot assessed by the Applicant was reasonable.

Assessment of EUV

- ◆ In the present case, the Applicant submitted to the Tribunal a valuation report of the EUV of all units of the existing building in accordance with the Ordinance. The EUV of the shop at no. 50 of Haven Street was valued at **\$3,780,000**. In the valuation report submitted by the Respondent to the Tribunal, the value of the unit was assessed at **\$8,860,000**. There was much argument regarding the valuation of the shop unit. The Tribunal made a site visit to the shop units with transactions which were quoted as reference comparables in the valuation reports from both parties. Having studied the evidence from the experts of both parties and the information collected during the visit, the Tribunal made a decision after stating the grounds for not accepting

the values assessed by both parties that the EUV of the Respondent's shop unit should be **\$4,730,000**.

- ◆ At the hearing, the Applicant, after negotiating with the Respondent, revised the valuation of the domestic units. There was no further dispute. The Tribunal therefore accepted the revised valuation.

Age or State of Repair of the Building

- ◆ In considering whether redevelopment of the lot is justified, the Tribunal will have regard to the age or state of repair of the building on the lot in question.
- ◆ On the ground of age, whether the old building has reached the end of its physical life; whether the old building has reached the end of its economic lifespan. The economic lifespan of a building comes to an end when the cleared site value of the lot significantly exceeds the existing use value of the building, provided that it can be demonstrated that the building has so come to the end of its economic lifespan because of its age as reflected by features of obsolescence. After the evidence of the experts of both parties was heard, the Tribunal decided after consideration that redevelopment of the lots was justified on the ground of age.
- ◆ On the ground of state of repair, the Tribunal is entitled to look at: the state of repair of the old building is such that it has rendered the building a danger to the residents or the public at large; the state of repair of the old building is such that it has rendered the building coming to the end of its economic lifespan, in that it has become economically unworthy to repair. This includes situations where the cost of repair exceeds the existing use value of the building, or the cost of repair significantly exceeds the enhancement value arising from or attributable to the repair.
- ◆ The Applicant submitted the expert's report to the Tribunal and stated that the cost of a full range of repair for the building was about **\$6,800,000** and the enhancement value was **\$3,100,000**. The Tribunal noted that it was not sure whether internal repair was required for some units. Assuming that the units would not need internal repair, the cost might be reduced. The estimated repair costs, however, still remained

at around **\$6,000,000**. The Tribunal accepted that the building had reached the end of its economic lifespan and had become economically unworthy to repair where the costs of repair substantially exceeded the enhancement value. The Tribunal reached its final decision that the Applicant had proved to the satisfaction of the Tribunal that redevelopment of the lot was justified on the ground of state of repair.

Reasonable Steps Taken to Acquire All Undivided Shares of the Lot

- ◆ In the case, there was only one Respondent who had not reached agreement for sale with the Applicant. The Applicant had offered to acquire the unit from the Respondent three times. The negotiation process is recapitulated as follows-

Date	Offers Made
11.4.2007	The Applicant offered \$6,500,000
20.4.2007	The Applicant offered to increase the acquisition price to \$7,000,000
9.5.2007	The Applicant revised the acquisition price to \$8,000,000

- ◆ The Tribunal stated that the offer nearest to the date of application for the sale order was made on 9.5.2007. The Applicant made an offer of **\$8,000,000**. Based on the RDV and the total EUV of the existing building stated in the valuation report, and the assessment of the value of the shop unit at no. 50 of Haven Street in the Respondent’s valuation report, the Respondent might receive a proportionate share of **\$6,760,000** by reference to a ratio worked out. Comparing the proportionate share with the Applicant’s offer of **\$8,000,000**, the Tribunal accepted that the Applicant’s offer was within the fair and reasonable range.
- ◆ The Tribunal was satisfied that the Applicant had taken reasonable steps to make offers to the Respondent. The Tribunal finally decided to issue the order for compulsory sale.

RDV of the Lot

- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at public auction after the grant of an order for sale shall be approved by the Tribunal, taking into account the redevelopment potential of the lot. In this case, both the Applicant and the Respondent submitted their experts' valuation reports. After consideration, the Tribunal did not accept the valuation stated in the Respondent's report on the grounds detailed in the judgment. The Applicant's RDV of the lot in the sum of **\$72,000,000** was accepted by the Tribunal as the reserve price.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that redevelopment of the lot is justified on the ground of age or state of repair; and the Applicant has taken reasonable steps to acquire the unit of the Respondent, that is, the minority owner, by making fair and reasonable offers. As seen in this case, the Tribunal had carefully examined the evidence produced before it decided on whether the Applicant had met the requirements set out in the Ordinance.
- ◆ In this case, the Tribunal had settled the issues in dispute and heard the grounds for opposition of the minority owner before it decided to make the sale order. The Tribunal also determined the reserve price taking into account the redevelopment potential of the lot to ensure that the minority owner could get reasonable compensation and have a share in the value of the lot reflecting its redevelopment potential.

Decision on Cost

- ◆ During the course of the hearing, most of the time had been devoted to hearing the dispute on valuation and eventually, the Tribunal adopted most of the valuations in the Applicant's expert report. The Tribunal therefore made a cost order nisi that the Respondent shall bear 80% of

the Applicant's costs in the application.

Supplementary Information

- ◆ The Applicant of this case is the same Applicant of case no. LDCA 5000/2007. According to the background information provided by the Applicant before the Tribunal during the hearing of the latter case, the Applicant had a plan to acquire the lots of nos. 32-50 at Haven Street for redevelopment. The Applicant made offers to the property owners of the buildings on the above lots during the period between January and February of 2007.
- ◆ The records of the Land Registry show that the Applicant has yet to succeed in acquiring all units of the buildings at nos. 36-42 of Haven Street.

(8) Case Study (Case no. LDCS 9000/2007)

- ◆ The lot under application lay at nos. 211-215C, Prince Edward Road West, and a building was erected on the lot.
- ◆ The judgment was handed down on 27 February.2009.
- ◆ In the case, the Applicant was able to purchase all properties except one unit whose owner had already passed away. The successors to the property had no objection to selling the unit to the Applicant but the grant of probate had yet to be issued. They were not able to complete the sale and purchase with the Applicant. They were the only Respondents in the case and they did not oppose to the application for the sale order. Before the Tribunal decided whether to issue a sale order, it had to be consider the following conditions stipulated in the Ordinance:
 - (a) whether the redevelopment was justified on the ground of age or state of repair of the existing building on the lot; and
 - (b) whether the Applicant had taken reasonable steps to acquire all undivided shares of the lot.

Assessment of Existing Use Value (EUV)

- ◆ In this case, the Applicant submitted an expert's valuation report. The Respondents did not dispute the Applicant's EUV assessment of the individual units. The Tribunal decided to accept the valuation report submitted by the Applicant.

Age or State of Repair of the Building

- ◆ . In considering whether redevelopment of the lot is justified, the Tribunal will have regard to the age or state of repair of the building on the lot in question.
- ◆ On the ground of age, the Tribunal considered the evidence from the Applicant's expert. After consideration, the Tribunal was satisfied that the existing building on the lot had reached the end of its economic life

as the cleared site value of the subject lot significantly exceeded the value of its existing use because of its age as reflected by features of obsolescence. The Tribunal decided that redevelopment of the lot was justified on the ground of age.

- ◆ On the ground of state of repair, the Applicant submitted expert reports to the Tribunal. The Tribunal accepted that the cost of repair for the building was not economically justified.
- ◆ The Tribunal concluded that the Applicant had proved to the satisfaction of the Tribunal that redevelopment of the lot was justified on the ground of age and state of repair of the building on the lot.

Reasonable Steps Taken to Acquire All Undivided Shares of the Lot

- ◆ In the case, the Applicant was able to purchase all properties except one unit whose owner had already passed away. The successors to the property had no objection to selling the unit to the Applicant. Sale agreement was reached but the sale could not be completed as the grant of probate had not been issued. The Respondents did not dispute the offer made by the Applicant. In fact, the Applicant had successfully reached sale and purchase agreements with all the owners of the lot except the last one on account of unclear title of the subject property.
- ◆ The Tribunal was satisfied that the Applicant had taken reasonable steps to make offers to the Respondent. The Tribunal finally decided to issue the order for compulsory sale.

RDV of the Lot

- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at public auction after the grant of an order for sale shall be approved by the Tribunal, taking into account the redevelopment potential of the lot. In this case, the Applicant submitted the valuation report. After consideration, the Tribunal accepted the RDV of the Lot provided in the valuation report in the sum of **\$345,000,000** as the reserve price for the public auction.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that redevelopment of the lot is justified on the ground of the age or state of repair of the existing development on the lot; and the Applicant has taken reasonable steps to acquire the unit of the Respondent (i.e. the minority owner) by making fair and reasonable offer. As seen in this case, the Tribunal had carefully examined the evidence produced before it decided on whether the Applicants had met the requirements as set out in the Ordinance.

- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at public auction after the grant of an order for sale shall be approved by the Tribunal. When the Tribunal determines the reserve price, it shall take into account the redevelopment potential of the lot to ensure that the minority owner could get reasonable compensation and have a share in the value of the lot reflecting its redevelopment potential. As seen in the case, the Lands Tribunal had carefully following the Ordinance to determine the reserve price to protect the interests of the minority owners.

(9) Case Study (Case no. LDCS 10000/2007)

- ◆ The lot for compulsory sale lay at Alnwick Road in Kowloon with a building named Fortune Villa erected on the lot. The occupation permit of the lot was issued on 22 May 1967.
- ◆ The judgment was handed down on 18 August 2008.
- ◆ There was only one Respondent who had not reached sale agreement with the Applicants. The Respondent did not file an opposition notice and she was absent in the hearing. In this case, the Tribunal had to decide on the following major issues in dispute before it could determine whether the order for compulsory sale should be made:
 - (a) whether the assessment of the existing use value (EUV) of individual units of Fortune Villa was reasonable;
 - (b) whether the redevelopment was justified on the ground of age or state of repair of the existing building sitting on the lot;
 - (c) whether the Applicants had taken reasonable steps to acquire all undivided shares of the lot.

Assessment of EUV

- ◆ In the case, there was only one Respondent who had not reached sale agreement with the Applicants. The Applicants submitted to the Tribunal a valuation report of the EUV of all units of Fortune Villa in accordance with the Ordinance. The EUV of the Respondent's property was valued at **\$2,610,000**. The Tribunal accepted the Applicants' valuation report and agreed that the valuation was reasonable and fair.

Age or State of Repair of the Buildings

- ◆ In considering whether redevelopment of the lot is justified, the Tribunal will have regard to the age or state of repair of the existing buildings on the lot in question.

- ◆ On the ground of age, whether the old building has reached the end of its physical life; whether the old building has reached the end of its economic lifespan. The economic lifespan will have come to an end when the cleared site value of the lot significantly exceeds the existing use value of the building, provided that it can be demonstrated that the building has so come to the end of the economic lifespan because of its age as reflected by features of obsolescence. After the evidence of the Applicants' experts was heard, the Tribunal decided that redevelopment of the Lots was justified on the ground of age.

- ◆ On the ground of state of repair, the Tribunal is entitled to look at: the state of repair of the old building is such that it has rendered the building a danger to the residents or the public at large; the state of repair of the old building is such that it has rendered the building coming to the end of its economic lifespan, in that it has become economically unworthy to repair. This includes situations where the cost of repair exceeds the existing use value of the building, or the cost of repair significantly exceeds the enhancement value arising from or attributable to the repairs. In the case, the Applicants submitted expert reports to the Lands Tribunal. After consideration, the Tribunal accepted that the building had come to the end of its economic lifespan in that it had become economically unworthy to repair. The costs of repair significantly exceeded the enhancement value arising from or attributable to the repairs. The Tribunal decided that the Applicants had proved to the Tribunal's satisfaction that the redevelopment of the Lot was justified on the ground of state of repair.

Reasonable Steps Taken to Acquire All the Undivided Shares of the Lot

- ◆ In the case, there was only one Respondent who had not reached sale agreement with the Applicants. The Applicants had made several offers to the Respondent. The negotiation process is recapitulated as follows-

Date	Offers made
January 2005	The Applicants offered \$4,348,153; The Respondent's counter offer was \$5,500,000
August 2005	The Respondent suggested \$6,500,000 or alternatively a unit for unit exchange; The Applicants made a new offer of \$5,300,000. The Respondent counter-offered \$6,500,000 while remaining open to a unit for unit exchange proposal.
September 2005	The Applicants proposed a unit for unit exchange; The Respondent proposed \$6,400,000 instead.
May and September 2007	Offer of the Applicants was revised to \$4,400,000; The Respondent eventually counter-proposed \$8,000,000 to \$8,500,000.
July 2008	Offer to the Respondent increased to \$5,943,010.

- ◆ Having examined the evidence of the Applicants, the Tribunal was satisfied that the Applicants had taken reasonable steps to make offers to the Respondent. The Tribunal also accepted that the Applicants' offer was within the fair and reasonable range. The Tribunal finally decided to issue the order for compulsory sale.

RDV of the Lot

- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at public auction after the grant of an order for sale shall be approved by the Tribunal, taking into account the redevelopment potential of the lot. In this case, the Applicant submitted the valuation report. After consideration, the Tribunal accepted the RDV of the Lot provided in the valuation report in the sum of **\$350,000,000** as the reserve price for the public auction.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that redevelopment of the lot is justified on the ground of the age or state of repair of the existing development on the lot; and the Applicant has taken reasonable steps to acquire the unit of the Respondent (i.e. the minority owner) by making fair and reasonable offer. As seen in this case, the Tribunal had carefully examined the evidence produced before it decided on whether the Applicants had met the requirements as set out in the Ordinance.
- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at public auction after the grant of an order for sale shall be approved by the Tribunal. When the Tribunal determines the reserve price, it shall take into account the redevelopment potential of the lot to ensure that the minority owner could get reasonable compensation and have a share in the value of the lot reflecting its redevelopment potential. As seen in the case, the Lands Tribunal had carefully following the Ordinance to determine the reserve price to protect the interests of the minority owners.

(10) Case Study (Case no. LDCS 10000/2008)

- ◆ The lot under application lay at Upper Kai Yuen Lane, North Point and Kai Yuen Mansion Block B and Block C were erected on the lot.
- ◆ The judgment was handed down on 5 January 2010.
- ◆ In the present case, the Applicants had two titles unacquired. There were therefore two owners, one of whom could not be traced and was absent at the hearing. The other one, an owner of a parking space, opposed to the application for the sale order. The Tribunal had to decide on the following major issues in dispute:
 - (a) whether the assessment of the existing use value (EUV) of individual units of the building was reasonable;
 - (b) whether the redevelopment was justified on the ground of age or state of repair of the existing building on the lot;
 - (c) whether the Applicants had taken reasonable steps to acquire all the undivided shares of the lot;
 - (d) whether the redevelopment value (RDV) of the lot assessed by the Applicants was reasonable.

Assessment of EUV

- ◆ In this case, the Applicants submitted an expert's valuation report. The Respondent did not dispute the Applicants' assessment of the EUV of the domestic units, but disputed the assessment of the EUV of car parking spaces and the valuation method adopted in assessing the EUV of parking spaces. The Applicants' expert valued the subject car parking space at **\$230,000** while the Respondent valued it at **\$4,800,000**. The Respondent represented himself before the court stating the grounds for opposition. Having considered the evidence from both parties, the Tribunal considered that the Respondent's assessment method was not accepted market practice or acceptable before any court (including the Tribunal). The Tribunal decided to accept the valuation report submitted by the Applicants in which the EUV of the Respondent's car

parking space was valued at **\$230,000**.

Age or State of Repair of the Building

- ◆ Despite the fact that the Respondent had agreed in the course of the hearing that he would no longer debate if the lot should be redeveloped, under the Ordinance, the Applicants were still required to satisfy the Tribunal that the redevelopment of the lot would be justified on the ground of the age or state of repair of the existing development on the lot under application.
- ◆ The Applicants submitted an expert report to the Tribunal which finally concluded that the Applicants had proved to its satisfaction that redevelopment of the lot was justified on the ground of the age or state of repair of the development on the lot.

Reasonable Steps Taken to Acquire All Undivided Shares of the Lot

- ◆ In this case, the Applicants made six offers from June 2007 to November 2009, from **\$400,000** up to **\$1,080,000**. The asking price of the Respondent dropped from **\$4,500,000** to **\$2,800,000**. No agreement had been reached between the two parties.
- ◆ The Applicants filed an application for compulsory sale on 7.11.2008. The offer nearest to the filing date of the application was made on 3.6.2008 at **\$450,000**. Based on the RDV and the total EUV assessed by the surveyor appointed by the Applicants, the proportionate RDV of the Respondent's parking space was **\$326,933**. By comparison, the offer of **\$450,000** was apparently within the fair and reasonable range.
- ◆ The Tribunal was satisfied that the Applicants had taken reasonable steps to make offers to the Respondent. The Tribunal finally decided to issue the order for compulsory sale.

RDV of the Lot

- ◆ The Ordinance has stipulated that the reserve price of a lot to be sold at

public auction after the grant of an order for sale shall be approved by the Tribunal, taking into account the redevelopment potential of the lot. In this case, the Applicants submitted an expert valuation report. Apart from challenging the calculation of the site area of the lot under redevelopment provided in the valuation report, the Respondent did not question the RDV in the report. The area of the lot had been clearly stated in the Applicants' report. The Respondent failed to point out the mistakes in the Applicants' report. After consideration, the Tribunal accepted the RDV of the lot provided in the valuation report in the sum of **\$709,000,000** as the reserve price for the public auction.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that the redevelopment of the lot is justified on the ground of age or state of repair of the existing development on the lot; and the Applicant has taken reasonable steps to acquire the unit of the Respondent (i.e. the minority owner) by making fair and reasonable offer. As seen in this case, the Tribunal had carefully examined the evidence produced before it decided on whether the Applicants had met the requirements as set out in the Ordinance.
- ◆ In the present case, the Tribunal had settled the issues in dispute and heard grounds for opposition of the minority owner before it decided to make the sale order. The Tribunal also determined the reserve price taking into account the redevelopment potential of the lot to ensure that the minority owner could get reasonable compensation and have a share in the value of the lot reflecting its redevelopment potential.

Costs order nisi

- ◆ Since the Respondent, who owned the car park, only indicated at the hearing that he agreed to the clearance of the property on the lot and most of the hearing time had been devoted to hearing the dispute over the valuation of the car parking space, the Tribunal decided to accept the valuation provided by the Applicants and ordered the Respondent to pay the Applicants 80% of the costs of their application.

(11) Case Study (Case no. LDCS 1000/2006)

- ◆ The lots under application lay at nos. 125-127 Tung Choi Street and buildings were erected on the lots. The buildings were built in 1960.
- ◆ The judgment was handed down on 30 March 2007.
- ◆ In the case, there was only one Respondent. The Respondent opposed to the application for sale order. The major dispute issue was whether the redevelopment was justified on the ground of age or state of repair of the existing buildings on the lots. The Tribunal had to decide on the major issue in dispute before it decided whether to issue the sale order.

Age or State of Repair of the Building

- ◆ The Tribunal decided that the Applicant had not adduced sufficient evidence to satisfy the Tribunal that the lot was justified for redevelopment due to the age or state of repair of the existing buildings on the lot in question.
- ◆ The Tribunal decided not to issue a sale order.

Decision on Cost

- ◆ The Tribunal decided that the Applicant should pay costs of the application to the Respondent.

Conclusion

- ◆ The Tribunal shall not make an order for sale unless the Applicant has met all the requirements stipulated in the Ordinance under which the Applicant is required to satisfy the Tribunal that the lot is justified for redevelopment on the ground of its age or state of repair. As seen in this case, the Tribunal had carefully examined the evidence produced before it decided whether on whether the Applicants had met the

requirements as set out in the Ordinance.

- ◆ In the case, the Tribunal had settled the issues in dispute and heard grounds for opposition of the minority owner before it decided not to make the sale order. As in the case, the Tribunal first settled the issue in dispute to protect the interests of the minority owners.