

立法會

Legislative Council

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Bills Committee on Land (Compulsory Sale for Redevelopment) (Amendment) Bill 2023

Background brief

Purpose

This paper provides background information on the Land (Compulsory Sale for Redevelopment) (Amendment) Bill 2023 (“the Bill”). It also summarizes the views and concerns expressed by members of the Panel on Development (“DEV Panel”) on the subject at its meetings on 22 November 2022 and 31 October 2023.

Background

2. With a view to encouraging private sector participation in urban renewal, the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) (“LCSRO”) was enacted in June 1999 to facilitate redevelopment of lots by owners of buildings in multiple ownership. The threshold for making a compulsory sale application was first set at no less than 90% of all undivided shares for all classes of lots, and subsequently lowered to no less than 80% for specific classes of lots¹ through the enactment of the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (Cap. 545A) in April 2010.

3. With the efforts of the Urban Renewal Authority (“URA”) and the private sector in redevelopment, the number of private buildings redeveloped from 2013 to 2022 are estimated to be about 1 600 (i.e. an average of 160 per

¹ The three specific classes of lots are as follows: (a) a lot with each of the units on the lot representing more than 10% of all the undivided shares in the lot; (b) a lot with each of the buildings erected on the lot aged at least 50 years; and (c) a lot that is not located within an industrial zone and each of the buildings erected on the lot is an industrial building and aged at least 30.

annum). According to the Buildings Department's record, the number of private buildings² aged 50 or above increased from 4 500 to 9 600 in the past decade. The number is projected to rise further to 15 800 in 2032 and 22 900 in 2042. Meanwhile, 184 out of the 424 applications made to the Lands Tribunal ("LT") for an order for compulsory sale have been granted up to June 2023.³

4. As the pace of redevelopment of old and dilapidated buildings is unable to catch up with the rapidly ageing building stock in Hong Kong, there is an imminent need to encourage greater private sector participation in redevelopment of old and dilapidated buildings. In this regard, the Government embarked on a policy review in late 2021 with a view to coming up with legislative and administrative proposals to update and streamline the compulsory sale regime under LCSRO.

5. The Chief Executive's 2022 Policy Address proposed to lower the compulsory sale application thresholds from 80% of ownership to 60% to 70% with reference to the building age. The Chief Executive's 2023 Policy Address further announced that taking into account stakeholders' views, the Government considers that the need for redevelopment of the district should be taken into account apart from the building age in determining the applicable threshold. As a general principle, lower thresholds should be adopted for older buildings in districts with more pressing need for redevelopment.

Land (Compulsory Sale for Redevelopment) (Amendment) Bill 2023

6. Receiving its First Reading at the Council meeting of 10 January 2024, the Bill seeks to amend LCSRO and its subsidiary legislation to:

- (a) lower the thresholds for an application for compulsory sale of a lot;
- (b) provide for an application that covers two or more adjoining lots and an application that covers a composition of different types of lots;
- (c) streamline the determination of an application by LT;

² Excluding New Territories Exempted Houses and buildings of the Hong Kong Housing Authority.

³ Statistics on the compulsory sale applications under LCSRO are given in Annex G to the Legislative Council Brief [(File Ref.: DEVB (PLUR)70/41/85/15)] issued by the Development Bureau on 19 December 2023.

- (d) enhance support to minority owners who are owner-occupiers;
- (e) impose requirements on the purchaser of certain lots in relation to the redevelopment of the lots and to empower the Director of Buildings to ensure that those requirements are complied with; and
- (f) provide for related matters.

7. Details of the major provisions of the Bill are set out in paragraphs 21 to 24 of the Legislative Council Brief (File Ref.: DEVB (PL-UR)70/41/85/15) issued on 19 December 2023 and paragraphs 4 to 12 of the Legal Service Division Report on the Bill (LC Paper No. LS3/2024). The Bill, if passed, would come into operation on a day to be appointed by the Secretary for Development by notice published in the Gazette.

Major views and concerns expressed by members

8. The major views and concerns expressed by members of the DEV Panel on the proposals to update and streamline the compulsory sale regime (“the proposals”) at the relevant meetings held in the 2022 and 2023 sessions are summarized in the ensuing paragraphs.

Effectiveness of the proposals in promoting urban redevelopment

9. Members considered that there were a number of reasons for the slow progress of promoting redevelopment by way of compulsory sale, including the lack of transparency in the acquisition process and mutual distrust between owners and acquirers, the long waiting time for hearings in LT, owners’ insufficient understanding of the compulsory sale process, and the lack of assistance for owners in conducting “joint sales” (including applying for compulsory sale) on their own initiative. Moreover, some owners were unwilling to sell their properties because the compensation offered by developers was not comparable to the benchmark set by URA, which adopted the value of a seven-year-old flat in the same locality as the basis for compensation. Given the various factors affecting the pace of redevelopment, members doubted if the proposal to lower the thresholds for compulsory sale applications would be effective in expediting the redevelopment of large old building clusters that involved multiple owners.

10. According to the Administration, of the 424 compulsory sale applications received by LT up to June 2023, apart from 184 for which sale orders had been granted, 204 had been discontinued or withdrawn. In some cases, settlement had been achieved as a result of kick-starting the application for compulsory sale. The Administration also advised that the compensation

benchmark of URA was in line with the prevailing policy of the Government, and it might bring positive effects to the acquisition market of private properties. Apart from the proposed update of the compulsory sale regime, the Administration would study with the Judiciary to simplify the administrative procedures relating to compulsory sale. The Administration would also explore with URA on how to step up the support for owners of aged buildings to take the initiative to jointly sell their properties with a view to expediting urban renewal by different means.

Impacts of the proposals on minority owners

11. Members were concerned that lowering the thresholds for compulsory sale applications would further weaken the bargaining power of minority owners of aged buildings (especially those with a smaller number of units) in selling their units. There was also a view that relaxing the application requirements for compulsory sale of adjoining lots would lead to an increase in the scale of redevelopment projects, thereby reducing the opportunity of small developers to take part in the projects and eventually depriving owners of options when they sold their units. Members called on the Administration to conduct thorough consultations with stakeholders in formulating the proposals to strike a right balance between promoting redevelopment and protecting private property rights.

12. The Administration advised that measures promoting developers' participation in redevelopment provided in the proposals were premised on the protection of private property rights. The Administration would explore stipulating provisions in LCSRO to offer adequate protection to minority owners. As regards the size of the redevelopment projects in which developers chose to take part, it was a market behaviour and beyond the control of the Administration. The Administration would continue to listen to the views of different sectors to seek a broad consensus in society before implementing the proposals.

13. As developers would start contacting owners of the buildings concerned for price negotiation and commence the acquisition process before applying for compulsory sale, members urged the Administration to step up support for minority owners by furnishing them with relevant guidelines and information well in advance of their receipt of the notices of compulsory sale application, thereby increasing the transparency of the compulsory sale process and addressing their concerns at an early stage.

14. The Administration replied that a dedicated office was proposed to be set up to strengthen the support for minority owners.⁴ On the issue of whether it was feasible to provide support to minority owners prior to their receipt of the notices of compulsory sale application, the Administration remarked that the dedicated office had to consider how to determine at the price negotiation stage that the deal concerned would later become a case of compulsory sale application, to ensure that there would be no unnecessary intervention affecting market operation nor a waste of resources. The Administration took note of members' views and would study the relevant issues.

Districts with lower application thresholds

15. Noting that lower compulsory sale application thresholds would be adopted for areas with more aged buildings in relatively poor conditions (hereinafter referred to as "designated areas"), members enquired about the criteria based on which the "designated areas" would be specified and the specific boundaries of such areas. They also requested the Administration to explain the reasons for not including Hung Hom as a "designated area" given the relatively large number of aged buildings in poor maintenance conditions in Hung Hom.

16. The Administration explained that under the refined legislative proposal put forward in October 2023, the areas (based on the areas covered by approved Outline Zoning Plans ("OZPs")) with higher numbers of buildings aged 50 or above and buildings issued with notices under the Mandatory Building Inspection Scheme ("MBIS") would be specified as "designated areas". According to the data of 2022, based on areas covered by approved OZPs, seven areas⁵ had met or exceeded the indicators set by the Development Bureau both in terms of the number of old buildings and the overall maintenance conditions of the buildings (i.e. there were about 300 private buildings aged 50 or above and about 200 private buildings issued with MBIS notices in the area). As Hung Hom had fewer private buildings aged 50 or above and fewer private buildings issued with MBIS notices than the seven areas mentioned above, Hung Hom had not been included in the list of "designated areas".

17. The Administration added that it would regularly review the redevelopment situation of the old districts and propose amendments to the list

⁴ According to the Legislative Council Brief, subject to the agreement of the URA Board, the dedicated office will provide services through a new company set up by URA. This new company will report direct to the Development Bureau's dedicated office.

⁵ The seven areas are Cheung Sha Wan (including Sham Shui Po), Ma Tau Kok (including Kowloon City and To Kwa Wan), Mong Kok, Yau Ma Tei, Sai Ying Pun and Sheung Wan (which are covered by the same approved OZP), Wan Chai and Tsuen Wan.

of “designated area” in due course. To facilitate timely adjustment, the Administration proposed to specify the list of “designated areas” in subsidiary legislation together with maps for illustration, and to empower the Secretary for Development to propose amendments to the list of “designated areas” to the Legislative Council through the negative vetting procedure.

18. Members enquired how the compulsory sale application thresholds would be determined in cases where certain structures of a large-scale cluster of aged buildings were erected outside a “designated area” and where a cluster of aged buildings comprised buildings of different ages. The Administration responded that it was inclined to adopt a more lenient approach in handling situations where part of a large-scale cluster of aged buildings was found outside a “designated area” (i.e. applying the lower application threshold as well). In addition, the weighted averaging arrangements applicable to compulsory sale applications for adjoining lots would be incorporated into the Bill.

Other views and concerns

19. In response to members’ concern that lowering the thresholds for compulsory sale applications might lead to some owners’ evasion of responsibilities to repair their buildings, the Administration advised that the Buildings Department had been closely monitoring the conditions of private buildings and would step up enforcement against and regulation of old or dilapidated buildings in the light of the actual situation.

20. Members urged the Administration to provide support for small businesses with local historical characteristics affected by redevelopment. The Administration advised that the proposed dedicated office could provide the businesses affected by compulsory sale with information and support, including referring the cases of individual old shops with long history to developers or URA to help them find places to relocate.

Council question

21. A question relating to the compulsory sale regime was raised at the Council meeting of 1 September 2021. The hyperlinks to the question and the Administration’s reply are provided in the **Appendix**.

Latest development

22. At its meeting on 12 January 2024, the House Committee agreed to form a Bills Committee to study the Bill.

Relevant papers

23. A list of relevant papers on the Legislative Council Website is in the **Appendix**.

Council Business Division 1 and Public Complaints Office
Legislative Council Secretariat
31 January 2024

Appendix

Land (Compulsory Sale for Redevelopment) (Amendment) Bill 2023

List of relevant papers

Committee	Date of meeting	Paper
Panel on Development	22 November 2022	Agenda item V: Proposed measures to update and streamline the compulsory sale regime Minutes of meeting
	31 October 2023	Agenda item I: Briefing by the Secretary for Development on the Chief Executive's 2023 Policy Address Minutes of meeting Follow-up paper

Council meeting	Paper
1 September 2021	Question No. 9: Statistics on applications for compulsory sale order