

立法會
Legislative Council

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**Paper for the House Committee Meeting
on 12 January 2024**

**Legal Service Division Report on
Land (Compulsory Sale for Redevelopment) (Amendment) Bill 2023**

I. SUMMARY

1. The Bill

The Bill seeks to amend the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) 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 the Lands Tribunal;
- (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.

2. Public Consultation

The Development Bureau consulted some 60 stakeholder organizations and professionals from different sectors from November 2022 to June 2023 and organized three public forums in May 2023. Stakeholders consulted were generally supportive of the proposals.

**3. Consultation with
LegCo Panel**

The Panel on Development was consulted on the proposals on 22 November 2022 and 31 October 2023. Members expressed various views on the proposals.

4. Conclusion

The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. As the Bill seeks to reform the compulsory land sale regime, Members may wish to form a Bills Committee to study the Bill in detail.

II. REPORT

The date of First Reading of the Bill is 10 January 2024. Members may refer to the Legislative Council (“LegCo”) Brief (File Ref.: DEVB (PL-UR)70/41/85/15) issued by the Development Bureau on 19 December 2023 for further details.

Object of the Bill

2. The Bill seeks to amend the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) 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 the Lands Tribunal (“Tribunal”);
- (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.

Background

3. In Hong Kong, private developers may apply to the Tribunal for compulsory sale of a lot for redevelopment in specified circumstances. According to paragraph 2 of the LegCo Brief, the pace of redevelopment of old and dilapidated buildings fails to catch up with the rapidly ageing building stock in Hong Kong and there is an imminent need to encourage more private sector involvement in the redevelopment of old and dilapidated buildings. As announced in paragraph 49 of the Chief Executive’s 2023 Policy Address, the Administration proposes to lower the compulsory sale application thresholds and streamline the legal procedures. The Bill is introduced to implement the proposed measures with a view to expediting the redevelopment of old and dilapidated buildings by the private sector. Key provisions of the Bill are summarized in the ensuing paragraphs.

Provisions of the Bill

Lowering the thresholds for compulsory sale applications

4. Under section 3(1) of Cap. 545, except for certain classes of lot specified in the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (Cap. 545A)¹, a person (other than as a mortgagee) who owns not less than 90% of the undivided shares in a lot may make an application to the Tribunal for an order to sell all the undivided shares in the lot for redevelopment.

5. For the purpose of ensuring that older buildings in districts with more pressing redevelopment need could proceed with redevelopment expeditiously, Part 3 of the Bill seeks to amend Cap. 545A to lower the application thresholds by specifying different percentages (i.e. 80%, 70% and 65%) for different classes of lots specified in section 4 of Cap. 545A. For instance, for a lot with buildings aged at least 60 years but below 70 years, the threshold would be reduced from 80% to 65% if the lot on which those buildings are located is in a “designated area”. For industrial buildings aged at least 30 years located in a non-industrial zone, the threshold would be reduced from 80% to 70%.

6. Clause 16 of the Bill proposes to add a new Schedule to Cap. 545A to set out the list of “designated areas” (including Sai Ying Pun, Sheung Wan, Wan Chai, Yau Ma Tei, Mong Kok, Cheung Sha Wan, Ma Tau Kok and Tsuen Wan). The list could be amended by the Secretary for Development (“Secretary”) by notice published in the Gazette which would be subsidiary legislation subject to the negative vetting procedure under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1).

Allowing more flexibility to combine different types of lots in an application

Allowing averaging of ownership percentage for adjoining lots

7. Cap. 545 provides that an applicant for compulsory sale has to meet the application threshold for each and every lot for which a compulsory sale application is made. It does not expressly provide that an application may cover more than one lot, except where the buildings on the lots are connected by a common staircase.

8. In order to facilitate larger scale redevelopment, clause 4 of the Bill seeks to amend section 3(2) of Cap. 545 to allow more flexibility for multiple adjoining-lot applications by:

¹ Under sections 3 and 4 of Cap. 545A, the lower threshold of 80% is applicable for (a) a lot with each of the units representing more than 10% of all the undivided shares in the lot; (b) a lot with each of the buildings aged at least 50 years; or (c) a lot that is not located within an industrial zone and each building erected on the lot is an industrial building and aged at least 30 years.

- (a) allowing averaging arrangement (i.e. taking the average of the percentages of undivided shares held by an owner in two or more lots covered by the same compulsory sale application to meet the application threshold) for two or more lots that are adjoining lots, or three or more lots (could be a composition of different types of lots) that are adjoined and forming a cluster of lots bound by a continuous boundary (even if the buildings erected on the lots are not connected by common staircases), subject to certain conditions (e.g. the percentage of undivided shares owned by the majority owner in the additional lot should not be less than 65%); and
- (b) expressly providing that a compulsory sale application could cover more than one lot even if any of the lots is wholly owned by the majority owner.

Imposition of conditions in redevelopment of multiple adjoining lots

9. Clause 6 of the Bill seeks to add a new section 4C to Cap. 545 to impose an obligation on the purchaser (or his successor(s) in title) to redevelop the multiple adjoining lots sold under an order for sale in such a way that the lots form one site in accordance with a plan approved by the Building Authority pursuant to section 14 of the Buildings Ordinance (Cap. 123).

Streamlining the legal process of compulsory sale regime

10. Clause 5 of the Bill seeks to amend section 4 of Cap. 545 to introduce a fast track procedure for the Tribunal to determine whether to grant an order for sale. The existing requirement to justify redevelopment on the grounds relating to the age or state of repair of the existing development on the lot under section 4(2) of Cap. 545 would be dispensed with if:

- (a) the buildings erected on the lot are all aged at least 50 years; and
- (b) all minority owners² have filed a notice of no objection in respect of the lot under the proposed new rule 78CA of the Lands Tribunal Rules (Cap. 17A).

The effect is that the Tribunal could proceed with the determination on the valuation of the lot and the granting of an order for sale if it is satisfied that the majority owner has taken reasonable steps to acquire all the undivided shares in the lot.

² “Minority owner” means a person who owns undivided shares in the lot other than as a mortgagee but is not the person who has made the compulsory sale application (section 2(1) of Cap. 545).

Enhancing support to minority owners

11. Clause 6 of the Bill seeks to add a new section 4B to Cap. 545 to allow an owner-occupier³ to continue to occupy the property for a period not exceeding six months after the sale of the lot, subject to his payment of a rental amount (to be calculated in the specified manner under the proposed new section 4B(3)) to the purchaser of the lot.

Related amendments

12. The Bill contains other related amendments, including adding the proposed new rules 78CA and 78FA to Cap. 17A to provide for the details of the filing of a notice of no objection and a notice of occupation, and amending the Schedule to Cap. 17A to add the proposed new forms for e.g. filing a notice of no objection.

Commencement

13. The Bill, if passed, would come into operation on a day to be appointed by the Secretary by notice published in the Gazette.

Public Consultation

14. According to paragraphs 31 and 32 of the LegCo Brief, the Administration consulted some 60 stakeholder organizations and professionals from different sectors from November 2022 to June 2023, and organized three public forums in May 2023, with some 300 members of the public attending to express views on the proposals. Stakeholders consulted were generally supportive of the proposals, while some suggested lowering the thresholds for buildings in the same age groups but located in areas with more pressing need for redevelopment. According to the Administration, some of the proposals have been refined to address the above concerns.

Consultation with LegCo Panel

15. As advised by the Clerk to the Panel on Development, the Panel was briefed on the proposals on 22 November 2022 and 31 October 2023. Members expressed concern that the lowering of the thresholds for compulsory sale

³ “Owner-occupier” refers to a minority owner of the lot who has filed a notice of occupation under the proposed new rule 78FA of Cap. 17A indicating his wish to continue to occupy the property and has satisfied the Tribunal that he has occupied the property for not less than three months immediately before the date of the filing of such notice of occupation.

applications may further weaken the bargaining power of minority owners of aged buildings, and took the view that the Administration should thoroughly consult stakeholders to strike a right balance between promoting redevelopment and protecting private property rights, as well as put in place measures to step up support for minority owners. Members also enquired about the criteria for specification of “designated areas” and the specific boundaries of such areas.

Conclusion

16. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. As the Bill seeks to reform the compulsory land sale regime, Members may wish to form a Bills Committee to study the Bill in detail.

Prepared by

CHENG Kiu-fung, Vanessa
Assistant Legal Adviser
Legislative Council Secretariat
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