

(Translation)

Kowloon City District Urban Renewal Forum

For discussion
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Provision of Support to Minority Owners Affected by Private Acquisition or Compulsory Sale

Purpose

This Paper briefs Members of the Kowloon City District Urban Renewal Forum on the support measures that the Government provides to the minority owners affected by private acquisition or compulsory sale, and seeks Members' views on enhancing the support for the affected owners in the Kowloon City District.

Background

(A) *Land (Compulsory Sale for Redevelopment) Ordinance*

2. To address the problem of urban decay and to improve the living conditions of residents in dilapidated buildings, the Government promulgated a strategy for urban renewal in the 1996 policy statement "Urban Renewal in Hong Kong". The policy statement proposed, amongst other things, the enactment of legislation to facilitate owners of private buildings in multiple ownership to redevelop their lots after unifying ownership. Following detailed deliberation, intensive discussions, the Legislative Council passed the Land (Compulsory Sale for Redevelopment) Bill in 1998. The Land (Compulsory Sale for Redevelopment) Ordinance ("Ordinance") came into operation in 1999 to facilitate owners and private organisations to participate in urban redevelopment and expedite the process of urban renewal in the old districts.

3. Under the Ordinance, for any application to the Lands Tribunal for a compulsory sale order for the purpose of redevelopment, the Lands Tribunal

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will only make such an order if the specified requirements are met. The requirements include the following: that the applicant must own a specified majority of the undivided shares in the lot (not less than 90% pursuant to section 3(1) of the Ordinance), that redevelopment of the lot is justified on the ground of age or state of repair of the existing buildings on the lot, and that the applicant has taken reasonable steps to acquire all the shares of the lot.

4. In order to facilitate the private property owners in redeveloping their buildings to help tackle the problem of building deterioration, and taking into account the concern over ageing buildings in Hong Kong, and to meet Hong Kong's changing economic needs, the Government made the Land (Compulsory Sale for Redevelopment)(Specification of Lower Percentage) Notice ("Notice") and submitted the Notice, in the form of subsidiary legislation, to the Legislative Council for vetting in early 2010. The Notice specifies the lowering of the application threshold for compulsory sale from 90% to 80% for three classes of lot, namely, (i) a lot with units each of which accounts for more than 10% of the undivided shares in the lot; (ii) a lot with all buildings aged 50 years or above; and (iii) a lot that is not located within an industrial zone and with all the buildings on the lot being industrial buildings aged 30 years or above. The Notice does not change the other requirements under the Ordinance, that is, the Lands Tribunal will only make an order for compulsory sale if it is satisfied that redevelopment of the land lot is justified on the ground of age or state of repair of the existing buildings and that the majority owner has taken reasonable steps to acquire all the shares of the lot. The Notice came into operation on 1 April 2010 after scrutiny by the Legislative Council.

(B) Regulation by the Estate Agents Authority

5. At present, some developers will engage estate agents to assist them in acquiring old buildings, while some companies specialising in the acquisition of old buildings will also engage in estate agency business. The practice of estate agents is regulated by the Estate Agents Authority ("EAA"). The EAA is a statutory body established under the Estate Agents Ordinance, and is responsible for regulating the practice of the estate agents and enhancing

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their professional standards. The EAA is tasked under the Estate Agents Ordinance and its subsidiary legislation to regulate the practice of estate agents in their activities related to the acquisition of old buildings.

6. The Government is greatly concerned about the practice of estate agents in the acquisition of old buildings. The EAA issued a Practice Circular in August 2010 on the proper practice and measures to adopt in the acquisition of old buildings for compliance with the relevant legal requirements and the required code of conduct for estate agents (**Annex I**). Members of the public can lodge a complaint with the EAA if he has reason to believe that an estate agent has, in his activities related to the acquisition of old buildings, breached the Estate Agents Ordinance and its subsidiary legislation, or the Code of Ethics and Practice Circulars etc issued by the EAA. If an estate agent is suspected of any malpractice, the EAA will investigate the case and take disciplinary action against the estate agent concerned if the case is substantiated.

7. The Development Bureau and the EAA have been working closely to handle related complaints through case referrals. If the residents of old buildings face harassment suspected to be acquisition-related, including hygiene concerns, building safety or law and order issues, they may seek help from the relevant government departments, including the Food and Environmental Hygiene Department, the Buildings Department and the Police.

(C) Direction issued by the President of the Lands Tribunal on Mediation

8. To encourage parties involved in compulsory sale cases to first mediate, the President of the Lands Tribunal has promulgated a Direction (**Annex II**) pursuant to section 10(5)(a) of the Lands Tribunal Ordinance (Cap 17) to ask, with effect from February 15, parties involved in compulsory sale cases to attempt mediation as soon as practicable prior to the hearing of the cases before the Tribunal. Pursuant to the Direction, when hearing applications for compulsory sale under the Ordinance, the Lands Tribunal may

take into account of any unreasonable failure of a party to engage in mediation in its consideration of whether to grant a compulsory sale order and in exercising its discretion on costs.

Support to Minority Owners Provided by the Development Bureau

(A) Free-of-charge Information Service

9. The Government attaches much importance to providing support to the minority owners who may be affected by the Ordinance. In order to enhance the minority owners' understanding of the Ordinance and the Notice, as well as the mechanism of compulsory sale, the rights of minority owners and their protection etc, the Development Bureau has commissioned the Hong Kong Housing Society ("HKHS"), with professional support from the Hong Kong Institute of Surveyors ("HKIS"), to provide free information service to the public, through its 10 HKHS Property Management Advisory Centres, on the mechanism of compulsory sale and related issues since 1 April 2010. Please refer to **Annex III** for a brief account of the information service provided by the HKHS.

10. As at the end of August 2011, the HKHS has received 337 inquiries about the Ordinance and the Notice, of which 56 inquiries involve properties in Kowloon City. Most of the inquiries are related to the eligibility for and procedures of applications for compulsory sale, the rights and protection of minority owners and the assessment of property prices and compensation.

(B) The Two Pilot Schemes

11. The Development Bureau also launched the "Pilot Mediation Scheme" and the "Pilot Scheme on Outreach Support for Elderly Owners" on 27 January 2011 to provide further support to owners of old buildings who are faced with private redevelopment.

12. The "Pilot Mediation Scheme" aims to facilitate parties involved in or contemplating compulsory sale applications under the Ordinance to undertake

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mediation on a voluntary basis. The Scheme is financially supported by the Development Bureau, including the setup cost of \$1.24 million and operating costs of \$1.6 million. The Development Bureau has also reserved \$0.5 million to provide financial assistance for eligible elderly owners to cover the fees of mediators.

13. The service provider of the “Pilot Mediation Scheme” is the Joint Mediation Helpline Office Limited (“JM HOL”). JM HOL is jointly founded by the Hong Kong Mediation Council, the Hong Kong Bar Association, the Law Society of Hong Kong, the Chartered Institute of Arbitrators (East Asia Branch), the Hong Kong Institute of Arbitrators, the Hong Kong Institute of Architects, the Hong Kong Institute of Surveyors and the Hong Kong Mediation Centre. In order to help property owners participating in the “Pilot Mediation Scheme” to enter into dialogue and negotiate in an effective way, JM HOL will provide professional mediator referral services to the owners. The professional mediators will facilitate the owners to communicate with each other and reach settlement agreement that is mutually beneficial in an unbiased manner. Please refer to **Annex IV** for details of the “Pilot Mediation Scheme”.

14. As at the end of September 2011, the “Pilot Mediation Scheme” has received 25 requests for mediation service. Among the 25 cases, mediation has been successfully conducted in one case and the parties concerned have entered into settlement agreement afterwards; 15 other cases have been resolved by the parties themselves after introduction to the Scheme by JM HOL; in 3 other cases, one of the parties has refused to participate in mediation; and the remaining 6 cases are still under processing.

15. Furthermore, as the elderly owners may have difficulty in accessing comprehensive information, the Development Bureau has commissioned the Senior Citizen Home Safety Association (“SCHSA”) at \$1.43 million to provide the “Pilot Scheme on Outreach Support Service for Elderly Owners”. The social workers of SCHSA will proactively explain to the elderly owners the general practice of property acquisition and the process of compulsory sale under the Ordinance. In order to provide tailor-made outreach support service to them, the social workers will also follow up with the elderly owners who

need further assistance, including checking for them free-of-charge whether their properties fall within one of the specified classes of lot to which the 80% compulsory sale application threshold applies. The social workers will also refer the elderly owners to professionals such as surveyors for advice if they so wish. Please refer to **Annex V** for details of the “Pilot Scheme on Outreach Support Service for Elderly Owners”.

16. As at the end of September 2011, the “Pilot Scheme on Outreach Support Service for Elderly Owners” has handled a total of 44 cases of requests for assistance by the elders, and has provided information service and emotional support to the elderly owners involved in these cases. The social workers of the outreach scheme have also paid 67 home visits, 155 building visits (when the workers outreach to the old buildings to distribute leaflets door-to-door with a view to approaching any elderly owners) and conducted 39 public talks on the Ordinance at the elderly centres in various districts.

(C) Public Education and Publicity – Public Talks, Video and Radio Publicity

17. To step up public education and publicity, when the aforementioned two pilot schemes were launched on 27 January 2011, the Development Bureau also launched at the same time a public education video to introduce the Ordinance. The video explains in a user-friendly manner the process of property acquisition and compulsory sale, educating the owners of old buildings on their rights under compulsory sale as well as the support and assistance available to them. The video has been uploaded to the website of the Development Bureau and the dedicated websites of the two pilot schemes. DVDs of the video have also been distributed to the owners’ corporations of buildings over 40 years old in Hong Kong.

18. With the full support of the HKIS, the Development Bureau facilitated the joint organisation by SCHSA, JMHOL and HKIS two public talks to introduce the Ordinance and the two pilot schemes this year. The two talks were held on 8 July and 7 October respectively at the office of the HKIS in Central. A speaker from the Urban Redevelopment Facilitating Services Co

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Ltd, a subsidiary of the Urban Renewal Authority (“URA”), also joined the talk on 7 October to introduce the “facilitator role” of the URA to facilitate the joint sale of properties initiated by owners. We are now arranging for the next public talk to be held at the same venue on 2 March 2012. JMHOL has also arranged radio publicity in October this year to promote the two pilot schemes as well as the free information service provided by the HKHS.

(D) Extension of the Two Pilot Schemes

19. In view of the significant increase in the number of compulsory sale applications filed with the Lands Tribunal over the past 12 months (there were 12 applications received from October 2009 to September 2010; while 44 applications were received from October 2010 to September 2011), and after preliminary review of the effectiveness of the two pilot schemes, the Development Bureau has decided to extend the two schemes upon expiry of the first year pilot period by end January 2013.

20. Since there is a need to strengthen the manpower support for the “Pilot Scheme on Outreach Support Service for Elderly Owners”, we will expand the current service from one outreach service team to two teams next year. The contract next year will be awarded through open tender. We will review the effectiveness of the two pilot schemes again in the second half of 2012.

(E) Provision of Support to Owners of Old Buildings in Kowloon City

21. Since the launch of the “Pilot Mediation Scheme” and the “Pilot Scheme on Outreach Support Service for Elderly Owners”, both schemes have been providing support to minority owners in Kowloon City who may be affected by property acquisition by private developers or compulsory sale. Among the 25 requests for mediation handled under the “Pilot Mediation Scheme”, one case involved property owners in Kowloon City. Among the 44 cases handled under the “Pilot Scheme on Outreach Support Service for Elderly Owners”, 7 cases involved property owners in Kowloon City. Besides, the service providers of the two pilot schemes, on invitation from the Kowloon

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City District Office, also joined a building management seminar in Kowloon City to publicise the two schemes in September this year.

22. With a view to providing further support to owners of old buildings in Kowloon City who may be affected by private acquisition or compulsory sale, the Development Bureau will, as necessary, arrange the service providers of the aforementioned two pilot schemes, in collaboration with the HKIS and the URA, to organise other tailor-made public talks in Kowloon City to enhance understanding of the Ordinance and the schemes amongst owners in the district who may be affected.

Other Information

23. According to the survey conducted by the Buildings Department in early 2010, there were some 1,000 old buildings aged 50 years or above in Kowloon City which accounted for 27% of the total number of 4,000 such old buildings in the territory^{Note}.

24. Since the Ordinance came into operation in 1999 and up till 30 September 2011, the Lands Tribunal has received a total of 119 applications for compulsory sale, of which 31 were granted compulsory sale orders, 1 was dismissed as the applicant failed to satisfy the Tribunal that redevelopment of the lot was justified, 49 withdrawn by applicants or adjourned for various reasons and 38 are being processed. The number of applications received

^{Note} The Buildings Department launched a special operation to inspect all private buildings aged 50 years or above in the territory after the building collapse at No. 45J Ma Tau Wai Road in January 2010. In the report of the Buildings Department, buildings are grouped into four categories according to their conditions, namely, Category I - Buildings requiring emergency remedial works; Category II - Buildings with obvious defects found; Category III - Buildings with minor defects found; and Category IV - Buildings with no apparent defect. A total of 1,032 buildings aged 50 years or above in the territory are under Categories I and II.

Of the 1,000 old buildings aged 50 years or above in Kowloon City, about 320 required quick remedial works or had obvious defects, accounting for 31% (the highest percentage of all districts) of the total number of such buildings in Hong Kong.

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between 1 April 2010 and 30 September 2011 is 54, among which 16 applications are based on the 80% threshold.

25. Of the 31 compulsory sale applications granted with sale orders, the subject lots in 26 of the cases were successfully sold. Excluding one case for which there is no available information on the existing use value of the lot, on average, the transaction price of the lots in question is 2.5 times their existing use value. In other words, the sale proceeds apportioned to the minority owners is on average about 2.5 times the market value of their properties.

26. Among the 119 applications for compulsory sale across the territory and of those still under processing, 6 cases involve properties in Kowloon City (2 of the cases involve lots to which the 80% threshold applies). Please refer to **Annex VI** for details of the cases.

Advice Sought

27. Members are invited to take note of the above information and to give views on how to enhance the support for minority owners of old buildings in Kowloon City who may be affected by private acquisition or compulsory sale.

Development Bureau

Joint Mediation Helpline Office Limited

Senior Citizen Home Safety Association

November 2011