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香港測量師學會 **HKIS Annual Conference 2009**
SURVEYORS IN URBAN REGENERATION



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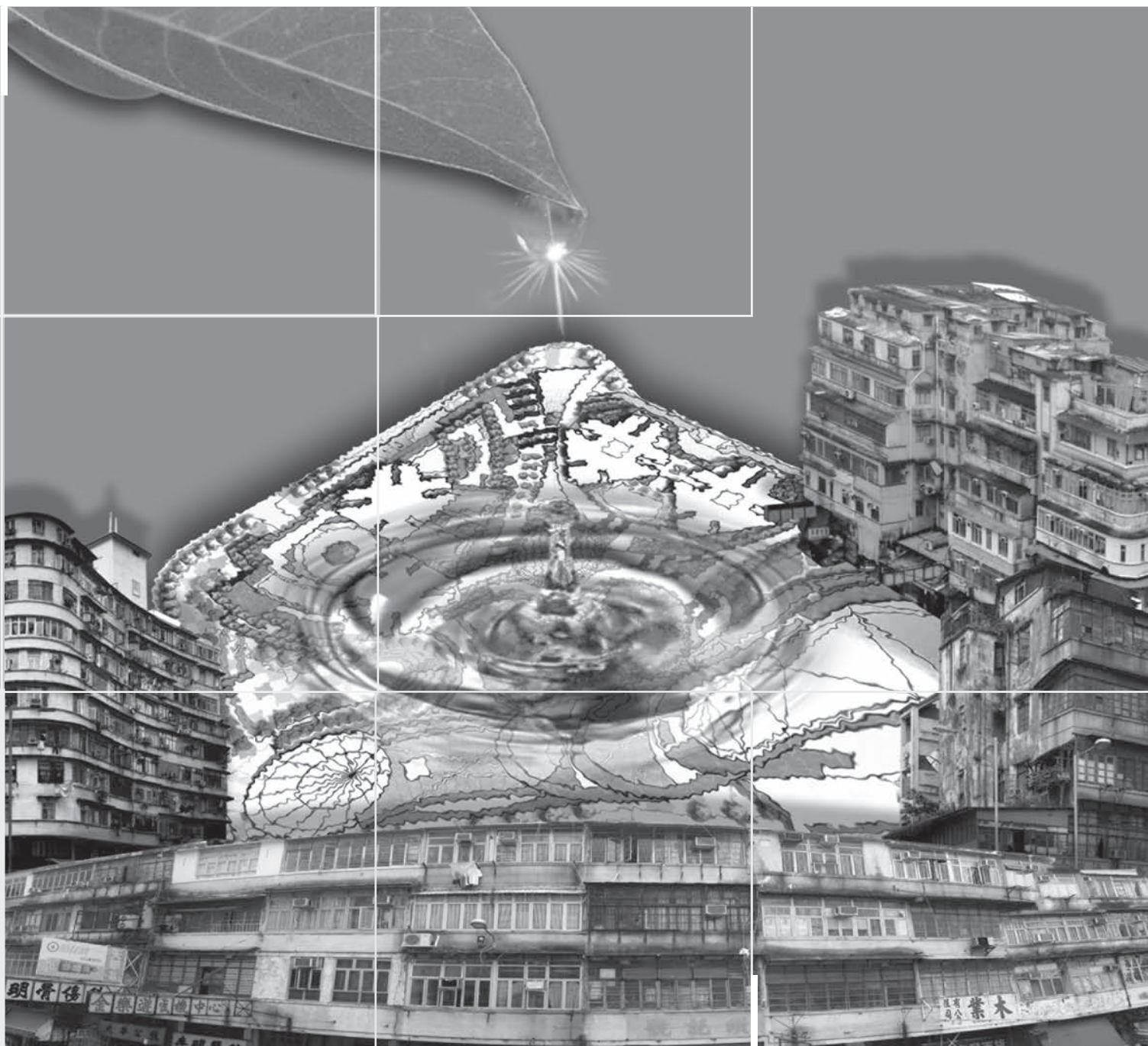
26 September
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Message from Guest of Honour

香港特別行政區政府

發展局局長



SECRETARY FOR DEVELOPMENT

Government of the Hong Kong Special
Administrative Region



**The Hong Kong Institute of Surveyors
Annual Conference 2009
“Surveyors in Urban Regeneration”
Congratulatory Message by Mrs. Carrie Lam,
Secretary for Development**

Message

I am glad that the Hong Kong Institute of Surveyors (HKIS) has chosen “urban regeneration” as the conference theme this year.

Urban regeneration is high on the agenda of Development Bureau as we are now one year into the Urban Renewal Strategy Review launched last July. To respond to the community’s changing aspirations on urban renewal, we have started this comprehensive review aiming at finding greater common ground amongst stakeholders and building consensus in society in taking forward urban renewal in Hong Kong.

In order that we can fully engage the community and all our stakeholders in this review, we have announced a full two-year plan for the review structured in three stages. We have completed “Stage 1 – Envisioning” in January 2009. During the seven months of this stage, we organized 20 focus group discussions to gauge the views of affected groups, professional bodies, advocacy institutions, political and business groups. We received encouraging response during this stage, in particular from the eForum of our designated website. On the basis of the views collated and also getting reference from the policy studies regarding the experience of six other Asian cities in urban renewal commissioned during this state, we have compiled a list of key topics for wider public consultation during our “Stage 2 – Public Engagement” of the Review. This Stage runs from February 2009 to the end of the year. We will start “Stage 3 – Consensus Building” early next year.

As the HKIS has an indispensable role to play in urban regeneration in our city, whether in redevelopment, rehabilitation, preservation and revitalization (i.e. the 4Rs), I look to your continued support for the review. Specifically, I would like members of the HKIS as practitioners to share with us and the community their invaluable experience.

I wish the HKIS a successful Annual Conference 2009

A handwritten signature in black ink that reads 'Carrielam'.

(Mrs. Carrie Lam)
Secretary for Development

Message from the President



It gives me great pleasure to welcome professionals, practitioners, government officials, contractors, academia and students to the Hong Kong Institute of Surveyors Annual Conference 2009, with the common goal of exchanging knowledge and experience on this very timely subject of “Surveyors in Urban Regeneration”.

The HKIS has a good tradition of hosting an annual conference every year covering a wide diversity of topics which attract the attention of the public and industry and which merit serious discussion, and sometimes debate, for moving our profession forward. The themes of annual conferences in the past years have included Public Private Partnerships, Real Estate Investment Trusts (REITS), Surveyors in Heritage – Preserving and Adding Value, and Surveyors in Olympics. For this year, no topic is more appropriate and timely than Urban Regeneration.

The Conference coincides with the Government’s effort to subject the delivery of urban redevelopment to a comprehensive review. As a professional institute encompassing a wide diversity of knowledge and expertise in real estate development and construction, the HKIS is best equipped to provide suggestions and comments. Many of our members have already taken part in the public engagement process of the Urban Renewal Strategy (URS) Review, launched by the Development Bureau in July 2008. As a prelude to today’s Conference, the HKIS has organized a series of focused group discussions. We are pleased with the opportunity of learning from experts both local and overseas, sharing experience with them, identifying issues, and devising solutions with a view to streamlining, and more importantly, incentivizing Urban Regeneration.

I hope you will find the Conference informative and enjoyable, and I look forward to active participation by all.

A handwritten signature in black ink that reads "Francis Leung." The signature is fluid and cursive.

Francis Leung
President
The Hong Kong Institute of Surveyors

About the Conference

Urban Regeneration has become an important issue in Hong Kong as there are many private buildings aged over 30 years old. The primary aims of urban regeneration are to tackle the problem of urban decay and to improve the life for people living in dilapidated buildings and the local community at large. It involves not only technical, social and economic issues but also numerous stakeholders. As a result, many disputes are encountered in many urban regeneration projects. While redevelopment can effectively revamp an old urban area by upgrading the relevant buildings, street design and community amenities, there are also growing concerns that wholesale redevelopment will destroy the old Hong Kong relics, disrupt the social network of occupants and affect the local economic activities. In order to succeed in urban regeneration, it is necessary to properly balance among a number of controversial issues such as development versus preservation, the interests of individual owners/tenants versus the public, and the financial sustainability versus compensation demanded by affected owners/tenants. This conference will address some of these issues and also provide an invaluable opportunity for the government officials, developers, construction related professionals and other relevant stakeholders to exchange their views relating to urban regeneration.

Time	Program
08:30 – 08:55	Registration
09:00 – 09:10	<i>Welcome Speech</i> Mr Francis LEUNG Lap Ki President, The Hong Kong Institute of Surveyors
09:10 – 09:30	<i>Opening Keynote Speech</i> Mrs Carrie LAM Cheng Yuet Ngor, JP Secretary for Development, HKSAR Government
09:30 – 09:55	<i>Urban Regeneration under the Existing Urban Renewal Strategy: Achievements and Challenges</i> Mr Barry CHEUNG Chun Yuen, JP Chairman, Urban Renewal Authority
09:55 – 10:00	Souvenir Presentation to Guest-of-Honour and Speakers
10:00 – 10:15	<i>Coffee Break</i>
10:15 – 10:45	<i>Public Engagement in Urban Renewal</i> Mrs Ava NG Tse Suk Ying, JP Director of Planning, Planning Department, HKSAR Government
10:45 – 11:15	<i>Rising Expectations from Peoples Affected and from Community</i> Dr LAW Chi Kwong Associate Professor, Department of Social Work and Social Administration, The University of Hong Kong
11:15 – 11:45	<i>'Kainos' Renewal: Promoting Urban Regeneration as a Quality and as Nature</i> Dr Mee Kam NG Associate Professor, Department of Urban Planning and Design, Faculty of Architecture, The University of Hong Kong
11:45 – 12:00	Q & A Session moderated by Prof Anthony G O YEH Head and Chair Professor, Department of Urban Planning and Design, The University of Hong Kong
12:00 – 13:00	Lunch
13:00 – 13:30	<i>The Unhappy Ending of Happy Dragon Restaurant: the Argument between Total Extinguishment of Business or Business Removal</i> Mr Lawrence PANG Ho Chuen Vice Chairman, General Practice Division, HKIS

13:30 – 14:00	<i>Revitalising Historic Buildings in Hong Kong</i> Mr Jack CHAN Jick Chi Commissioner for Heritage Commissioner for Heritage's Office Development Bureau, HKSAR Government
14:00 – 14:30	<i>Guidelines for Adaptive Reuse of Heritage Buildings</i> Mr MO Kim Ming Assistant Director, Buildings Department, HKSAR Government
14:30 – 14:40	Q & A Session moderated by Mr James PONG Kam Keung Honorary Secretary, Planning and Development Division, HKIS
14:40 – 14:55	Coffee Break
14:55 – 15:25	<i>Urban Regeneration in Japan</i> Prof Norihiro NAKAI Professor of Urban Planning, Department of Social Engineering, Tokyo Institute of Technology
15:25 – 15:55	<i>Urban Regeneration in Taiwan</i> Dr HUANG Chien Eil Professor of Urban Affairs and Environmental Planning Department, Chinese Culture University
15:55 – 16:25	<i>Applicability of Partnership and Transfer of Development Rights in Urban Regeneration</i> Dr LI Ling Hin Associate Professor, Department of Real Estate and Construction, The University of Hong Kong
16:25 – 16:35	Q & A Session moderated by Mr James PONG Kam Keung
16:35 – 16:45	Souvenir Presentation to Speakers
16:45 – 17:00	<i>Closing Remarks</i> Dr Paul HO Hok Keung Chairman of 2009 Annual Conference Organizing Committee
17:00	End of Conference

Urban Renewal: Achievements and Challenges

Mr Barry CHEUNG Chun-yuen, JP
Chairman, Urban Renewal Authority

The URA faces the urgent task of helping approximately 110,000 Hong Kong people who live in squalid conditions. By redeveloping dilapidated buildings the URA has already re-housed over 30,000, while the rehabilitation of 500 sub-standard buildings has benefited some 40,000 more. Our approach has steadily evolved to meet the changing needs of the community and, many recent projects, such as The Pawn in Wanchai and our shophouse projects in Mongkok, testify to our increased focus on heritage preservation and the revitalisation of neighbourhoods.

We face a number of challenges, which nonetheless present opportunities. The stock of substandard buildings is on the rise, expanding the size of the problem of urban decay. The focus on preservation requires us to be more creative in our funding. Finally, buildings are Hong Kong's major source of electricity consumption and hence of pollution. The URA is meeting these challenges and playing a leading role in enhancing quality of life.

Biography



Mr Cheung, Chairman of Hong Kong Mercantile Exchange, has been Chairman of the URA since 2007 and a board member since 2001. He is currently Chairman of the Standing Committee on Disciplined Services Salaries and Conditions of Service, an Alternate Chairman of the Pay Trend Survey Committee, a member of the Commission on Strategic Development and a member of the Standing Commission on Civil Service Salaries and Conditions of Service.

Mr Cheung was a former Chairman of the Corruption Prevention Advisory Committee of the ICAC. He was a full-time member of the Central Policy Unit on secondment from McKinsey & Company. He was a consultant with McKinsey & Company in the United States and Asia.

Mr Cheung received a Bachelor of Science degree with First Class Honours in Mathematics and Computer Science from the University of Sussex and an MBA from the Harvard Business School.

Public Engagement in Urban Renewal

Mrs Ava NG Tse Suk Ying, JP

Director of Planning, Planning Department, HKSAR Government

Over the years, the increasing pressure of urban growth together with the changing expectation for better living environment has shaped the way urban renewal is carried out. Along with the evolution of the urban renewal process is the growing community's aspirations for more participation in the public affairs. Urban renewal projects, which have significant impacts on the living environment and urban landscape, also receive a fair share of the community's attention.

In this conference, we will share our views on how the public has been involved in the urban renewal process over the years; how the community has gradually become more organized and mature in expressing their views and participating in the process; and how different modes of public consultation have evolved over time in response to the community's aspirations. We hope this can shed some lights on our way ahead in engaging the public for a more harmonious urban renewal process. The following is an outline of the main points to be covered in the presentation.

Early Urban Renewal Efforts

- Slum clearance with the primary purpose of upgrading the environmental quality of large tracts of derelict areas in the inner city.
- Dilapidated buildings in derelict areas with congested and non-hygienic conditions was cleared and replaced by buildings with necessary sanitary facilities.
- At that time, only parties directly affected by redevelopment schemes were involved

in the discussions with the Government or the implementation agencies. Compensation and rehousing were the main issues in the dialogues.

More Structured Approach to Urban Renewal

- The Land Development Corporation (LDC), set up in 1988 under the provision of the LDC Ordinance, marked the beginning of a more focused and structured approach to tackle Hong Kong's urban decay problem.
- According to the LDC Ordinance, the LDC's Development Scheme Plans (DSPs) are processed under the Town Planning Ordinance (TPO). The interface between LDC Ordinance and TPO would enable:
 - (a) redevelopment scheme covered by the DSP to be considered within the overall planning framework that would take into account the planning context in the districts; and
 - (b) the established public consultation procedures for publication of statutory town plans and hearing of objections under the provisions of TPO to be readily applicable to LDC's DSPs.

From Public Consultation to Public Engagement

- Starting from the late 1990's, there was an increasing public demand for greater participation in the formulation of Government policies and plans for development.

- Simply by submitting development schemes to local District Councils for consultation and processing objections to the DSPs within the statutory framework of the TPO could no longer satisfy the public aspirations.
- The Urban Renewal Strategy released in 2001 required the Urban Renewal Authority (URA) to establish a District Advisory Committee in districts where there are active urban renewal projects to gather information about local attitudes to urban renewal, to provide a channel for communicating the URA's intention, and to garner community support.
- In mid 2000's, there was a growing concern on the disruption of local character, features with collective memory and local social network associated with the redevelopment projects. This change in values and priorities regarding the objectives of urban renewal projects, including its mode of consultation and implementation, has profound implications on the carrying out of urban renewal. Urban renewal action is no longer a local district issue but of a community wide interest.
- The community has increasingly requested for more and earlier participation such that their views could be taken account of in the formulation of urban regeneration strategy (including redevelopment, rehabilitation, preservation and revitalization), project boundary, building design and development intensity etc.
- Despite the stepping up of the engagement programme, confrontation and tension were still observed in some contentious URA projects such as the Lee Tung Street (commonly known as wedding card street) project and Sai Yee Street (or known as sneakers street) project. This may be a reflection of the mis-match between the institutional procedures and the quest for more community engagement in the process.
- Some recent examples on more organized attempts to participate in urban renewal are:
 - (a) formation of concern/pressure groups comprising not just parties affected by the urban renewal projects but also concerned citizens to monitor the entire process - from project initiation, conceptual planning and detailed design to implementation of the urban renewal project. H15 Concern Group for the Lee Tung Street project, and Central and Western Concern Group for redevelopment projects in Central are some of the examples.
 - (b) submission of alternative planning and design schemes for urban renewal proposal to the Town Planning Board (TPB) for consideration by the concern/pressure groups.

Building Community Consensus

- In undertaking public engagement to build community consensus, it is necessary to bring together all stakeholders to work together in developing an urban renewal action that

could address the common concerns of all parties.

- For a public engagement exercise to be effective, it is necessary to maintain constant dialogues and communications with the stakeholders such that views and information could be exchanged in a constructive manner to enhance mutual understanding as well as to build community consensus.
- Community consensus building process often requires a longer period of time, higher diversity of participatory formats (including workshops and focus group discussions), more interaction between participants, and a two-way interactive process in which participants have an influence on the outcomes.
- The statutory procedures under the TPO for consulting the public on the urban renewal proposal may not be most conducive to building community consensus because the stringent statutory procedures and timeframe stipulated under the TPO do not allow sufficient flexibility required for building community consensus.
- An urban renewal project involves a wide spectrum of issues that are of prime concern to a lot of urban renewal concern/pressure groups. The issues may include compensation and rehousing arrangements, owners participation in redevelopment, preservation of local character and social network, and maintenance of local vibrancy. TPB has limited role to play in some of these issues. Instead of relying solely on the statutory procedures under the TPO, parallel actions should be taken to address these concerns.
- The public engagement programme for the Kwun Tong Town Centre (KTTC) project, which started about two years ahead of its official commencement under the statutory planning procedures, is perhaps one of the more successful examples of consensus building process that paves the way for smoother implementation of URA projects. Four rounds of public engagement exercises were conducted for KTTC which involved:
 - maintaining extensive consultation and constant dialogues with concern groups, Kwun Tong District Advisory Committee and Kwun Tong District Council;
 - conducting community aspirations survey and participatory community design workshop;
 - preparing three design concepts to facilitate the public to express their views; and
 - conducting a series of roadshows and 'door-stepping exercise' to collect views of major stakeholders on the design concepts.
- The two DSPs covering the KTTC were published in October 2007. During the statutory exhibition period, 442 representations were received, over 80% of which were supportive. After completing the representation consideration procedure, the DSPs were approved by the Chief Executive in Council in July 2008.
- Two Master Layout Plans (MLPs) for the KTTC were subsequently submitted to the TPB for approval. The MLPs

have integrated the desirable design features of the three design concepts based on the community's feedbacks from the public engagement exercise. In accordance with the provisions of the TPO, the MLPs were made available for public inspection in September 2008. During the publication period, 1,743 public comments were received and over 80% of them were supportive to the MLPs. The MLPs were eventually approved by the TPB in early 2009.

Way Ahead

- Our experiences of urban renewal over the years has witnessed the changes in the public engagement exercise - from targeting the affected parties on compensation matter to involving the wider community on upgrading local neighbourhood. The issues that need to be addressed in urban renewal have also been increased in scope and contents requiring a diversity of ways in building community consensus. Stakeholders' involvement would be essential in the entire process rather than after the initiation of an urban renewal project.
- The public consultation model, which solely relies on District Councils to gauge local views on individual projects within the statutory framework of the TPO, would no longer satisfy the wider community's demand for more active participation and influence in the urban renewal process.
- Early public engagement and collaborative participatory approach will likely be the future model to be adopted.

It is necessary to strive for broad public recognition and community consensus on the urban renewal programme before initiation of the statutory planning procedures.

- In further enhancing public engagement in urban renewal, thoughts should be given to:
 - How to manage the public engagement process to ensure timely action could be undertaken to address the increasing number of buildings that require renewal?
 - How to provide sufficient information to facilitate meaningful community engagement without causing unnecessary market speculation?

Biography



Mrs Ava S Y Ng is a Fellow of the Hong Kong Institute of Planners and Registered Professional Planner. After obtaining her Master Degree in Urban Planning in McGill University, Canada, she joined the Hong Kong Civil Service in 1977. She is currently Director of Planning of the Government of the Hong Kong Special Administrative Region. She is a member of the Town Planning Board.

Rising Expectations – People affected and the community

Dr C K LAW

Associate Professor, Department of Social Work and Social Administration, The University of Hong Kong

Introduction

Land is used to be considered as a scarce and important resource of Hong Kong. Its use should always be maximized. In the past, the word “maximized” would simply mean maximum land premium as a major source of revenue for the government and maximum economic and financial return for the economy. This concept of “maximization” has been quite often been challenged. The most familiar criticism is the so-called “high land price policy”. More recently, in line with the growing concern about sustainable development, environmental and social dimensions are considered to be equally relevant. With this change in emphasis, the question should not be simply how “maximization” can be achieved, but a question of how the balance between economic, environmental and social concerns can be optimized.

The title of this paper appears to be saying the obvious, i.e. people affected by urban renewal and the community in general have rising expectations towards urban renewal. The rising expectations are discussed below not for the sake of telling what you already know, but for the sake of spelling out how the government has been reacting to this increasing demand and what the implications of these rising expectations are.

The Review of the Urban Renewal Strategy (URS) had started in August last year. One major issue is the preservation of social fabric and heritage. In fact, long before the URS review the issue of keeping the social fabric and heritage, including existing trade

and business within the community, and better compensation for the residents and business operators, has been articulated from time to time.

Rising Expectations

Increasing demand on preservation of heritage

While the voice to strengthen preservation during urban renewal had been heard for a long time, the first time, which the Administration accepted that preservation of historical, cultural and architectural sites and structures as one purpose of urban renewal, was during the consultation on the Urban Renewal Authority (URA) White Bill in 1999 (gazetted on 22 October 1999) during its meeting with Legislative Council sub-committee studying the White Bill. This is subsequently written into the sub-section 5(e) of the URA Bill (gazette on 3 February 2000). At this particular juncture, the Administration accepted the preservation of the “sites” and “structures” only.

During the URA Ordinance (URAO) Blue Bill at committee stage, the wish to conserve the whole street, whole area or whole terrace was clearly articulated by advocates and Legislative Council Members. Yet, the final version of the URAO remains at the level of preserving “sites” and “structures”.

In the consultation and subsequent formulation of the Urban Renewal Strategy (published in November 2001), the preservation of “local characteristics” was finally added.

Community demands for preservation of heritage apparently had been increasing continuously. The demands for the preservation of Star Ferry and Queen's Pier are clear examples. The change of total demolition to partial preservation of the Old Wanchai Market is also good example of how the URA and the Administration has been responding to the changing social expectation of heritage preservation. Another example would be the redevelopment project in Nga Tsin Wai Village Project, where the URA has attempted to put in more preservation elements. Yet, in both cases (Old Wanchai Market and Nga Tsin Wai Village), there are advocates for total preservation, i.e. no redevelopment at all.

Preservation of social fabric

In redevelopment of public housing estates, the demand for resettlement in the original site was heard ever since the Mark I buildings were redeveloped under the Housing Authority and had been the standard policy and practice of the Housing Authority since the 1980s. Thus, the demand for resettling residents in the original site or in the vicinity had always been there since the formation of the Land Development Corporation (LDC) and such demand has been re-iterated from time to time.

However, during the enactment of the URAO in 2000, while the request to resettle residents in the same district particularly the old people was articulated, it was not written anywhere in law or at least implied

in the enacted version of the URAO.

However, in the URS, "preserving the social networks of the local community" was written as one of the main objectives of urban renewal. Though, the Social Impact Assessment (SIA) spelt out in the URS is very much related to this objective, the strategy to achieve this objective is not quite apparent in the URS. Apart from the assessment of social and housing needs of the affected residents, the URS also requires the "social networks of the affected residents" to be assessed. Apart from requiring the URA to work out a detailed assessment of the mitigation measures required, the methodology of preserving the "social network" was not quite available.

As we know of, to preserve the existing social networks in redevelopment projects, there are three possible methodologies, namely "owner's participation" including "flat for flat" compensation within the redevelopment site, "options to buy" a housing unit after redevelopment, and "organic regeneration" (i.e. regeneration bit by bit including mixture of preservation, restoration, rehabilitation, and redevelopment).

The issue of "owners' participation" is one of the key topics in the current URS review processes. It would not be fair to discuss this issue in this paper as the scope and complexity of this topic deserves a much detailed analysis. While there are many reasons for "owners' participation", one reason is related to the preservation of the social fabric. However, the issue of

gentrification discussed below would also be a relevant factor of consideration.

The “option to buy” after redevelopment does not seem to work in terms of preserving social networks with the substantial increase in market value after redevelopment. Gentrification and substantial increase in market value after redevelopment would obviously make any “preservation of social network” or “preserving local characteristics” impossible. The case of the Hanoi Road project (the Masterpiece) with units costing \$15,000 to \$35,000 per square foot clearly demonstrates such impossibility. The “option to buy” for all existing owners available in many of redevelopment projects in Seoul had mixed results, e.g. in some projects, only 10-20% of the original owners returned to the redeveloped sites, and, similarly, the major reason was gentrification.

The demand to preserve traditional or existing trades and business was heard from time to time when URA was conducting its acquisition. This is also an obvious indication of the increasing demand of the public and also part and parcel to the idea of preserving local characteristics and social networks. Though many traditional trades and businesses had always been fading away from our street scenes in the past history of Hong Kong from many different reasons, when URA came in and “killed” them before they died, URA was accused of being the “murderer”.

“Organic regeneration” appears to be an

obvious option for preserving traditional trade and local businesses. At least, it will not kill any business before its natural death, though successful organic regeneration can still drive rental cost up to the extent that would drive away existing business operators in a much gradual manner.

One key pre-requisite for the possibility of preserving social fabric in urban regeneration (no matter it is “owners’ participation”, “option to buy”, or “organic regeneration”), particular in areas with primarily working class residents, was obviously the availability of affordable housing after redevelopment. The implication of this pre-requisite would be discussed later.

Having more say in urban redevelopment

Though one of the four key principles underlying the Government’ approach to urban renewal, as spelt out in the URS, is that “residents affected by redevelopment projects should be given to an opportunity to express their views on the projects”, this is still far from meeting the public rising expectations. Community engagement and participation in urban renewal is basically a world-wide trend in the past few decades. In Hong Kong, political parties, professional organizations, advocacy groups and members of the public demand are all demanding more participation in the planning and implementation of the urban renewal projects. We should also note that there are four layers of community engagement, involving:

1. Those directly affected by the urban renewal projects
2. Those living or operating their business in the immediate vicinity
3. The district community (including the district councils, the local business, NGOs, and residents organizations)
4. The wider society (including political parties, professional organization, advocacy groups and the general public)

This issue of community participation, particularly for those affected by the urban renewal projects, is also very much related to the issue of “owners’ participation”. Critics of the Kwun Tong Town Centre redevelopment projects argued that while the URA had launched extensive community engagement efforts, what is the point of community engagement if all the residents would not be returning to the site after redevelopment and why they should be bother with the community engagement process if the place does not belong to them anymore. Even for the part related to compensation, as the policy is already fixed with little flexibility, the meaning of community engagement is purely “communication” instead of consultation.

Rising demand in reducing density in the old urban area

Urban redevelopment in the old urban area always means exploiting the potential plot ratio allowed in the Outline Zoning Plans and subsequently increasing density in the old urban area, which most people in Hong

Kong already considered as too dense and internationally already the highest in the world. In other words, we can say that the redevelopment in the past 2 decades with increasing building mass and density has, in fact, added the fuel to the already mounting demands to reduce the height and mass of buildings in redevelopment. Responding to such demand, the Chief Executive had already announced in 2007 Policy Address the intention to lower the development density by a step-by-step down-zoning, and subsequently the Planning Department and Town Planning Board in the past 2 years have been working along this direction.

Implications – trade-offs

The issues discussed above, increasing expectations in preservation of heritage and social fabric, and participation are perhaps familiar topics in sustainable development, particularly related to the striking the balance among economic, social, and environmental concerns. Economic growth has always been the priority of Hong Kong since its colonial times. Our Chief Executive always reminds us that this is the first priority and opinion polls of recent years also told us that economic development is always the top priority of HK people. However, we also know that to sustain economic development, we need a sustainable development that maintains the right balance among economic, social and environmental concerns. Though we would probably never be able to be sure about what that right balance should be, we know that we have too much emphasis

on economy and insufficient concerns given to our environment and social development.

The major implication of “balanced sustainable development” is “trade-offs”. In the present URS review process, we should always lay these trade-offs out as clearly as possible.

More preservation of sites, structures and buildings would mean more sites that would be frozen for further development. Though active re-use is always possible, potential for growth would be given frozen. Furthermore, preservation is always coupled with substantial investment in restoration. Given that we have done very little preservation in the past, the community is apparently willing to pay this price.

Preservation of social fabric is a more complex issue. Dispersing residents and the breaking down of social network in urban redevelopment is a social cost by itself. While the residents and commercial operators bear the direct social cost themselves, there is also depletion in the total social capital of the society at large. The keeping of existing of social network in a redevelopment project will require

- the original residents (owners and tenants) to be able to move back to redeveloped site
- transitional arrangements have to be made during the redevelopment site unless the site is both big enough to have phased development and within the site there is space to put up a new

building in the first phase to re-house residents displaced in subsequent phases of redevelopment.

Obviously, we need financing to meet the above requirements. At present, the source of financing for both the URA and the private sector comes from:

- Development potential – the difference between the plot ratio allowed in the OZP and the existing plot ratio utilized. This source is becoming more and more unavailable as the demand to lower density increases and as when we are moving closer and closer to the redevelopment of buildings built in the seventies, most of which have already fully utilized the existing plot ratios.
- Gentrification – upgrading the “class” of the buildings, so the price per square foot after redevelopment is substantially higher than the cost of acquisition and redevelopment. Clear URA examples are the J Residence (嘉薈軒) in the Johnston Road completed two years ago, the Masterpiece currently selling, and probably the Lee Tung Street (Wedding Card Street) in the future. However, if we require the preservation of social fabric, this option of financing from gentrification would become unavailable.

We should also note that, at present, the diminishing of financing options applies mainly to the URA. However, we may also foresee if public demand continues to increase, efforts of down-zoning continue, and as the buildings of 1970s needing reconstruction, the private sector may also

experience the same financing constraint mentioned above.

One of the remaining options would be the Government, or in other words, the tax payers. This would be highly debatable when tax payers start to query why they should be paying the bill of redevelopment of somebody else buildings, though they may someday have their own turn. We should also note that if density is to be reduced and gentrification is to be stopped, government revenue from land premium will be substantially reduced, i.e. reducing revenue plus increasing financing commitments.

There is another remaining option, .i.e. the owners themselves. We all know how difficult it is to made collective decision for major renovation of our private buildings with strata title. Furthermore, many owners of dilapidated buildings are elderly with limited financial resources. It is not quite conceivable that owners themselves can put in extra resources to redevelop their own buildings. Unless, we can start today requiring owners' corporations to be formed and each year these owners corporation required to set aside a depreciation value that can be transferred to a redevelopment fund and a major rehabilitation fund¹. This is not a joke. Strata-title as a human creation has its inherent problems and we should fix it. While it is not unique in Hong Kong, Hong Kong is the city that would experience all the problems that come with strata-title. However, any action to reform strata-title arrangement can only reduce the problems in the future; it does not solve our

problems that we are facing right now.

Closing Remarks

It is important for the public, particularly tax payers, to understand the price to pay. To meet rising community aspirations for lower density and preservation of heritage and social fabric, someone has to pay the bill for redevelopment. If such community aspirations are gradually having an impact on the private sector, the incentive of private sector participating in urban redevelopment will be substantially reduced, and the burden will be shifted to either the Government or the community itself.

In the long run, for sustainable urban development with due considerations of preserving heritage and social fabric, the most viable solution would be to reform our strata-title system and to extend the life of our buildings. Theoretically, if buildings are well-maintained, their lives can be extended well beyond their design life of 50 years. Furthermore, if the design life of buildings can be mandated to be extended from 50 years to 70 years, just like our bridges and flyovers, coupled with good maintenance, the annual C&D waste due to demolition² would be substantially reduced

¹ Just a word of caution: the normal depreciation of a building would be 2% (i.e. 50 years of building design life) and it practically reduces the yield of investment in buildings by 2%, and this will have a significant impact on the market price of residential units if investors form a substantial portion of buyers.

² Just a side note: We roughly have 40,000 buildings. If the average building life is 50 years, then in the long run, each year we will have to demolish 800 buildings. If we can extend it to 70 years, the annual demolition would only be less than 600 buildings. Furthermore, if we can extend it to 100 years by requiring a higher building standard (i.e. design life of 70 years) plus good maintenance, we would only have to demolish 400 buildings every year, which in fact is much larger than our current demolition rate.

and destruction or disturbance to our social fabric would be minimized.

I always wonder how the URA can implement one of the specifications spelt out in the URS, i.e. “promoting sustainable development in the urban area”. While I am tasked to examine the achievements and lessons to be learnt from our urban renewal efforts in the past, I would expect that to “promote sustainable development in the urban area” requires something bigger than the URA and would involve many important policy changes.

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Biography



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'Kainos' Renewal: Promoting Urban Regeneration as a Natural Quality

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'...kainos denotes new in respect of quality...; neos, new (in respect of time)'.¹
 'Such a change-regeneration-is not superficial, but a change in the inner central self;
 not a mere external reformation, but an internal transformation'.²

What is Urban Renewal/Regeneration?

What is the meaning of 'urban renewal' or 'urban regeneration'? It is interesting to note that 'urban renewal' is not defined in the 2000 *Urban Renewal Authority Ordinance*. According to 'Online planning for the citizen' in the United Kingdom, urban renewal is 'the re-use or redevelopment of decaying, run-down or underused parts of urban areas, with the intention of bringing them new life and economic vitality'.³ Healey, Davoudi, O'Toole, Tavsanoglu and Usher (1992, p.3) describe renewal in action as '[r]ebuilding the city, clearing away obsolete buildings and vacant sites, and producing new building forms and designs'. Couch (1990, p.2) differentiates urban renewal from urban regeneration. To him, urban renewal is essentially a process of physical change led by the market or the state or both.

However, urban regeneration represents a wider process in which 'the state or local community is seeking to bring back investment, employment and consumption and enhance the quality of life within an urban area'.

If we carefully review the literature, we can see that the understanding of urban renewal has evolved over time, as people reflect upon the consequences of various approaches of renewing the urban fabric by different stakeholders. Table 1 below illustrates the four phase (two cycles) of urban regeneration experiments that have been practiced in Western countries since WWII.

¹ Walker, W.L., 'New, Newness,' <http://net.bible.org/dictionary.php?word=Man>, accessed in August 2009.
² Webb, R.A., 'Man; New,' <http://net.bible.org/dictionary.php?word=Man>, accessed in August 2009.
³ www.ukplanning.com/ukp/advice/glossary/uk/u.htm;jsessionid=7C487A809AACE8844C1565CB249F7E7A.wam2, accessed in August 2009.

Table 1: Evolution of Urban Regeneration Practices in Western Countries

Phase	State	Private Sector	Community
Post-WWII-1960s	Clearance (in UK, rehousing of affected residents provided)	Rebuilding/redevelopment	
1960s-1970s	Decreasing emphasis on bulldozing and comprehensive redevelopment. Emphasis on rehabilitation.		Multi-dimensional Redevelopment and Rehabilitation
1970s-1980s	Public-Private Partnership in Property-Led Urban Renewal.		
1990s-	"New Partnership" (state, private sector and community) for Sustainable and Simultaneous Economic, Physical and Human Resources Regeneration.		

Source: Ng, 2005, p.444.

Following the post-WWII international movements of political independence and national reconstruction, there was a general faith in economic progress as a panacea for all the development problems. Urban reconstruction, a genuine need for war-torn areas, was often led by governments and undertaken by private sectors. The turning point was the 1960s when people rediscovered 'poverty and a large number of victims of multiple deprivation' (Carmon, 1997, p.133 cited in Ng, 2005, p.443) as cities were rebuilt in the name of progress. In any case, the problem of urban renewal was so paramount then that the state had to rely more on rehabilitation rather than comprehensive redevelopment. However, this period of striving to balance economic efficiency with distributional equity in the renewal process was short-lived. With the restructuring of the global economy since the 1970s, the rise of the so called 'newly industrialising economies' in the less developed parts of the world and the exodus of the manufacturing arms of many businesses in Western countries, the problem of urban decay deepened. With the collapse of the Fordist mode of production and the retreat of the 'welfare state', many in Western cities believed that 'the private sector [is] the only possible way of restoring lasting prosperity to the decaying areas' (Smith, 1989, p.241 cited in Ng, 2005, p.443). While the private sector-led urban renewal processes in the 1970s and 1980s did increase wealth, such wealth fattened only the developers' pockets. Cities were divided (Fainstein, Gordon and Harloe, 1992; Marcuse, 1993), offering no hope for stable and sustainable economic

regeneration (Healey, Davoudi, O'Toole, Tavsanoglu and Usher, 1992). To Healey et al (1992, p.290), the key task then was 'to link property development investment to real demands and needs of the developing local economy, and the cultural-environmental concerns of local citizens'. Hence, regeneration practices since the 1990s have emphasised on the need to involve not only the public and private sectors but also locally-based voluntary organisations and the communities.

In other words, after decades of experiments, Western experiences point to the problem of 'Neos' renewal—renewing the buildings, constructing anew the city form that does not necessarily address the needs of the local community. When communities fell apart and disadvantaged neighbourhoods multiplied as flagship regeneration projects rose in 'seas of decay' (Berry, 1985), people realised the price of property-led urban regeneration. What cities today need is a community-based process directed towards achieving economic, social and environmental well-being of the people through the rejuvenation and revitalisation of the urban fabric (Ng, 2005, p.445). And I would like to capture these ideas as 'Kainos' renewal, renewal as a natural quality.

'Kainos' Renewal

Many Old Urban Areas in Hong Kong have 'Kainos' Qualities!

'Kainos' is a Greek word meaning 'new'. However, it is different from another Greek

word, 'Neos'. 'Neos' means new 'in the sense of young' (Webb) but 'Kainos' means new 'in the sense of renovated'—like a religiously reborn person with renovation of his/her moral nature (Webb). We can 'Neos' a place and make it look new. However, you cannot 'Kainos' a place without it being transformed from within so that the 'newness' becomes part of its nature and its innate quality. What does it mean when it comes to renewing/regenerating the urban fabric?

I remember when I was still an undergraduate student at the University of Hong Kong many years ago, I was puzzled by the lecturer's discussions of 'inner city problems' in a course on 'Internal Structure of the City'. In Hong Kong, we

do not have 'inner city problems' (It was true then as well). This is a key difference between Hong Kong and Western societies in terms of the need for urban renewal. In many Western cities, regeneration is part and partial of a package to revitalise a declining or depressed area or economy. This is NOT the case in Hong Kong. Very often, urban renewal takes place in vibrant neighbourhoods, full of local economic activities, social capital and unique culture and histories and at convenient locations. Table 2 lists the location of URA's projects that are in various stages of development. So why is there a need to renew these places? Profit? A wrong diagnosis of the problems of the 'old' urban fabric? A blindness to the 'Kainos' nature of these places?

Table 2: URA's Redevelopment Projects (in different stages of development)

District	Location
Central & Western District	Queens Street Project (Queen's Terrace)
Tai Kok Tsiu/Mongkok/Yau Ma Tei	Waterloo Road/Yunnan Lane Project (8 Waterloo Road)
	Argyle Street/Shanghai Street Project (Langham Place)
Central & Western District	Kennedy Town New Praya Project (The Merton)
Wan Chai	Wanchai Road/Tai Yuen Street Project (The Zenith)
Tsuen Wan	Tsuen Wan Town Centre Project (Vision City)
Central & Western District	Ka Wai Man Road Project (Mount Davis 33)
Tsuen Wan	Yeung Uk Road Project (The Dynasty)
Tsim Sha Tsui	Hanoi Road Project (The Masterpiece)
Wan Chai	Johnston Road Project (J Residence)
Tai Kok Tsiu/Mongkok/Yau Ma Tei	Cherry Street Project (Floriant Rise)
Sham Shui Po/ Cheung Sha Wan	Fuk Wing Street / Fuk Wa Street (Vista)
	Po On Road / Shun Ning Road Project (Beacon Lodge)
Tai Kok Tsiu/Mongkok/Yau Ma Tei	Reclamation Street Project (MOD595)

Central & Western District	First Street / Second Street Project
	Staunton Street / Wing Lee Street Project
Wan Chai	Queen's Road East Project
Sham Shui Po	Sham Shui Po, Po On Road / Wai Wai Road Project
Tai Kok Tsiu/Mongkok/Yau Ma Tei	Bedford Road / Larch Street Project (i-home)
Ma Tau Kok/ Hung Hom	Baker Court Project
Wan Chai	Lee Tung Street/ McGregor Street Project
Shau Kei Wan	Shau Kei Wan Road / Nam On Street Project
Sham Shui Po/ Cheung Sha Wan	Sham Shui Po Castle Peak Road / Cheung Wah Street Project
Sham Shui Po	Sham Shui Po Un Chau Street / Hing Wah Street / Castle Peak Road Project
	Sham Shui Po Hing Wah Street / Un Chau Street / Fuk Wing Street Project
	Sham Shui Po Castle Peak Road / Hing Wah Street Project
Tai Kok Tsiu/Mongkok/Yau Ma Tei	Larch Street / Fir Street Project
	Pine Street/ Snchor Street Project
Sham Shui Po/ Cheung Sha Wan	Lai Chi Kok Road / Kweilin
	Street & Yee Kuk Street Project
Central & Western District	Yu Lok Lane/ Centre Street Project
Shau Kei Wan	Sai Wan Ho Street Project
Sham Shui Po/ Cheung Sha Wan	Hai Tan Street/ Kweilin Street and Pei Ho Street Project
Tai Kok Tsiu/Mongkok/Yau Ma Tei	Fuk Tsun Street / Pine Street Project
Kwun Tong	Kwun Tong Town Centre Project
Tai Kok Tsiu/Mongkok/Yau Ma Tei	Macpherson Stadium Project
Wong Tai Siu	Nga Tsin Wai Village Project
Central & Western District	Peel Street/ Graham Street Project
Ma Tau Kok/ Hung Hom	Chi Kiang Street/ Ha Heung Road Project
Tai Kok Tsiu/Mongkok/Yau Ma Tei	Sai Yee Street Project
Tai Kok Tsiu	Anchor Street / Fuk Tsun Street Project
Ma Tau Kok/ Hung Hom	Pak Tai Street/ Mok Cheong Street Project
Ma Tau Kok	San Shan Road/ Pau Chung Street Project
Shum Shui Po	Shun Ning Road Project

Source: <http://www.ura.org.hk/html/c800000e1e.html>, accessed in August 2009.

It is not an over-statement to argue for the positive contributions of old neighbourhoods to sustainable development. Old buildings are always welcome by businesses because of cheaper rent. When put into good use, old buildings contribute to diversities, local character and economic vibrancy. Research work in Hong Kong indicates the existence of certain economic networks and ecological relationships among the small shops in old urban areas (Wong, 2009). Not only do these small shops functional in raising enough money to sustain families, providing small and odd jobs for those with little education, they are also central to the knitting of streets into networks, keeping them alive and safe! It is not difficult to find shops in old urban areas mutually supportive, with abundant economic and social capital in store, providing defensible spaces for residents and a secure environment for local kids to become smart urbanites. In other words, these places are blessed with 'Kainos' qualities-instead of bull-doing them, we should enhance them-showcasing their effectiveness in the making of places so that other districts can learn the great tricks and become themselves vibrant and sustainable neighbourhoods!

However, critics will point to the appalling living conditions in the old urban areas: the overcrowded residential quarters, the leaking roof, the exposed wires... truly depressing scenes in a city of wealth. However, will the current mode of comprehensive redevelopment help the residents, considering that most of them

are probably just tenants as they have no choice but cramped into tiny cubicles with no window? What would happen to them when their buildings were reconstructed? If they were lucky, they would move to a public housing estate (but they should be able to move to a public housing estate without redevelopment!). However, for jobs, schooling and transportation costs reasons, they always prefer to stay within the old urban area rather than moving to public housing in the New Territories. As old buildings diminish and supply dwindles, rental level tends to rise, especially in face of the anticipation of newer more expensive developments in the vicinity. Hence, the relocated tenants very often become a victim of redevelopment. To these people, the best way to help them is to 'unslum' the place (Jacobs, 1992), not redeveloping it. The problem is with the over-crowded conditions, not the building itself. In other cities, property maintenance and restriction on sub-division rules and regulations are in place to prevent the formation of slums. If we treasure the invisible social and economic networks and the making of defensible spaces in the old urban areas, we should stop bull-doing seemingly old buildings. Instead we should:

- Keep as many old buildings as possible.
- Unslum the 'over-crowded' ones (building more affordable housing for those with dire housing needs) and improve the internal living environment.
- Enact legislation to enforce responsible maintenance and prevent excessive degree of sub-division within a unit to ensure a certain quality of life.

These will enhance diversities in cities, provide more jobs at the neighbourhood level, encourage the accumulation of social capital and boost a sense of belonging to a local community. Allowing organic gradual changes in a mature urban area is the secret recipe to 'Kainos' renewal.

Consider 'Kainos' Renewal First!

Uprooting the old community with its social and economic networks and planting new buildings on podiums with expensive shopping malls quickly gentrify a place. It may attract people from outside the district who can afford to pay to patronise the shops and outlets but there is no guarantee that the renewed space will eventually integrate with the old urban fabric, not to mention the local communities which have existed for decades. If the district had 'Kainos' attributes to start with, this kind of induced gentrification would be totally superfluous. Indeed, it could be destructive. If the district is dying with little economic vitality, this kind of development, even if pursued, would not be the right 'medicine' to resurrect its life. Why?

It is very difficult to revitalise a dying section of an urban area unless our vision is first to build sustainable communities. We need to pursue 'Kainos' renewal, and comprehensive redevelopment should always be the last resort. There is no short of good advice in the field of urban planning and design to revitalise a place (Colquhoun, 1995; English Partnership,

2007; Jacobs, 1992):

- Adding differences and diversities to an existing place, enriching and perfecting it;
- Creating lively and interesting streets, recognising their economic and social functions;
- Encouraging diversities in economic and social activities as well as built forms because diversities breed diversities;
- Use public realm spaces including public buildings to knit streets and places together;
- Foster community networks and a sense of belonging.

The last point is extremely important. If today, developers and the Urban Renewal Authority find it hard to redevelop buildings with multiple ownerships and a plot ratio of 4 to 5, one cannot imagine what would happen when all our high rise buildings are due for redevelopment in the future. We should not leave this problem to our future generations. We need to engage different stakeholders, organisations, private or public, in the imagining of urban development and build diversified communities with different ideas, purposes and actions:

- Is there a need for economic regeneration? Is it a matter of branding or fostering diversities?
- Is there a need of 'unslumming'? Is it about lowering population density? Internal improvement of buildings?
- Is there a need for affordable housing for the urban poor or institution for an aging population?
- Which part of the district requires redevelopment? Who would be affected?

- How to foster deeper social and economic networks?
- What will be the sustainability impacts of different options on the various stakeholders and what can be done to mitigate these impacts?

Unless individual districts can answer these questions and map out their own regeneration strategies in building self-sustaining, self-regenerating ('Kainos') communities, we may just be building 'a city of strangers'.

Rebuild to Nurture 'Kainos' Qualities

I was in Liverpool for the Association of European Schools of Planning Conference earlier in July and was extremely impressed by the urban redevelopment project in their City Centre which rebuilt the war-bombed city core and reconnects it with the historic waterfront. The development is claimed to be the largest city centre retail regeneration project in Europe with 150,000 sq.m. of new shops (Skempton, 2009, p.1). The development occupied 18.15 hectares of derelict and underused land in the once bombed City Centre, covering part of a World Heritage Site. For someone who is so used to comprehensive redevelopment and a shopping mall culture, 'Liverpool 1' presents a refreshing approach to organising urban, retailing, public realm recreational and functional spaces—spaces that connect key locations (city centre with the historic waterfront), blend old heritage with new development and cleverly utilise view corridors to create a unique sense of place. Although the development involved

a direct private sector capital investment of more than GBP1,000 million, the City Council sought to 'create a series of new places connected by open streets, with more than thirty individual buildings designed by different architects' so that the city can regain 'its organic development pattern', *allowing them to be 'renewed or replaced at different times in the future'* (Skempton, 2009, p.1, my emphasis). The permeability of the place is high and unlike malls that have opening hours, the space is accessible 24 hours a day (Figure 1).

Figure 1: 'Liverpool 1'



Source: author

And there are no short of design guidelines for restructuring urban spaces that are conducive to the nurturing of 'Kainos' qualities (Table 3).

Table 3: Checklist on Physical Environment Factors for Area Improvement/Restructuring

DISTRICT LEVEL	BUILDING LEVEL
<p>Vitality and variety</p> <ul style="list-style-type: none"> ✓ activity nodes ✓ street activities ✓ land uses ✓ texture (relationship of buildings and space) ✓ grain of street pattern ✓ visual quality ✓ relation of buildings to street <p>"Greening the city"</p> <ul style="list-style-type: none"> ✓ colour ✓ shade ✓ softening ✓ air pollution absorption ✓ micro-climate ✓ aesthetics ✓ ambience <p>Traffic and transport</p> <ul style="list-style-type: none"> ✓ public access to non-polluting transport ✓ connectivity of public transport modes and routes ✓ pedestrian accessibility ✓ pedestrian permeability ✓ pedestrian experience <p>Public space</p> <ul style="list-style-type: none"> ✓ appropriateness of location ✓ opportunities for 'conferred life' ✓ quality ✓ connectivity ✓ appropriateness of purpose <p>Form of new development</p> <ul style="list-style-type: none"> ✓ Sympathetic to topography ✓ Compatible with the desired character of the area 	<p>New building</p> <ul style="list-style-type: none"> ✓ scale ✓ layout ✓ form ✓ appearance ✓ use ✓ materials <p>Existing buildings</p> <p><u>Physical condition</u></p> <ul style="list-style-type: none"> • safety • appearance • special individual quality (historic, architectural, or cultural merit) • special group quality (contribution to streetscape, townscape) <p><u>Use</u></p> <ul style="list-style-type: none"> • Compatibility with area • Compatibility with immediate adjacent uses • Contribution to needs of area • Contribution to character of area <p><u>Re-use potential</u></p> <ul style="list-style-type: none"> • rehabilitation • conservation • recycling to other uses <p><u>Internal Living Space</u></p> <ul style="list-style-type: none"> • privacy -personal/family space i.e. not shared except by choice • self-containment (independent bathroom and kitchen) • adequate living area (floorspace) • safety (building structure; electrical wiring; plumbing; drainage)

Source: Modified from Ng, Cook and Chui, 2001, p.181.

These qualities caution us not to 'modernise' the old urban fabric without any regard to safeguarding resources, enhancing local characteristics and developing a deeper understanding of how the local environment is used and valued by people working and residing in these areas (Ng et al, 2001, p.181). Indeed, as far as possible, local communities should be encouraged and facilitated by legislative,

administrative and financial means to renew their own place. These could be in the form of co-operative housing or land re-adjustment schemes in other Asian cities such as Taipei. Not only would this help maintain existing social networks, current residents could also participate in the re-planning and renewal of the place and then enjoy the fruit of urban renewal.

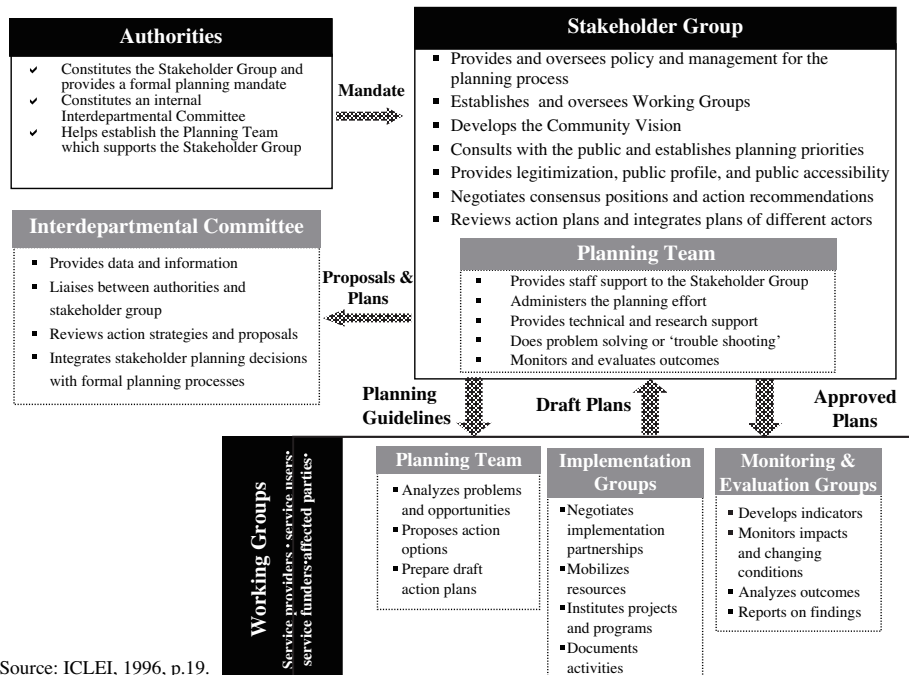
The Need for Community Planning

Grounding urban renewal efforts in the local communities is something Hong Kong has a lot of learning to do. Local districts would need more resources and support in auditing their communities, finding out people's needs, searching for solution spaces and mapping out renewal strategies and actions. Overseas experiences include the establishment of community planners and local researchers-these not only provide local employment, as local residents, they can help build up a data base for a better understanding of the district. Sustained planning work at this level is instrumental to build up the capacity of our communities-first by establishing a data base, then by providing a rallying point for collective envisioning of the future development of the place; it is also a good venue to learn to respect those with different opinions and

to learn the difficult lessons of negotiation and consensus-building. More importantly, it is a process when social trust and social capital are accumulated. 'Kainos' qualities cannot be nurtured in urban spaces unless there is trust among the stakeholders.

This may just be a dream at this point in history. However, it is not an impossible dream. We need asset-based community (ABC) planning: let us understand our communities, know our own needs, appreciate the immense yet invisible assets, master the potential impacts for the various ways of restructuring the urban, environmental and hence social fabric-to learn the skills in building communities with 'Kainos' qualities. What is more? There are existing institutional models to bring this dream to reality. Figure 2 represents one of these.

Figure 2: A General Partnership Model for Sustainable Urban Planning



Source: ICLEI, 1996, p.19.

Concluding Remarks

My arguments in this short paper can be summarized in Figure 3 below:

Figure 3: Regenerating Places

PLACE ATTRIBUTES	With STRONG social & economic capital	With WEAK social & economic capital
Physical quality: Just Old	With 'Kainos' qualities	'Kainos' Renewal <ul style="list-style-type: none"> • Build sustainable communities • Diversities & differences • Knitting streets & public places
Physical quality: Dilapidated	'Kainos' Renewal <ul style="list-style-type: none"> • Unslumming • Rehabilitation • Renewal: co-operative housing or land re-adjustment 	Rebuild to nurture 'Kainos' qualities

Source: Author

Unlike Western cities where the central areas were shunned by the middle class with down-spiralling economic conditions, Hong Kong's central areas, mostly referred to as 'old urban areas', are usually economically vibrant and full of character. Embedded in them are the invaluable qualities of 'self-regeneration', termed as 'Kainos' qualities in this paper. Hence, we should NOT bull-doze these communities because they are the bedrock of a stable and harmonious society with rich though invisible assets, including social and economic capital. If their buildings are not in perfect conditions, these old districts may require certain degree of 'unslumming' of the residential quarters through various means:

- Provision of affordable housing to the poorer sector of the population.
- Legislation to make building maintenance mandatory.
- Legislation to restrict sub-division.

If the physical conditions are so bad that they have to be demolished and rebuilt, efforts should be made to allow for the participation of the concerned stakeholders in the re-planning and development process. There should be reasonable legislative, administrative and financial mechanisms in place to facilitate the participation of the original residents in the renewal projects so that the networked community can enjoy the renewed spaces.

For urban areas that are less vibrant, local communities can learn from the economically active areas and re-imagine a district that would enrich and diversify its existing functions and forms, through knitting streets, public realms spaces, government buildings, etc into a functional and dynamic network. The most important thing, of course, is to foster a community spirit. If redevelopment is inevitable in areas with dilapidated building conditions

and weak social networks, careful thoughts should be given to the design of the place and the future development of the local communities. Every effort should be made to build a place that can nurture a sustainable community with 'Kainos' qualities rather than a city of strangers who would have no clue or interest about the future collective development of a place.

A space would not become a place until it is lived by people. To make places, we have to build communities. Hong Kong needs to learn the art of building local communities, communities that possess the capacity and competency to value their own assets, identify their own strengths, weaknesses, opportunities and threats, engage in rational discussions, negotiate and reach agreed compromises in identifying solution spaces for their urban regeneration needs. Communities that will consider the Government and the private sector as partners, as potential resources for renewing their urban fabric, in order to enhance their social networks and economic assets, to build places with 'Kainos' qualities!

References

- Berry, B.J.L. (1985), 'Islands of renewal in seas of decay,' in P.E. Peterson (ed.), *The New Urban Reality*, Washington, D.C.: The Brookings Institution, pp.69-96.
- Bristow, R. (1998), *Land Use Planning in Hong Kong*, Hong Kong: Oxford University Press.
- Carmon, N. (1997), 'Neighbourhood regeneration: the state of the art,' *Journal of Planning Education and Research*, 17, pp.131-44.
- Colquhoun, I. (1995), *Urban Regeneration*, London, UK: B.T. Batsford Ltd.
- Couch, C. (1990), *Urban Renewal: Theory and Practice*, London, UK: Macmillan Education Ltd.
- English Partnership (2007), *Urban Design Compendium 1 and 2*, London: English Partnerships and Housing Corporation.
- Fainstein, S.S., Gordon, I. and Harloe, M. (1992), *Divided Cities: New York and London in the Contemporary World*, Oxford, UK: Basil Blackwell.
- Healey, P., Davoudi, S., O'Toole, M., Tavsanoglu, S. and Usher, D. (eds.) (1992), 'Property-led urban regeneration: an assessment,' in *Rebuilding the City: Property-led Urban Regeneration*, London: E&FN Spon, pp.277-291.
- Ho, P.Y. (2004), *Challenges for an Evolving City: 160 Years of Port and Land Development in Hong Kong*, Hong Kong: The Commercial Press.
- International Council for Local Environmental Initiatives (ICLEI) (2004), *The Local Agenda 21 Guide: An Introduction to Sustainable Development Planning* (Toronto: ICLEI).
- Jacobs, J. (1992), *The Death and Life of Great American Cities*, New York: Vintage Book.
- Marcuse, P. (1993), 'What's so new about divided cities?,' *International Journal of Urban and Regional Research*, 17, pp.355-365.
- Ng, M.K. (2005) "Quality of life perceptions and directions for urban regeneration in Hong Kong", *Social Indicators Research*, Vol. 71, pp.441-465.
- Ng, M.K., A. Cook, E. Chui (2001), "'The road not travelled': a sustainable urban regeneration strategy for Hong Kong," *Planning Practice and Research*, Vol.16, No.2, pp.171-183.
- Skempton, T. (2009), 'Liverpool One-the Paradise Street Development Area,' Handout distributed in the Mobile Workshop.
- Smith, A. (1989), 'Gentrification and the spatial constitution of the state: the restructuring of London's docklands,' *Antipode*, 21, pp.232-260.
- Webb, R.A., 'Man; New,' <http://net.bible.org/dictionary.php?word=Man>, accessed in August 2009.
- Wong, A. and students of HKSC (2009), 'On the adverse effects to the local economy in previous URA projects,' *Civil Society Summit on Urban Renewal*, co-organised by 31 civil society groups in Hong Kong, 6 June 2009, http://www.hkcss.org.hk/pr/index_e.htm.

Biography



Dr. Mee Kam Ng is the director of the Master of Science in urban planning programme at the University of Hong Kong, the only professionally recognised planning

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At the international level, she has been consultant to the United Nations, the European Union and the Shenzhen Municipality in Shenzhen. She has collaborated with researchers in different parts of the world and has been invited to share her research findings in Europe, America, Japan, South Korea as well as China. She serves as a member in the editorial board of three international planning journals. Recently, she is invited to become a member of the Advisory Board of the Global Research Network on Human Settlements hosted by UN-Habitat.

In Hong Kong, she has served as a member of the Harbourfront-Enhancement Committee, the Country and Marine Park Board, the Railway Appeal Board and the editorial board of the journal of the HKIP. She is also a member of the Sir Edward Youde Memorial Fund Council which sponsored her PhD studies many

years ago. She has been very active in civil society activities and served as a founding vice-chairman of the Hong Kong People's Council for Sustainable Development and a founding member of Citizen Envisioning@Harbour. Currently, she is a member of the Civil Society Summit on Urban Renewal.

The Unhappy Ending of Happy Dragon Restaurant: the Argument between Total Extinguishment of Business or Business Removal

Mr Lawrence H.C. PANG FRICS FHKIS AACI MBA CFA

The Background of Resumption

In Hong Kong, perhaps save for the site of St. John's Cathedral in Garden Road, all land held by private interest for occupation or development is indeed leased from the Hong Kong Government on various terms and subject to restrictions on different users.¹ Occasions, however, arise that it is necessary for the Government to resume land, in the public interest, for public purposes. In other countries where land is largely freehold, a government requires compulsory powers to purchase private land. In England, for instance, this is referred to the "law of compulsory purchase"; in Canada, the term "expropriation" is adopted.

Since the Second World War, in concomitant with the large increase in population and the subsequent development of new towns, for instance, resumption of private land by the Hong Kong Government has been common for the purpose of implementing public works projects. Lately, resumption of private land by the Hong Kong Government has been extended to implementing urban renewal strategy². Affected landowners may raise objections to the land resumption proposals. Their objections will be submitted together with the land resumption proposals for consideration by the Executive Council under the relevant Ordinances e.g. Lands Resumption Ordinance (Cap. 124).

As far as land resumption is concerned, the only significant differences between past

and present procedures is the coming into effect of several ordinances such as the Roads (Works, Use and Compensation) Ordinance (Cap 370) (1982) and the Railways Ordinance (Cap 519) (1997) which provide resumption powers and set out similar procedures relating to land resumption. The Roads (Works, Use and Compensation) Ordinance provides for the resumption of private land for road works or use whereas the Railways Ordinance provides for the resumption of land for the construction of railways in Hong Kong. The procedures for land resumption under this latter Ordinance are essentially the same as those under the Roads (Works, Use and Compensation) Ordinance. Certainly when land is resumed, whether by the Lands Resumption Ordinance or the others, all private right under their respective leases from Government is extinguished but persons holding compensatable interest in the land affected is entitled to payment of compensation³.

¹ Recently, the Court of Appeal in *China Field Limited and Another v. Appeal Tribunal (Buildings)*, CACV 299/2007 and CACV 300/2007, tried to correct that there is in fact a second freehold property granted to the Hong Kong University under section 20 of the University Ordinance 1911.

² Resumption in pursuance of the Urban Renewal Ordinance (Cap. 563) is deemed to be resumption for a public purpose within the meaning of the Lands Resumption Ordinance (Cap 124).

³ Art. 105 of the Basic Law provides:

"The Hong Kong Special Administrative Region shall, in accordance with law, protect the rights of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property.

Such compensation shall correspond to the real value of the property concerned at the time and shall be freely convertible and paid without undue delay."

In spite of their differences in land resumption procedures, when land is resumed under these two latter Ordinances, the claim for compensation under the two Ordinances is referred to as if it were a claim under the Lands Resumption Ordinance. While the common law principles on the law of compulsory purchase are generally applicable, section 10 of the Lands Resumption Ordinance provides that: -

- "(1) The Tribunal shall determine the amount of compensation (if any) payable in respect of a claim submitted to it under section 6(3) or 8(2) on the basis of the loss or damage suffered by the claimant due to the resumption of the land specified in the claim.
- (2) The Tribunal shall determine the compensation (if any) payable under subsection (1) on the basis of-
- (a) the value of the land resumed and any buildings erected thereon at the date of resumption;
 - (b) the value of any easement or other right in the land resumed, owned, held or enjoyed by a claimant at the date of resumption;
 - (c) the amount of loss or damage suffered by any claimant due to the severance of the land resumed or any building erected thereon from any other land of the claimant, or building erected thereon, contiguous or adjacent thereto;
 - (d) the amount of loss or damage to a business conducted by a claimant at the date of resumption on the land resumed or in any building erected

- thereon, due to the removal of the business from that land or building as a result of the resumption;
- (e) in the case of land resumed under an order made under section 3 on or after the commencement of the Crown Lands Resumption (Amendment) Ordinance 1984 (5 of 1984)-
 - (i) the amount of any expenses reasonably incurred by him in moving from any premises owned or occupied by him on the land resumed to, or in connection with the acquisition of, alternative land or land and buildings, but excluding any amount to which paragraph (d) applies;
 - (ii) the amount of any costs or remuneration mentioned in sections 6(2A) and 8(4)."

Total Extinguishment of Business is Equivalent to the Removal of the Business

The authority which takes the land on resumption or compulsory acquisition does not acquire the business being conducted thereon, but the resumption or acquisition may prevent the affected persons from continuing his business on the land. As stipulated in section 10(2)(d) of the Lands Resumption Ordinance, compensation is payable for loss or damage which is "due to the removal of the business". Therefore, losses suffered because of relocation are compensable. However, it has been held in many cases that a loss suffered on the total extinguishment of a business is equally

a loss suffered due to the removal of the business: *Director of Lands and Survey v. Chan Tai Land Investment Ltd.* [1978] HKLTLR 115. Thus, any loss or damage which is due to the total extinguishment of a business is also compensable under section 10(2)(d) of the Ordinance. Likewise, any reasonable expenses incurred due to the total extinguishment of the business is compensable under section 10(2)(e)(i) of the Ordinance.

Total extinguishment arises where the resumption causes the affected party to extinguish his undertaking on the land permanently because, for example, he may not be able to find a suitable alternative site for his operations to continue. In the past 20 years, however, there have been numerous arguments on whether a business is extinguished or otherwise relocated. The hottest debate started in *Shun Fung Ironworks Ltd. v. Director of Buildings and Lands* [1995] HKLR 311 which went all its way to the Privy Council for determination.

In this particular case a mini-mill business at Junk Bay (the antecedence of Tseung Kwan O) was resumed by the Government in 1986. The principal dispute concerns the basis on which compensation should be paid for the loss sustained by Shun Fung in respect of its business. While in general one would expect that a business as a going concern when extinguished would suffer higher losses and therefore be entitled to higher compensation, Shun Fung Ironworks Ltd. based its claim for compensation upon the cost it incurred in moving to Shunde (順德) in mainland

China. In this regard, the Privy Council ([1995] 2 AC 111; [1995] 1 HKC 417) agreed with the decision of the Lands Tribunal that the business planned by Shun Fung would not be the same business as the one carried out at Junk Bay and because of the discontinuity between the business at Junk Bay and the business planned for Shunde, its business was effectually extinguished. The Lordships further elaborated that the relocation alternative was subject to whether a reasonable businessman, having adequate funds of his own, would incur the expenditure. It held therefore that, based on the findings of fact by the Lands Tribunal, no reasonable businessman would have relocated to the China site and the claim for compensation on a relocation basis failed; the Privy Council reinstated the compensation awarded by the Lands Tribunal on the total extinguishment basis. The Lordships added:

"Compensation is not intended to provide a means whereby a dispossessed owner can finance a business venture which, were he using his own money, he would not countenance. However, when considering these matters the tribunal or court might allow itself a moderate degree of latitude in approving as reasonable the relocation of a family business, for the reasons set out by Wells J. in *Commissioner of Highways v. Shipp Bros. Pty. Ltd.* (1978) 19 S.A.S.R. 215, 222."

Perhaps by reference to this remark, there

came the surprises made by the Lands Tribunal in dealing with a series of claim for compensation arising from a major resumption for the Hong Kong Housing Society's Urban Improvement Scheme in Ma Tau Kok. Invariably and indiscriminately, compensation on the basis of total extinguishment was awarded starting from *Wong Sau Hing and Others trading as Shing Kee Metal Dealer v. Director of Lands*, [1996] HKDCLR 1⁴ to *Hing Yee-shun trading as Tung Hing Decoration Company v. Director of Lands*, LDLR 19 of 1995 (some 16 cases altogether). Of particular interest is the case *Ko Lai Mui trading as Cheung Shing Mirror v. Director of Lands*, LDLR 6 of 1995. In this case, when the mother's business of selling mirror, picture framing and Chinese religious worship paraphernalia etc. at rented premises situated at 42H, Ground Floor, Pak Tai Street, Ma Tau Kok was affected by resumption, she claimed for total extinguishment of business. On the other hand, her eldest daughter who happened to be an air hostess and live with the applicant under the same roof, was able to set up a similar business across the street on the Ground Floor of 59 Pak Tai Street. Nevertheless, the Lands Tribunal awarded compensation on the basis of total extinguishment of business despite the Privy Council in the Shun Fung case above also gave the following observation:-

"A business has several attributes. These include the goods or services it supplies, its management and staff, its suppliers, its customers, its location, its reputation, its name. When a business closes down at

one site and re-opens elsewhere, there is usually no difficulty in knowing whether, in practical terms, it is the same business or not. Take a simple example. A restaurant in Soho is forced to close when its premises are taken over. On the following day the same management opens a new restaurant of the same style nearby, under the same name and employing the same staff. That would be a case of the same business operating from a new location. That would be so even if there were an interval of a few days or weeks before the restaurant opened at the new site."

It was unfortunate that the Government did not take the initiative to appeal against any of the above decisions⁵. Following the Ma Tau Kok principles therefore, compensation allegedly on the basis of extinguishment was subsequently awarded to a private tutor whose leased premises for tuition were resumed and so was compensation awarded to a second-hand car dealer whose affiliated company set up a similar business at premises next door.

⁴ This *Wong Sau Hing* case was also criticised by the Court of Appeal in *Wong Hoi Nung formerly trading as Bailey Trading Company v. Secretary for Transport*, CACV 521/2001 as an unsatisfactory decision not only because of the absence of any adequate reasoning to justify the valuation approach adopted, but also for its implicit condonation of irregular business practices in connection with the rendering of accounts to the Inland Revenue.

⁵ On the other hand, *Ko Lai Mui* appealed seeking increase in compensation but the Government only took the trouble to strike out her claim instead of making use of the opportunity to cross-appeal on the basis of the Lands Tribunal's error in applying the legal principle (CACV 43/1996).

The New Era

The turning point occurred in *Fung Tin Sang trading as Dragon Trading Company v. Secretary for Transport*, LDMR 30 of 2000. In this case, the applicant was the sole proprietor of a business called Dragon Trading Company ("*Dragon Trading*"). He was engaged in the sale of parts of motor vehicles as tenant and occupier of a piece of land in Kam Tin, New Territories. The resumption notice of the land was published on 15 October 1998. On 12 January 1999 the applicant was told by the Government to clear the land on or before 31 March 1999. The business of *Dragon Trading* actually ceased on 31 March 1999. Its business registration expired on 28 April 1999 and was not renewed.

On the other hand, Mr. Fung Tin Yeung, the brother of the applicant and the manager in charge found an alternative site within a close vicinity and set up a similar business on 1 April 1999, for instance, by purchasing the stock of *Dragon Trading*, taking over all the employees and using the same supplier of goods. A differently constituted Lands Tribunal found the applicant had not acted reasonably in deciding not to continue with the business. It cited the principles governing the award of compensation also propounded by the Privy Council in the *Shun Fung* case above:

"Fairness requires that claims for compensation should satisfy a further, third condition in all cases. The law expects those who claim recompense to behave reasonably.

If a reasonable person in the position of the claimant would have taken steps to eliminate or reduce the loss, and the Claimant failed to do so, he cannot fairly expect to be compensated for the loss or the unreasonable part of it."

The applicant's appeal to the Court of Appeal was dismissed (CACV 2747/2001).

Thus this stricter application of *Shun Fung* principle was adopted by the Lands Tribunal in *Hongda Containers Limited v. Secretary for Transport*, LDMR 7/2000, *Wo Kee Trading Company Limited v. Secretary for Transport*, LDMR 28/2000, *Yip Kui trading as Tai Wo Trading Company v. Secretary for Transport*, LDMR 52/2000, *Wan Wai Hong and Wai Wai Shing trading as Wai Kee Machinery Workshop v. Director of Lands*, LDLR 6/2002, *Sham Chi Keung v. 地政總署署長*, LDLR 3/2005, *梁續有(以天祥參茸藥行的名營業) v. 地政總署署長*, LDLR 4/2006⁶.

In the *Yip Kui* case, in particular, the Lands Tribunal elaborated on the various factors that may assist in determining the reasonableness of the business operator to terminate the business conducted by him at the date of resumption on the land resumed. These included:-

⁶ Save for the *梁續有* case which was not appealed and the *Sham Chi Keung* case which was appealed by the Government on another matter, the Court of Appeal upheld the corresponding Lands Tribunal's decisions upon appeals by the applicants of all these cases concerned.

- (a) whether the Applicant's business was geographically bounded (or inextricably tied to the resumed premises⁷);
- (b) the age of the Applicant⁸;
- (c) the availability of alternative premises;
- (d) the reasonableness of the Applicant's effort in locating alternatives;
- (e) the financial resources of the Applicant⁹;

The Lands Tribunal found that there would have been plenty of other premises to which the business could have been moved and that although the applicant was in his early 60's at the time of the resumption of the land, he was well able to continue his business and, indeed, that that had been his intention had the premises not been resumed. The Lands Tribunal came to the conclusion that the applicant had not made any reasonable attempts to locate alternative premises and that he would have had the financial resources to move the business had he wished to do so. The Lands Tribunal concluded that the applicant did not have to close his business because of the land resumption and dismissed the claim for compensation on the basis of the forced total extinguishment of the business.

When the applicant appealed to the Court of Appeal, his appeal, like the others in the series stated above was dismissed (CACV 379/2002). In particular, Rogers VP on behalf of the Court of Appeal held that:-

"It must always be remembered that it is for the applicant to demonstrate the validity of the claim to compensation. If the claim is put, as it was in this case, on the basis that

a business had been extinguished, the applicant must show that the extinction of the business was due to the resumption of the land"

Furthermore, the Court of Appeal added a very important remark which affects the decision or outcome of later claims. In this *Yip Kui* case, the Lands Tribunal, having rejected the claim based upon forced termination of the business, awarded compensation on the basis of relocation, despite the fact that there was no relocation of the business. This, in part, may have been explained by the fact that the Government's stance had been that the applicant should only be entitled to compensation payment in the sum of HK\$81,000 for removal costs plus professional fees and interest thereon. The Court of Appeal disagreed. Again Rogers VP said obiter that:-

".... compensation can only be awarded in respect of loss or damage which has been suffered or expenses which have been incurred. It is not possible for compensation

⁷ In *Director of Public Works v Leung Sze*, (1977) HKLTLR 158, the Lands Tribunal was satisfied that the small family grocery business was inextricably tied to its leased premises, and that a refusal to renew the lease would, inevitably, have brought the business to an end.

⁸ In *Director of Public Works v Dr. Renald Ching and Dr. Marie Feng* [1978] HKLTLR 320, the Lands Tribunal took the view that the age of the Applicant must be taken into account when it was to assess whether or not that Applicant was reasonable in terminating instead of relocating his business.

⁹ "Compensation is not intended to provide a means whereby a dispossessed owner can finance a business venture which, were he using his own money, he would not countenance."- *Shun Fung Ironworks Ltd. v. Director of Buildings and Lands*, [1995] 2 AC 111; [1995] 1 HKC 417

to be awarded, whether under the Lands Resumption Ordinance or under the Railways Ordinance, on the basis of a hypothetical loss or expense which might be incurred if the applicant had taken a course which he or she would have been entitled to take but had not taken, and never intends to take. On this basis any claim for the cost of renovation and adaptation of fixtures and fittings for use in new premises, installation charges for installing equipment in new premises, solicitors' fees in respect of acquiring a lease for new premises, rent in respect of new premises, whether it be double rent or the first month's rent, and publicity costs in connection with a move to new premises simply have no basis. There never were any new premises, there are not any new premises and there never will be any new premises. These claims are wholly spurious."

Firstly, this principle was applied in *Hongda Containers Limited v. Secretary for Transport*, CACV 269/2003 and then the 梁續有 case, *supra*. Then came *Happy Dragon Restaurant Limited v. Director of Lands*, LDLR 17/2006.

The Unhappy Ending of Happy Dragon Restaurant

In this case, the applicant, Happy Dragon Restaurant Limited, formerly owned, financed and operated a general Cantonese

food restaurant in Shau Kei Wan. The notice of resumption was affixed to the premises on 25 February 2005 and reversion took place on 25 May 2005. The applicant's case was that the resumption (again for implementation of the Hong Kong Housing Society ("HKHS") development proposal) caused it to totally extinguish the restaurant's business because of the following reasons:

- (i) the applicant had established a customer network within the Shau Kei Wan locality which would be lost with the resumption;
- (ii) a single interlinked business premises such as the subject could not be found in the market;
- (iii) an approximate sum of \$7 to \$7.5 million was required to relocate the business but the applicant had insufficient fund at the time of notice of resumption;
- (iv) it was impossible to find a suitable premises which could have a long lease term; and
- (v) the staff of HKHS conducted stock-taking every 15 days which had a drastic negative impact on the Applicant's business.

It was not disputed that as early as 29 November 2003, the applicant knew about the intention by the HKHS to possibly resume the subject premises, yet the applicant continued to acquire the premises and commenced the restaurant business on 12 December 2003. The Lands Tribunal agreed with the applicant that "it had already reached a point of no return as renovation had been completed, all equipment installed and staff recruited

with business intended to commence in early December 2003." It was held too late for the Applicant to abruptly stop all the preparation work for the restaurant business that had started sometime ago.

The applicant submitted that it started to look for alternative premises from August 2004 and continued to do so until December 2005 even though it was still unable to find any suitable alternative location for the restaurant business save for the "Wah Do" location in Kwun Tong. The Lands Tribunal found for the Government that the applicant had started too late looking for alternative premises and stopped too early to cease the restaurant in February 2005. However, it agreed that "the Applicant's mistakes were not fatal as to ... conclude that the Applicant had not taken reasonable steps in finding alternative premises for possible relocation."

Nevertheless, in considering the financial capability of the applicant in effecting the relocation, the Lands Tribunal found it was unreasonable for the applicant not to borrow the shortfall of the provisional compensation offered on 22 June 2005 that it needed to enable the relocation. The Tribunal did not agree with the applicant that the applicant needs a sum as much as \$10.30 million to effect a relocation of the restaurant business. The Tribunal considered there would be some expenses that the applicant did not need to pay if there was a relocation of the restaurant business as a going-concern¹⁰. As a result, the Lands Tribunal ruled that the applicant had acted unreasonably in extinguishing

instead of relocating his business to another premises such as the one at the Wah Do location.

And more importantly, the Lands Tribunal, following the *Shun Fung* case, the *Yip Kui* case and the *Hongda Containers* case above, refused to consider the applicant's alternative claim for certain disturbance payments. These losses, as argued by the applicant, would still be suffered even if it chose to relocate to another location. These payments include:-

- (1) contractual obligation to pay Hong Kong Electric Co. Ltd. in lieu of the required 3-year usage,
- (2) compensation to employees in respect of leave holidays,
- (3) severance payments,
- (4) License fees of General Restaurant License and Liquor License,
- (5) loss in respect of fixtures;
- (6) loss on the sales of inventories on closure of business and
- (7) loss in respect of plant and machineries.

After the Lands Tribunal handed down the judgment on 28 April 2009 awarding no compensation, the applicant applied for a review of the judgment but failed. Applying the Court of Appeal decision in *Yip Kui*, supra, the Lands Tribunal came to the following conclusion in its review decision handed down on 26 June 2009:-

- (i) For items (1) to (4) as claimed by the

¹⁰ It was remarked by the Privy Council in the *Shun Fung* case, supra, that "(i)n the ordinary way, the expenses and losses incurred when a business is moved to a new site will be less than the value of the entire business as a going concern."

applicant, the Lands Tribunal held that these were not "actual" losses incurred by the applicant if the applicant had not totally extinguished the restaurant business but had relocated to another suitable location.

- (ii) Some or most of the compensation to the employees, if not all of them, might be avoided if the business was relocated to a new location. For example, with relocation to a new location, the employees could be given the leave holidays without the need for the applicant to pay them compensation in lieu of such leave holidays.
- (iii) The Lands Tribunal did not agree that with relocation, the applicant would have to lay off all its existing employees who, according to the applicant, included many experienced restaurant managers and other staffs whose expertise and experience were instrumental for the successful running of the business.
- (iv) Similarly, the Lands Tribunal did not agree that the licence expenses would be "actual" losses incurred by the applicant because in the case of relocation, the applicant could still make use of the remaining duration of the licence by simply seeking to change the address of the applicant's business.
- (v) Finally, for the loss of the "contractual obligation to HK Electric", the Lands Tribunal did not agree that it would necessarily be actually incurred. Although the Lands Tribunal had decided against the applicant in that the applicant should not have

extinguished the business as the applicant had at least one suitable premises for relocation, for which they had unreasonably turned down, it did not follow that there might not be some other premises on Hong Kong Island which were equally suitable for relocation. The Lands Tribunal considered the information for other potential relocation premises as given by the applicant at the trial was insufficient for a finding otherwise.

- (vi) For items (5) to (7), the Lands Tribunal did not agree with the applicant that those losses would be losses that would be incurred in any event. On the contrary, the Lands Tribunal found that in the event of relocation by the applicant instead of the total extinguishment, most, if not all, of the losses of these 3 items could be avoided. The Lands Tribunal failed to appreciate why the applicant would have to throw away and lose all the assets in the fixtures and plant and machinery in the event of relocation. It considered most of these assets could be reused, with or without adaptation, in such an eventuality.
- (vii) Similarly, the Lands Tribunal failed to appreciate why the applicant would have to incur all the losses on sales of inventories as some of the inventories could be moved and used in the new location.

In its review judgment, the Lands Tribunal added that without assuming what percentage of the claimed items would have to be lost in the "hypothetical" situation of

relocation, there is no basis to determine the amount of the losses in these items that could be regarded as the "actual" losses to the applicant. Assuming a certain percentage of such items would be lost in the "hypothetical" situation of relocation would however be falling into a similar situation for which the Tribunal in *Yip Kui* was criticized by Rogers JA in the judgment of the Court of Appeal. *Happy Dragon Restaurant Limited v. Director of Lands*, LDLR 17/2006 provides a sad experience for the business operator who might have suffered because of the resumption.

The Lesson Learnt

Upon resumption or compulsory acquisition for public purpose, the Government will take the land instead of acquiring the business, but the resumption or acquisition may prevent the persons conducting business thereon from continuing their business on the land. On the other hand, in the *Shun Fung* case, *supra*, Lord Nicolls ruled:

"Most businesses are capable of being relocated, but exceptionally this may not be practicable: for example, another suitable site may not exist. If the business is not capable of being relocated, then perforce compensation will have to be assessed on the extinguishment basis."

By this, it is reasonable to expect that, upon resumption of premises by Government, compensation will normally

be payable on a relocation basis. It is only exceptionally when the business cannot be moved elsewhere so that loss will be measured by the value of the business as a going concern. The series of judgments by the Lands Tribunal in the *Ma Tau Kok* cases in the 90s might have given the wrong impression that it is more easy or convenient to claim compensation on an extinguishment basis, particularly the outcome of the latter will be usually more substantial. The tide has however changed since the *Fung Tin Sang* case or more particularly the *Yip Kui* case.

When an owner decides whether he should relocate and continue his business or whether he should close down the business because of the resumption, the law requires the owner to act reasonably in response to the resumption, and he should take steps to eliminate or reduce the loss. If he does not do so, he would not receive compensation for the loss even on a hypothetical basis of relocation.

Biography



Lawrence Pang is an all-round professional in general practice surveying with over 25 years of property experience in Hong Kong, specialising in land administration

matters and forensic and litigation valuations. As well, Mr. Pang has experience in real estate investment and

leasing and is particularly conversant with the BMO in property management.

Mr. Pang had advised on the resumption and compensation matters relating to the construction of the West Rail and the Tsim Sha Tsui Extension. He is now involved in planning the resumption for the construction of another new railway line.

In the course of his professional career, Mr. Pang also prepared business analysis and prepared business valuations. He then joined the Chartered Financial Analyst Program in 2000 and obtained the CFA designation in 2002. In 2004, he was appointed the Director of a listed company by the provisional liquidators to assist its restructuring and application for the resumption of trading which took effect in 2006.

Revitalising Historic Buildings in Hong Kong

Mr Jack CHAN

Commissioner for Heritage

The presentation would introduce the policies and initiatives on heritage conservation under Commissioner for Heritage's Office of the Development Bureau.

Our Heritage Conservation Policy is 'To protect, conserve and revitalise as appropriate historical and heritage sites and buildings through relevant and sustainable approaches for the benefit and enjoyment of present and future generations'. We aim to **protect and conserve** our historic buildings; we **revitalize** them by adapting them into appropriate new uses.

The first initiative on **protection and conservation** is Heritage Impact Assessment (HIA). HIA aims to achieve a best balance between development initiated by Government and heritage conservation, starting from the project inception stage.

Our second conservation initiative is providing economic incentive for the preservation of privately-owned building - the King Yin Lei case.

Our third conservation initiative is providing Financial Assistance for the Maintenance of Graded Buildings. We are concerned that substantial amount of cost required in maintaining historic building may hinder conservation of privately-owned graded historic buildings. We therefore provide financial assistance to eligible owners of private graded historic building to carry out maintenance works.

Another conservation initiative is the comprehensive grading of 1,444 historical buildings. Some 8,800 buildings were recorded under the territory-wide survey on historical buildings (mainly built before 1950) carried out by Antiquities and Monuments Office (AMO). A more in-depth survey of 1,444 buildings with higher value selected from the 8,800 survey was carried out by AMO in 2000-2004. Under the proposal, the buildings have been proposed to be graded as Grade I, Grade II, Grade II and no grade.

As to **revitalization**, several recent successful examples of adaptive re-use of Government-owned buildings would be shown. Some of the buildings have received UNESCO Asia-Pacific Heritage Awards for Cultural Heritage.

The revitalisation initiative we currently undertake intensely is Revitalising Historic Buildings Through Partnership Scheme. It is a scheme to foster partnership with the community in preserving and putting government-owned historic buildings into good and innovative use. Eligible NGOs are welcome to submit revitalization proposals which promote social enterprise and create job opportunities in particular at district level. The First batch of this Scheme was launched in February 2008, offering 7 government-owned historic buildings to application. Application to the 5 buildings under Second batch of the Scheme was invited in August 2009.

Biography



Appointed in April 2008, Mr. Chan is the first Commissioner for Heritage. He leads the Commissioner for Heritage's Office under the Development Bureau of the HKSARG to provide dedicated support to the Secretary for Development in implementing the policy on heritage conservation and keeping it under constant review, taking forward a series of new initiatives as well as serving as a focal point of contact, both locally and overseas.

Guidelines for Adaptive Reuse of Heritage Buildings

Mr K M MO

Assistant Director / New Buildings 1, Buildings Department, HKSARG

Introduction

It is my honour to be invited to this important event organized by the Hong Kong Institute of Surveyors, the Annual Conference 2009. To tie in with the theme on urban regeneration, my presentation will focus on the adaptive reuse of heritage buildings.

Some of you may know: the Buildings Department has recently published an interim edition of the "Practice Guidebook on Compliance with Building Safety Requirements for Adaptive Re-use of and Alteration and Addition Works to Heritage Buildings under the Buildings Ordinance". The Practice Guidebook discusses how a balanced approach may facilitate successful conservation of heritage buildings. It offers practical solutions on how to resolve some commonly encountered problems and the principles for preparing alternative designs in achieving equivalent safety standards. Some case studies are also provided for general reference. I hope you would find it useful and your feedback would be most welcome.

Today, I would like to take this opportunity to share with you my views, as an administrator of the Buildings Ordinance, on how we may revitalize our heritage buildings with minimal intervention to the physical fabric of the buildings while complying with the safety standards.

Understanding the building

Throughout the years, surveyors

have contributed tremendously to our built environment. Together, we have transformed Hong Kong from a barren rock to a bustling metropolis. As much as we need new buildings to house a growing population, we are increasingly aware of the need to preserve our heritage buildings and culture.

Unlike Singapore where 95% of their heritage buildings under its conservation programmes are shophouses, we do not have one predominant type of heritage buildings. If we examine the results of the assessment exercise recently conducted by the Antiquities and Monument Office, out of the over 1100 proposed graded buildings, over 70% of them are privately owned. Common types of buildings include Tong Lou, schools, churches, temples, village houses, institutional buildings, barracks, mansions... More than half of them are situated in the New Territories.

As with all our existing buildings, the conditions of these heritage buildings vary from building to building. Some are still in active use and relatively well maintained. Others are less fortunate. They may be left vacant; materials have deteriorated and possibly infested with insects; and some of them may have unauthorized building works. Many were constructed using traditional materials such as timber and bricks, employing traditional construction techniques and based on the then design methodologies and concepts.

Furthermore, as we learn from colleagues from the Antiquities and Monument

Office, it is not possible to make universal statements summarizing which building element is significant, which changes are acceptable and which are not. The heritage value and the aspects of significance of a heritage building have to be individually assessed and understood. This together with the physical conditions of the building will lead to obligations or constraints when planning changes.

Hence the first step to minimize the amount of intervention to a heritage building, when carrying out an adaptive reuse project, is to thoroughly understand the building, its current condition, the original design assumptions, the construction methods, what is significant and why is it significant. Only after these careful studies will you be able to work with the constraints and opportunities and make the right decisions on adaptive reuse of heritage buildings.

Finding a compatible use

After understanding the building, the next step to minimize the amount of intervention in a revitalization project is to find a compatible use for the building - a use that is not only economically viable and hence sustainable, but equally important, a use that is suitable for the building in terms of its construction, and at the same time, respects the heritage values of the building.

You know that uses like a hospital that demand a wide range of building services and medical support facilities will cause more intervention to the heritage building

than, say, an office. A place of public entertainment with crowd load will demand much more extensive structural strengthening works than, say, a hostel for domestic use. Similarly, more extensive fire safety upgrading works will be required to suit the needs of a kindergarten than a retail shop. Hence, finding a compatible use for the heritage building is essential for any successful revitalization project.

Professor Tong of the Guangzhou University, a renowned conservation architect has commented that it is unreasonable to force an old man stand up straight, change his style and behave like a young boy. Same for old buildings, we cannot expect that all heritage buildings are suitable for conversion into all sorts of uses and the selection of an appropriate use is most crucial taking into consideration the needs to preserve the heritage values and to meet the modern day requirements.

Compliance with current building health and safety standards

Under the current building regulations, it is a statutory requirement that all proposed new building works including alterations and additions to existing buildings should comply with the standards set out in the extant building regulations. There is no exception to the alteration works in heritage buildings. The standards set out in the building laws are minimum health and safety standards. Indeed, these are the standards that will stand in courts of inquiries and adopted by the building operators and insurance companies in

assessing their liabilities and validity of claims.

If the use of the building is to be materially changed, for the good of the new occupants and visitors, we have an obligation to upgrade the health and safety standards of the building to the current standards.

Some people say that adaptive reuse of a building is often the only way that an old building can be brought up to contemporary standards. I agree. This is indeed a form of urban regeneration.

Our current health and safety standards are standards that have been developed over the years to reflect technological advances, the needs of the society, and more often, in reaction to frequent accidents, major disasters or plagues. Take for example the legislation requiring the upgrading of fire safety provisions in existing buildings to current standards was enacted following a number of tragic incidents. It would be difficult to defend why proposed building works or adaptive reuse of heritage buildings need not meet current safety standards.

Due to the difficulties to comply with the prescriptive requirements set out in the current building regulations, some private practitioners have suggested that a lower safety standard be accepted for adaptive re-use of heritage buildings. However, I must point out that if a building is put to a certain use without sufficient upgrading to current standards due to preservation

constraints, the level of safety of the building will be substandard and occupants and users of the building will be subject to a higher risk than provided by the statute. If we were to accept a lower safety standard for such buildings, public consensus would need to be secured and the building regulations need to be amended through legislative amendments.

For adaptive reuse of heritage buildings, it is therefore important to balance safety, degree of preservation and extent of adaptive reuse.

Pragmatic and performance based approach

How can we apply current standards onto an old building, especially one that has heritage values? A proposal for adaptive reuse of a heritage building that fully conforms to prescriptive building codes at the expense of the heritage value of the building fabric is not good enough. On the other hand, a proposal which compromises the building safety is also not acceptable. So, how can we strike the right balance, to minimize intervention to the building while ensuring its safety and health?

We often hear that prescriptive building requirements frustrate innovation. We therefore need to modernize our standards from a prescriptive regime to one based on performance and results. Let me assure you that the work is on-going. Presently, we are conducting the most comprehensive review of the 3 fire codes dealing with Fire Resisting Construction, Means of Escape

and Means of Access for Fire Fighting and Rescue. Our consultant will compile a performance based code comprising fire safety objectives and functional statements with deemed-to-satisfy solutions.

Without the performance based codes, it is also possible to address the problem by adopting alternative measures which can achieve the equivalent health and safety standards as the prescriptive requirements.

Furthermore, we are seeking to draw experience from other countries on how they practice building control to facilitate adaptive re-use of heritage buildings. We find that one thing is in common: designers have to equip themselves with the necessary know-how, they have to spend more effort gaining an understanding of the building, exploring options, while the authorities responsible for heritage conservation and building control have to adopt a pragmatic and performance based approach.

Overseas Experience

In countries such as the United Kingdom, the lack of any specific regulations for the historic environment is a deliberate decision. Studies indicate that the standard building regulations are sufficient to deal with historic buildings if a pragmatic and performance-based approach to the regulations is taken. This approach is made most practical through a process of discussion with early contact between the applicant and the local authority.

In Australia, a performance-based system for its building regulations has been adopted for over 10 years. The ability of professionals to put forward an alternative solution enables a more sympathetic design tailored to the needs of the individual building, whilst maintaining the required standards with regard to health and safety. Although there may be increased costs, professionals often undertake engineering studies when working with historic buildings because they recognize that each building is different and a unique solution is often required.

Like Australia, Canada's National Building Code is objective based that allows flexibility and alternative solutions to satisfy the performance requirements. Japan also does not have specific building codes to cover historic buildings, but rather relies on the flexibility of a performance-based approach.

In the United States, individual States have drawn up a series of "smart codes" that contain regulations specific for qualified historical buildings. I must say that the system adopted by the United States is different from that currently adopted in Hong Kong. If we were to adopt the "smart codes" approach to set out different safety standards for the historic environment, we would have to introduce legislative amendment to the building regulations.

What is evident from all the countries studied is that successful heritage conservation will depend on a delicate balance between the degree of preservation,

adaptive use and retro-fitting of safety measures. The allowance of a pragmatic and performance based approach has worked well so long as there is acceptance in statute or guidance for such an approach when dealing with heritage buildings. This approach appears to be the best suited to the Hong Kong context.

Practical solutions

So let us look at Building (Construction) Regulation 8 that requires a protective barrier to be of minimum height of 1100mm, with the maximum gap between balusters of 100mm and the bottom 150mm to be built solid.

Clearly the performance intended to be achieved by this regulation is to prevent people or objects falling from height. We have seen many successful examples both locally and overseas on how new protective barriers are put up to improve safety. What if there is only minor inadequacy in the existing barrier and any upgrading works would be detrimental to the heritage values of the building? Instead of a minimum height of 1100mm, is there another way that can prevent people from falling over accidentally and children climbing over easily? Are such means reliable and practicable? Requiring the bottom part of the barrier to be built solid, the intention is to prevent objects from rolling or accidentally being kicked over the edge which may put a person or a vehicle passing under at risk. Are there other ways to prevent objects falling over the edge, or alternatively, can we prevent persons or vehicles passing under?

Take another example like Building (Planning) Regulation 13 which prohibits a verandah over street to be used as a kitchen or bathroom etc. If the designer can incorporate effective measures to prevent nuisance such as possible water seepage onto the street below, and provisions to ensure that people occupying the interior space will not suffer from unhygienic or unsanitary conditions, and such a layout is desirable in heritage conservation, then can we accept these alternative designs as having achieved the desired health standards?

We have commissioned a consultancy study to help us better understand the rationale of and the performance standards intended to be achieved by those building regulations which are often difficult to resolve in a heritage building. The consultant is tasked to draw up practical solutions to achieve the desired minimum health and safety standards taking into account the local factors and conservation needs. Upon completion of the study, we will then enrich our interim Practice Guidebook on heritage buildings by incorporating the findings of the consultant.

Institutional set-up

Some of you may be aware that we have also set up a dedicated team, the Heritage Unit, to help process submissions related to heritage buildings. The Unit will provide technical advice to practitioners and other government departments and expedite pre-submission enquiries so that any conflict between heritage conservation and

compliance with building regulations could be resolved at the earliest opportunity. You are welcome to make early contact with the Unit even before you formally submit your proposals. They will also work closely with colleagues from the Antiquities and Monuments Office to assist your work in heritage conservation.

Concluding Remarks

To conclude, as building professionals, we are facing many challenges ahead which will have a significant impact on our environment, our cultural values and our economy. I eagerly look forward to working with you and having your feedback on the Practice Guidebook. I and my colleagues stand ready to support your work and together with the community we may consolidate Hong Kong's position as a global city with a unique culture and history.

Biography



Mr. Mo is a Building Surveyor by profession. He is a fellow of both the Royal Institution of Chartered Surveyors and Hong Kong Institute of Surveyors. He has been working for the

Buildings Department for over 35 years and is now an Assistant Director taking care of new building works including alterations and additions to heritage buildings. He is

at present the chairman of the steering committee for a consultancy study on Building Design Guidelines for Adaptive Re-use of Heritage Building.

Urban Regeneration in Japan

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1. Introduction

Urban regeneration has been a popular and major domestic policy issue among developed countries, and Japan is no exception. Changes in industrial structure, from manufacturing to service and financial, have resulted in the increasing number of derelict sites in once major manufacturing areas in the city. The contemporary retail system seeks for large retail stores mainly in suburban, car-friendly locations, causing the decline of local town centres where traditional shopping streets had once flourished.

The history of Japanese urban policy is, more or less, a history of how we have attempted to construct cities that are safer, namely, more disaster-proof, and that can appropriately respond to economic changes. Urban renewal has been one of the major planning and development tools in order to achieve these policy goals since the beginning of modern Japan, and is still an important measure in contemporary urban regeneration.

This paper is written in order to introduce current urban regeneration in progress in Japan, both policy and some practices. We would like to see not only cases in metropolises such as Tokyo but also those in local provincial cities and towns. Before starting the discussion, however, the paper begins with a structural change which is fundamentally affecting Japanese urban policies: the national demographic trend and projection.

2. The Advent of the Population Decreasing Society

Figure 1 shows the total population of Japan from 1900 to 2100. The figures beyond 2005 use the forecast by the National Institute for Population and Social Security Research. As shown in the figure, Japan is considered to have already passed the population peak at about 120 millions in 2005, and after that year, the country is expected to experience only population decreases. The total population will become half of the peak in 50 to 60 years. The forecasted population in 2100 is indeed nearly the same as that in 1900 so that roughly speaking, Japan doubled the population in the 20th century, and will make it half in the 21st century. In this sense, Japan is no doubt now at the historic turning point and virtually all the existing urban policy and systems, including planning, development and housing, are under review.

There is another point that needs attention. Although the total population may be the same between 1900 and 2100, there is a great difference in the structure: the aging. The line in the figure indicates the percentage of elderly people to the total population. It is currently about 20%, but will rise to 40% by the beginning of the second half of this century and thereafter keeps the level.

As compared to the national, rather glooming projection, the major metropolitan areas, particularly Tokyo

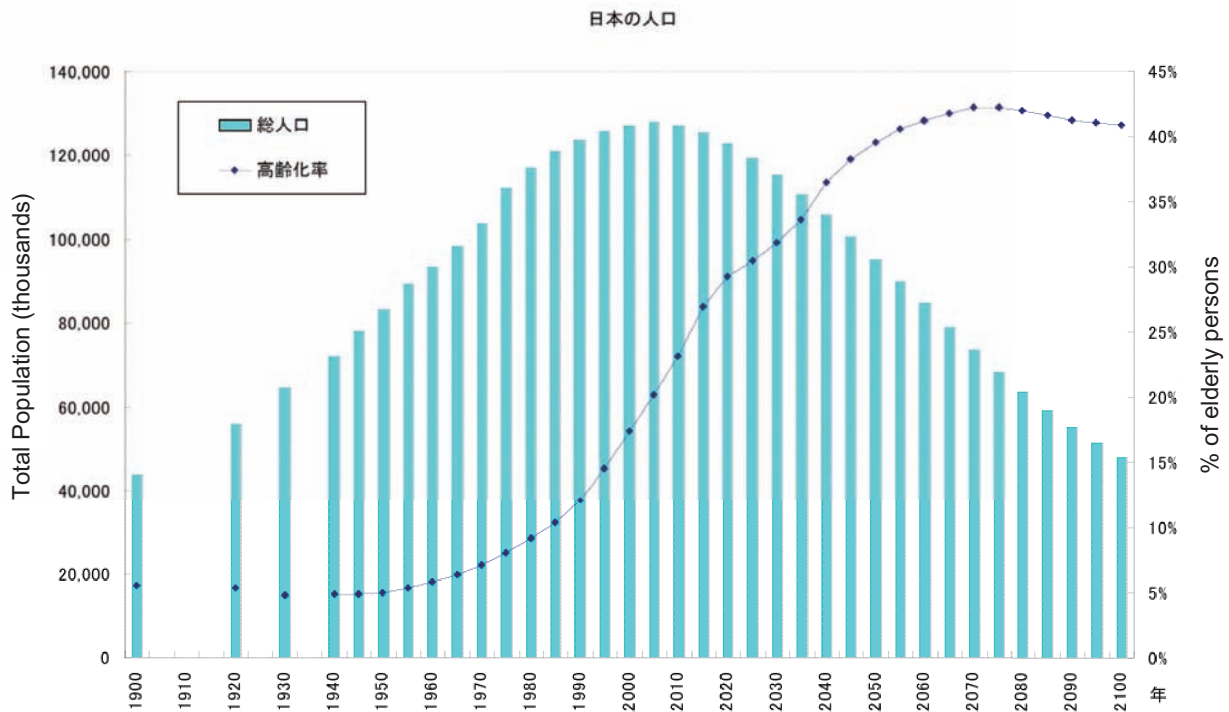


Figure 1: Demographic trend of Japan
 Source: Up to 2005 by National Census and thereafter by the National Institute for Population and Social Security Research

region, are placed at slightly better position. Tokyo is expected to reach the population peak at around 2015, 10 years later than the national total. Within the metropolitan areas, another note-worthy point is that, until 1990, a very rapid population increase took place mainly in suburban areas, while after 1995, the increase can be observed in inner areas, rather than suburbs. These days an increasing number of people tend to prefer to live in areas closer to city centres rather than suburbs.

3. Current Urban Regeneration at the National and Local Levels

3.1 Regeneration contributing the promotion of national economy within major metropolitan areas

In 2002, the Japanese government enacted a law called the Urban Renaissance Special Measure Law that set up the national urban regeneration framework. By this law, the national government has so far designated 65 special zones called the Priority Urban

Development Zones (PUDZs) where private investment should be promoted towards regeneration. Although the zone can be designated in any urban areas, 49 out of 65 are within the three major metropolitan areas of Tokyo, Osaka and Nagoya and another 11 are within other ordinary metropolitan areas. In fact 24 zones are designated in Tokyo and its environs so that the aim of this policy is considered to contribute national economic regeneration by keeping economic competence within the international market.

Within the PUDZs, the private sector can

propose Urban Development Projects that contribute for regeneration, and for these projects, they can ask new, relaxed planning control for the corresponding local government. The actual degree of the relaxation is determined project by project through negotiations between the public and private sectors. Such land use control as the use and density is usually relaxed in return for a public contribution from the private sector. Figure 2 is an example of the PUDZs in central Tokyo, where large development projects such as *Shiodome* Development and Tokyo Mid-town Development projects were carried out.



Figure 2 An example of PUDZ in Tokyo (Shinbashi-Roppongi Area)
The area enclosed by the red line indicates the PUDZ and the blue shaded sites indicate the redevelopment projects authorized by the national government.

Source: Urban Renaissance HQ, Cabinet Secretariat



Within this zone, there is another interesting redevelopment project: the *Kasumigaseki Common Gate* (see Figure 3). This was the first redevelopment project involving the rebuilding of one of the central government office complexes, using a Private Finance Initiative (PFI) scheme of the Japanese version. It also attempted a conservation of an old government building, employing a *fa ade* retaining method. Although the protection of old, valuable buildings has not been emphasized throughout the history of Japanese urban renewal, recently an

increasing number of renewal projects are taking the conservation of historical environment into account in one way or the other. During the rapid economic growth period, the conservation of historical environment meant nothing more than higher costs for the redevelopment, whereas the Japanese society, and the development industry as well, is nowadays beginning to consider that the historic environment gives an identity, and thus more values to the redevelopment project.



Figure 3 Kasumigaseki Common Gate redevelopment project



3.2 Town centre revitalization in local provincial cities

While these regeneration policy and large projects initiated by the private sector mentioned in the previous section are mainly aimed at promoting the national economy, there is another important policy field of regeneration in Japan: town centre revitalization, particularly in provincial smaller cities.

Traditional town centres in Japan, as in many other countries, had long flourished as the centre of everyday activities. It was the place where one went for shopping, met his/her friends, and undertook local business. As the motorization has progressed, however, new suburban centres have become the centres for these activities. A number of large, car-friendly shopping centres have been built in the suburbs of local provincial cities partly because of less strong land use control for these areas. Shopping at a large, suburban retail centre has become a popular life style, thus resulting in the decline of traditional high streets particularly in local cities. What was worse, such key facilities as city government offices and hospitals have moved out from city centres as well, seeking for less expensive land in suburbs. These days one can see great suburban sprawl, and suffering traditional town centres, almost everywhere in Japan.

In 1998, the national government undertook an initiative to revitalize traditional town centres. A law named Town Centre Revitalization Act was enacted,

attempting to give supports from the central government to those local cities that prepared 'Revitalization Scheme'. This policy, however, had not worked well because much more cities than reasonably expected prepared the scheme. The policy was renewed in 2006 and several important measures were undertaken. Firstly, land use control over urban fringe area was strengthened and large-scale facilities including shopping centres can, in principle, no longer be built outside town centres. Secondly, the national government is to assess each Revitalization Scheme submitted by a local government in terms of its feasibility before determining the support to them. The national government's keyword on the town centre revitalization policy this time is 'Select, then Intensify'. Thirdly, while the previous policy mainly focused on the revitalization of the retail function in town centres, the new policy puts less emphasis on retail, but more on such functions as public transport, housing, community and culture.

Under the 2006 regime, 83 Revitalization Schemes from 81 cities have been admitted by the government so far, being from a very small town with its population less than 20,000 to a larger city with more than 0.5 millions. Two cases are introduced below.

Toyama City

Toyama locates at the middle, and the Japan Sea side of the Japanese Main Island. It is an old castle town, but was heavily destroyed by the bombardment during the WW II. Having been developed

throughout the post-war period, the existing built-up area spreads over into the suburbs and the rural areas beyond. Its present population is just over 0.4 million and is decreasing.

The main feature of *Toyama's* revitalization attempts is an integration of public transport planning and land use planning. When an old railway line which was not

financially viable was decided to be closed down by the Japan Rail company, the city government determined to buy up the line and to replace it with a new LRT transit. Toyama is one of the 19 Japanese cities which maintain trams within the city, and the city government considered to combine the new LRT with the exiting tramways and buses and to build a comprehensive network of public transport.



Figure 4: The new Light Rail Transit in Toyama City



Figure 5: Land use plan of Toyama

While they attempt to improve their public transport network, their land use plan (Figure 5) challenges disorderly urban sprawl. The circles in the figure show 500m distance from every tram stop and 300m from major bus stops. The purpose of the government is to encourage new development to take place within the town centre and these circles by using subsidies, thus promoting the use of public transport

and discouraging the use of private cars. Although it is still too early to examine the actual effect of the plan, the challenge of *Toyama* is certainly regarded as an innovative, good practice and a model to other cities with the same scale by the central government and planning experts.

Bungo-Takada city

Another example comes from a northern part of *Kyushu* Island: *Bungo-Takada* City. It is a small town within a rural area, with the population of only 26,000. The centre of the town thrived most in the 1960s, becoming one of the major centres in the region. Since then, however, it declined to a great extent, with very few people walking in the centre and many shops closed down.

In 2001, a group of shopowners, with a help of the Chamber of Commerce, started to regenerate the town centre, proposing the concept of 'the Town of the Good Old Days'. The reason for the concept was that because the centre was left behind development during the economic growth period, there remained many old buildings

within the area. These buildings are not as old as those with historic values, neither is their design as remarkable as those with architectural values. They have, however, a sense of comfort, and remind many Japanese of good old days.

Their revitalization plan consists of four attempts: renovation of old buildings, presentation of the area history, sales of goods which can be proud of, and revival of merchant spirits. Those efforts by shopowners, residents, and the city government have made the regeneration very successful. It has been revived as one of the popular tourist destinations within the region, and now welcomes nearly half a million visitors annually.

3.3 Local community regeneration

The paper has so far focused on mainly government-led or city-based approaches to regeneration. Apart from these, there are a number of much smaller regeneration attempts at a community level throughout the country. These attempts by communities are often termed '*Machizukuri*'



Figure 6: The Town of the Good Old Days, Bungo-Takada City



in Japanese, which means community planning and development. *Machizukuri* is a term that has come into frequent use in dialogue between citizens and local governments since the 1970s, covering a wide variety of actions and efforts to improve both the material and non-material local environment. While the term *Toshi Keikaku* (urban planning) tends to evoke deep suspicion, the term *Machizukuri*, on the other hand, has an especially good reputation among citizens. This is reflected, for example, in the way that nearly all candidates running for election as heads of local government include the promotion of *Machizukuri* in their election manifestos, while urban planning is rarely mentioned.

Community regeneration, or *Machizukuri*, has so much variety in character, location, the contents and the scale of its effort, and the players involved that it is difficult to describe its standard pattern. The case of *Bungo-Takada* described in the previous section can be seen as one of *Machizukuri*. To help the readers to perceive its significance more, another example is introduced here.

Yanaka is a small community located in the heart of downtown Tokyo. It is one of the numerous traditional downtown districts that exist in metropolitan Japan. The streets within the district are very narrow and its network is organic and

complicated. Although these streets are supposed to be vulnerable in the case of major disaster such as earthquake and fire, they refuse cars going through the area and very much pedestrian-friendly. At the heart of the community is a very lively traditional shopping street, where residents not only buy convenience goods but also talk each other about everyday topics. Indeed everyday life in such areas is very comfortable.

One of the features of this district is that there is a strong partnership between landowners, residents, local shops, and local government. The key to the partnership is a group of experts, the professional planners and architects who became so attracted by the area that they formed a not-for-profit organization for the community planning of the area. Although it is a very small organization, it is making great efforts to contribute to the regeneration of the community. For example, it helped to change vacant land to a community park, assisted local shops to make a rule on their shop signs and advertisements, and gives professional advices on local building design and



Figure 7: Photos from Yanaka District

development.

4. The Urban Redevelopment System and Regeneration

The purpose of this section is to briefly explain the official redevelopment system in Japan and how it functions, or does not function, in urban regeneration.

The authorized, official redevelopment system is defined in Urban Redevelopment Act 1969. It is designed as a scrap-and-build, once-and-for-all development of an old built-up area. Unlike its American or British equivalent, however, the Japanese redevelopment system assumes that previous residents of the area are to stay even after the redevelopment. In fact, it is they who are to become the developer of the area. Figure 8 shows the basic principle adopted in the redevelopment system.

At the beginning of a redevelopment project, all the freeholders and leaseholders within a designated redevelopment area must form an organization called 'urban redevelopment association', which becomes the developer of the project. The association, then, determines 'Right Exchange Plan', which allocates the property rights of the new integrated site and building among the members of the association according the principle that the property value of each member must be equal between before and after the project. In this process, those who do not wish to participate in the project can quit, having obtained compensation from the association (E in the case of Figure 8). Although the pattern of the allocation in a Right Exchange Plan is basically defined by the law -- called Basic Case--, it can be

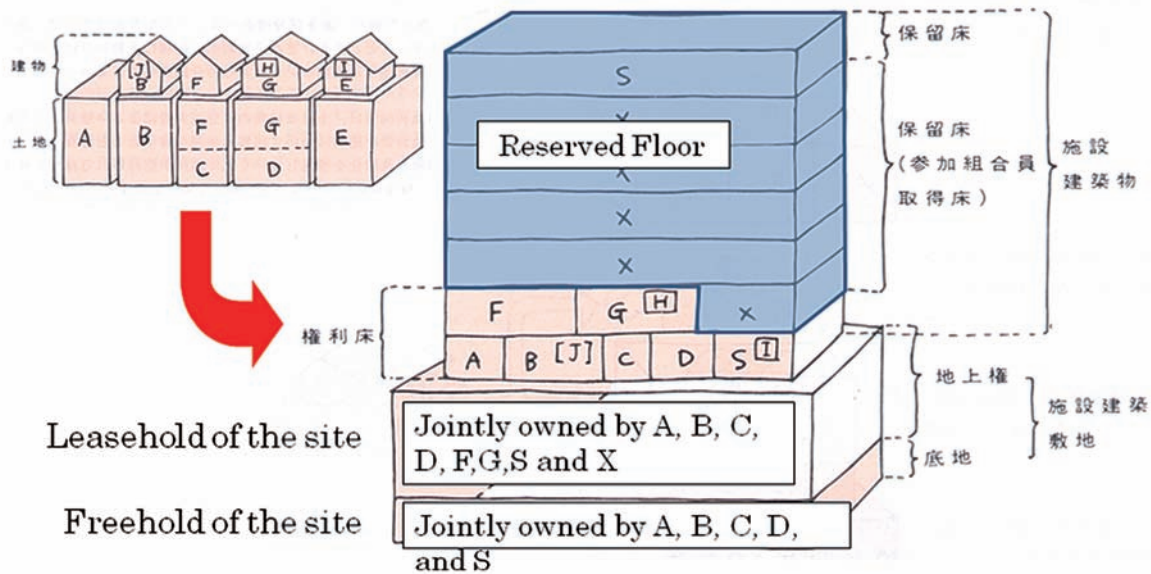


Figure 8: The official redevelopment system in Japan (Basic Pattern)

changed when 100% consensus among the members is achieved - called 100% Consensus Case.

The part of the new building which is not allocated to the original association members is called 'reserved floor' and this is the key to the viability of the project because the reserved floor is to be sold by the association to a third party (S and X in the case of Figure 8) and the income from it is to be spent to cover the project construction costs. The third party member is usually a commercial developer.

So far there have been nearly 1,000 official redevelopment projects all over Japan and indeed the system has worked well, particularly during the economic growth period. Naturally, it is expected to play a major role in the regeneration which is currently underway. There is, however, a matter for concern. As explained above, the viability of an official redevelopment project depends to a great extent on the amount of reserved floor and it naturally follows that the larger the reserved floor is, the more advantageous for the project in terms of finance. This was indeed the case when Japan enjoyed high economic growth. In those days, there were a number of developers who were willing to participate in the project and to buy a large amount of reserved floor, expecting a speculative increase in floor values. Since the so-called bubble economy was crashed in 1990, however, such speculative developer no longer exists. Recent commercial developers well understand a high risk involved with large redevelopment projects

so that they tend to invest only to the area with least risk, namely central Tokyo.

The current economic condition outside Tokyo makes the official redevelopment system very difficult to apply. It is not far from the truth to say that since 2000, there have only been a handful of redevelopment projects outside the major metropolitan areas that completed successfully.

Our official redevelopment system is a product of the time of growth economy -- increasing population, expanding city, strong development pressure, and affluent public resources. It is certainly a time for change and a new system, applicable even in the time of low, or sustainable, economic growth and thus suitable to the present urban regeneration, needs to be developed.

5. Concluding Remarks

It seems that there are two distinctive, significant forces affecting our cities and towns: globalization and localization. Globalization emphasizes the economic developments that attract new wealth-creating industry so as for us to occupy a better position in international market competition. It also tends to demand the standardization of building space and built-environment. By contrast, localization seeks to enrich the quality of our everyday life. It emphasizes community developments that increase self-reliance, respecting vernacular culture, history and spatial structure.

The ultimate goal of urban regeneration is no doubt to make our city attractive place

in terms of the quality of everyday life as well as the vitality of economic activities. Globalization and localization have a tendency that as one becomes stronger, so does the other as if they are the counter powers. Moreover, the values and interests that they attempts to protect often conflict each other. It is not, however, sufficient if our regeneration tries to respond to either one or the other; it must respond to both properly. It will not be easy, but successful urban regeneration could only be achieved only if we can find a way to reconcile and balance them.

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- Board Member, Japan Association of Real Estate Sciences
- Fellow, Urban Renewal Coordinator Association of Japan
- Associate Member, Science Council of Japan.

He is also a member of various advisory committees of the central and local governments, including the Japanese government committee responsible for an overall reform of the current urban planning system in Japan.

Biography



Dr Norihiro Nakai has been the Professor of Urban Planning in the Department of Social Engineering at Tokyo Institute of Technology since 2002. He received his Master of Science

degree from the University of Cambridge in 1986 and Doctor of Engineering from Tokyo Institute of Technology in 1994.

His research covers wide range of urban planning issues, including urban regeneration, land use planning and urban design. Besides teaching and research, he is currently active in the following professional organizations:

台灣的都市更新

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摘要

本研究首先說明都市發展歷程中，都市型態是反應當代生活的社會、產業經濟、科技背景之產物。都市發展是動態的隨各時代背景而變，不合乎現代都市活動的地區，有必要加以改造更新。

其次是各國都市更新政策與目的演變：(1) 以改善生活建物與設備為主的更新；(2) 針對窳陋、密集危險地區進行公共設施增修的地區環境品質改善；在 (1)、(2) 循序推動、生活環境品質改善後，進入 (3) 既成市街地區再發展，或地區內產業用地機能置換的更新，調整都市機能；(4) 從產業經濟振興和社會活動活化的觀點，在都市總合發展計劃中，從事第 (2) 項的更新事業。這種活化地區的更新，在 1990 年代稱為“urban regeneration”，2000 年以後再被“urban renaissance”取代，中文皆譯為「都市再生」。

第三是在全球化的趨勢下，國際競爭進入城市競爭時代，各國深恐在都市競爭中落後而被國際社會邊緣化，國內各區域或縣市之間的競爭亦然。特別是在人口成長趨緩或衰減、高齡化等人口結構改變的趨勢下，競爭落後者，該都市可能因衰退、缺少活力，而被邊緣化。各國不論都市規模的大小，皆以都市再生、活化都市活力為總體發展的目標，因此提升和創造都市的魅力成為都市發展的主軸，如創造吸引力、擴大並改善投資條件、增加就業機會，以及提升生活安全性、文化活動、休閒消費等軟體部分。提供社會活動與產業經濟發展的硬體空間部分，本研究是在都市再生前題下，以都市既成市街地的硬體環境再生為主。

第四是從國外的都市更新、都市再生案例來分析都市更新政策、對象地區的規模、都市更新地區計劃構想、定位，對都市更新獎勵

補助、協助項目，以此來檢視我國實質性都市更新事業中，從中華商場重建計劃、眷村改建計劃，以及 1977 年台北市政府工務局都市計畫處成立都市更新科、1998 年頒佈〈都市更新條例〉以後所推動的都市更新事業，期此檢視都市更新成果有助於全球化城市競爭時代趨勢下，我國推動的都市更新或都市再生事業，是否兼顧公共利益，是否有助於活化都市活力，創造都市魅力、提升都市競爭力，並達到都市可持續發展。

關鍵字：都市再生、都市更新、都市構造、都市活化

Urban Regeneration in Taiwan

Huang, Chien Ell*

Abstract

First part of this paper explains that the urban structures in urban developing history reflected different status of social, economic and technological activities at that time. Urban develops along with different social background dynamically, urban area wherever cannot meet the needs of urban activities has to be renewed.

Secondary, this paper discusses the transition of urban renewal policies and objects of some countries, it has four phases: 1) hardware renewal such as building and facilities; 2) infrastructure remodel and environmental improvement of slum area; 3) revitalization of developed area or function reengineering of industrial area which enable urban-function readjustment;

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4) to proceed phase-2 under industrial economy prospering and social activities vitalizing concept and the guidance of comprehensive urban developing plan, which was defined as “urban regeneration” in 1990’ and “urban renaissance” after 2000, both were translated as “都市再生” in Mandarin.

Thirdly, city competitiveness equal to nation competitiveness under the tendency of globalization, whoever fails to catch up will be out of the club. Same situation happens within the cities of a country, especially those who has a population structure of aging and low growth rate. Whoever encounters regression and lag of vitality will eventually be marginalized. Urban renaissance and vitalization as the goal of urban development has no urban-scale differential. Therefore, creating and promoting city attractiveness such as investing environment improving and expanding, employment opportunity increasing, safe-living and cultural activities and recreation consuming environment enhancing have become the main shaft of urban development. The discussion of hardware remodeling within developed areas where incubate industrial economy and social activities is base on urban renaissance concept in this paper.

Final part. Cases study of urban renewal, urban renaissance projects of oversea, to analyze their policies, scale, concept, positioning, subsidizing programs, funding criteria etc. as a benchmark to review projects in Taiwan such as Chung-Hwa Retail Mall, Military-Dependents

Housing, projects were approved after the establishment of urban renewal agency of Taipei City Government at 1977 and the legislation of “Urban Renewal Act” at 1998. The conclusion, to find out how Taiwan can make the best use of urban renaissance strategy to stimulate urban enthusiasm, create attractiveness and competitiveness, and eventually, catch up the trend of globalization.

Keyword: urban renaissance, urban renewal, urban structure, urban revitalization

台灣的都市更新

Urban Regeneration in Taiwan

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壹、都市發展與都市更新

都市的發展皆有其歷程，於發展過程中之各階段是反映當時代的社會，產業經濟和科技活動背景之產物，也是最適合於當時代都市生活活動之需求。在過去時代背景所發展的地區，有很多無法適合今日都市各種機能活動之需求而逐漸衰退；有些是建物老朽、密集而淪為髒亂、不衛生、易延燒、景觀不良地區；有公共設施不足、不完備而淪為環境品質低落地區，這些地區可說是都市病態地區，亦即一般所稱窳陋地區 (slum area)，這些地區是會隨時間的演變，動態性的、持續性的、不斷的發生。

這些窳陋地區大部分是位於都市早期發展或急速都市化時期的簡易住宅密集地區，這些

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地區不僅實質環境品質低下，且淪為發展遲滯、人口減少地區，若任其衰退下去，不僅有礙都市整體發展，且過去對這些地區之公共投資，如學校、公園、上下水道、道路、市場等將形同浪費。若能將這些地區加以更新，提供優質的住宅或商業環境與建物，則能促進這些地區的復甦，減少公共投資的浪費¹。

從土地資源的有限性來看，都市更新是促進土地使用的合理化與使用強度的提高²的手段之一，可說是土地活化再生的一種型態。從都市整體發展、提高土地使用強度以節約土地資源來看，我們實在不該將有限的都市土地資源開發殆盡，以免留給子孫們一個只剩負債資產³、需要收拾善後的都市。

都市的發展計畫應有全盤性的考慮，既成市街地的再發展計畫和未開發地區的新發展計畫，兩者的綜合平衡才是都市最佳的計畫⁴。所以，既成市街地的再生是透過都市更新手段所達到的都市再發展計畫，因此，不能只考慮區域內的建物更新，而是必須思考到該地區在更新後是否能達到更新條例所訂定目標：「為促進都市土地有計畫的再開發，復甦都市機能，改善居住環境，增進公共利益」，而且還要思考該都市更新地區計畫對都市綜合發展中之定位、在都市空間機能上該更新地區所要擔當的角色與、功能，也就是說，該地區在更新後對都市長遠的發展上能有什麼樣的貢獻。

貳、世界各國都市更新作法的變遷

世界各國的都市更新在實施對象地區、更新政策、更新目的，實施方式等，隨時代性和實質發展的背景不同而異，但大致可分為四大階段。首先，是為解決窳陋地區、貧民窟等不良住宅和環境的改善而做都市更新⁵。第二階段的都市更新地區擴及到市中心區，

同時增強市中心區的機能，或將產業用地或公共建築物的機能置換等更新，逐漸將都市更新結合都市發展計畫，即尋找配合都市發展的都市更新地區，認為既成市街地中的土地利用未能配合都市發展者，以都市更新的方式調整其土地利用⁶，以圖達到都市健全的發展。當然，於此階段仍要兼顧建築物和環境的改善。第三是在產業經濟低迷時，從振興經濟的觀點來加速推動都市更新，將都市更新的再發展之建設事業以及所帶來的波及效果作為經濟發展的一環⁷，同時在作法上，積極的活用民間的人力和財力⁸。第四階段是從振興都市產業經濟和活化、活力都市的觀點，認為都市發展已近成熟階段，如何注入活力、活化都市，同時，並帶動產業經濟的發展，是一整套的計畫，於實施是以都市更新的方式創造都市魅力，來活化都市，帶動都市的活力、朝氣、熱鬧、繁華，進而帶動產業經濟的發展。此段的更新對象地區之規模皆較大，政府積極的參與督導，除引進民間的人力和財力之外，政府是扮演此更新案的夥伴關係，若不直接的參與更新案，也會給予種種的補助、協助、獎勵，政府成為此開發案的參與者或協助者，與開發者是夥伴關係。這種更新運作之目的和方式，英國在 1990 年代以後稱為“Urban Regeneration”，2000 年以後稱為“Urban Renaissance”，兩者皆譯為「都市再生」。

¹ 黃健二 (1984),《都市更新之研究》,台北市:大佳,p1

² 都市更新條例 第一條

³ 黃健二、王章凱 (2005),〈從日本小泉內閣「都市再生」的推動看我國都市更新的觀念瓶頸〉,中華民國都市計劃學會、區域科學學會、地區發展學會 2005 聯合年會暨論文研討會

⁴ OECD (2001),《再生！日本都的都市》,國際都市政策研究會譯,東京:(株)ぎょうせい. p47

⁵ 同註1, p.51

⁶ 同註1, p.58

⁷ 日端康雄 (1983),〈都市再開發と民間活力の活用について〉,地域開發. No.228. p.33-34

⁸ 鶴井哲夫 (1980),〈都市再開發案—改正的背景及び今後の課題〉,月刊.住宅. p.5-7

以下分別說明世界各國都市更新的沿革：

世界各國在第二次世界大戰以前的都市更新性質的更新事業並沒有都市更新的專法來執行，而用其他相關法令來執行，都市更新的主要目的是清除麻陋地區髒亂、不衛生，其所達到的效果是為提供住宅和生活環境品質的改善；英國是從公共衛生來改善居住環境，頒佈了公共衛生法 (1875年)、居住法 (1930年)；美國的居住法 (1937年)、住宅衛生法 (1941年)；日本是以不良住宅改善開始，不良住宅改良法 (1927年)，土地區劃整理法 (1919年)。

到二次世界大戰後之初期，世界各國才逐漸有都市更新的法律出現，但仍有許多是依照其他相關法令而做實質上的都市更新事業。都市更新的重點大都在 (1) 戰後重建與戰後復甦 (2) 清除麻陋貧民窟 (3) 回復舊都心的機能⁹。都市更新所依據的法律，英國有都市再開發法 (1952年)、居住法 (1954年)、都市計畫法 (1962年)、寧適法 (1967年)；美國有住宅法 (1954年) 提出「都市更新」的名詞，示範都市與都市發展法 (1966年)。法國有都市再發展基本法 (1958年)、都市計畫法、馬洛法 (1962年)¹⁰ 以及住宅相關法令，包括住宅取得法 (1953年)、住宅改良法 (1960年)、環境改善制度 (1970年) 等。日本有耐火建築促進法 (1952年)、住宅市街地改善法 (1960年)、市街地改造法 (1961年)、防火建築街區造成法 (1961年)、市街地再開發法 (1969年)。

1970 年代到 1980 年代，世界各先進國家已經歷了高經濟成長期，都市化的速度遲緩，人口成長率降低，有急迫性和能解決的麻陋地區也都更新得差不多，加上 1973 年的世界能源危機，都市更新的重點，逐漸轉向保存維護性的都市更新政策方向¹¹，不再做大規模的既成市街地都市更新，重點在復甦都市，增加都市的活力，因此開始出現了

建物的整修後的改變用途之更新，如將市街地內的倉庫整修後做為攤商集中市場，其代表有美國波士頓的法尼爾市場 (Faneuil Hall Marketplace)¹²、台北華山貨物車站整修後作為藝文廣場。這種建物再利用的更新方式，於世界各國普遍被採用，是一種花費最少，爭議最少，但可增加都市活力和就業機會的作法。到 1978 年，英國首相柴爾在都市發展政策上，不再以開發新市鎮而改為在既成市街地的都市更新，頒佈了內都市法 (Inner City Area Act法)，都市更新的政策更加緊密的結合了都市發展，並導入民間參與都市更新的活化政策，邁入都市再生 (Urban Regeneration) 時期，目標是都市的活化，提供就業機會，促進經濟的發展，將經濟發展策略增加都市社會的活動力，提供就業等都市活力的促進¹³，以都市更新的手段來達成，於美國為了鼓勵民間投資，提供都市發展補助金 (Urban Development Grand UGD)¹⁴，1982 年 10 月美國總統在國會的演說，強調以都市更新作為促進經濟發展的手段，1983 年日本首相中增根於國會中的都市計畫審議會的答詢亦採同樣的論調，並說明積極活用民間力量的方案。將都市更新視為經濟發展的一環與民間力量的應用¹⁵，逐漸演變成公 (官) 私 (民) 夥伴關係、公司合作的形式。英國在都市更新政策上的態度也是如此，仿美國的 UDG 導入都市開發補助金 (Urban Development Grand ; UGD) 制度¹⁶，也成立了不動產公司叫 Inner City Enterprises Ltd. 來尋找都市更新的投資機會¹⁷。

⁹ 同註1, p.31~40

¹⁰ 同註1, p.37主要是保存、維護

¹¹ 同註1, p.37

¹² 都市更新研究發展基金會 (2002),《都市更新魔法書》，台北市：財團法人都市更新研究發展基金會, p.12.

¹³ 深海隆恒訳(1992),《都市開發と民活主義イギリスとアメリカにおける経験》，東京：(株)学芸出版社, p.203.

¹⁴ 同註13, p.203

¹⁵ 同註1, p.47

¹⁶ 同註13, p.205

¹⁷ 同註13, p.203

由上述可知都市更新的事業內容，已經擴大到由生活環境改善到都市再發展，各國在更新地區機能的引入包括住宅、商業、業務、文化、藝術、公共、公益設施（行政的服務站、婦女會館、老人會館…），以活化都市促進都市的活力等都市的綜合發展計畫，同時也加上促進經濟發展的因素，透過都市更新的硬體建設帶動建築相關產業的發展，同時更新後引入的機能活動又可活化都市，增加社會、經濟的活力、文化教育活力，活化都市也可促進經濟的發展，於此稱這種類型的都市更新為都市再生，因此，都市再生也是一舉數得的事業，先進的歐、美、日本等國無不盡力的推動。並且積極的介入都市再生，獎勵民間投資，於都市再生事業的推動上，政府與民間形成夥伴關係，甚至政府投資都市再生事業等，已經是一種普遍的現象。於都市再生計畫上考慮該都市再生計畫在整個都市綜合性發展上所扮演的角色，亦即每個都市再生計畫是都市再發展之一部分，必須接受都市綜合發展計畫之指導，任何一個都市再生計畫，不能無視都市綜合發展計畫，而只當是不動產的開發事業。

參、全球化趨勢下的都市競爭與都市再生

國際間於冷戰結束後，世界的競爭轉變為經濟貿易的競爭，人、物、資訊等跨越國界的頻繁交流，全球化的運勢逐漸的形成¹⁸，同時國際之間的競爭進入城市競爭的時代，各國身恐在國際競爭中落後而被國際邊緣化，此意味著經貿與社會等活動、交流被邊緣化。於此之同時，國內的都市間亦充滿了競爭，爭取代表該同活躍國際舞台的機會。

為了國際都市競爭，世界各大都市竭盡全力提升競爭力，從下列幾個方向來著手，從創造其未來之魅力，包括：(1) 商務環境；(2) 產業政策與都市建設；(3) 生活環境；(4) 觀光、文化政策與造街；(5) 交通基礎設施等以

提升競爭力。

由上述五項著手來做，其思考方式如下：

(1) 商務環境

經濟商務所在的國際都市是以全球經濟網絡的中心都市或商務中心，其條件是其背後有可憾動的世界資金和商務中心¹⁹，因此企業設立公司的地點時是邁入選擇國際都市的時代²⁰，而不一定選擇他們自己的國家的都市。因此要吸引世界各國的企業來該都市設立，成為另一個國際競爭，於工作環境上，最新 e 化的智慧型商辦大樓及其提供的總量，租金的高低，於都市中的區位，商務上法令的規定等商務環境的提升成為世界都市中競爭力的必要條件之一。

(2) 產業政策與都市計畫與發展

都市計畫發展與產業政策本來就是有密不可分的关系，在各時代的背景之下，都市的計畫與發展是支撐產業的成長，如工廠的分散到都會區周邊或基於國土均衡發展而分散到各區域，現在的創意產業軟體園區集中在都市或其郊區，物流中心的設置、經貿園區的設置等都市開發或再開發的事業，皆支撐產業的發展。

(3) 生活環境

國際都市的魅力不是僅止於產業經濟活動面，每個人生活的基本的生活環境的魅力是不可缺，同時都市的安全性也要顧慮。生活品質中的居住環境的質是一重要的要素，都市中心地區居住、綠、

¹⁸ 東京都(1999),《東京都市白皮書2000》,東京:東京都都市計劃局,p.4.

¹⁹ 同註18, p.10

²⁰ 同註18, p.12

開放空間、運動、文化、休閒設施、餐飲、都市治安上的安全性，以及住宅的設計、設備等之品質，都是構成生活環境的魅力。

(4) 觀光、文化政策與造街

觀光、文化是提升都市魅力也是要確立都市獨特性不可缺的要素。這意味著都市建設的造街就是要經營文化創造，活用、發揮都市文化的積蓄和豐富的自然，配合創造新的文化取向的造街等，是提升都市魅力方法之一，也是提升都市的競爭力之一。

(5) 交通基礎設施

商務、產業、生活、觀光、文化等之要素能有機的結合，順暢的交通是依賴交通的基礎設施才能達成。都市內的通勤、通學、業務、訪友、購物、休閒等的移動，要非常的容易、方便、舒適等，也是都市的魅力之一，還有與國際機場的聯絡的方便、快速也是都市魅力之一，所以支撐著都市內所有移動的交通設施，如捷運路網、高速公路網、幹線道路網、停車場、人行步道網等，交通基礎設施的完善與否，以及其品質是關係著都市「移動」的魅力，和提升都市的競爭力之要素。

所以創造上述五項的魅力，有關硬體空間、設施的興修，是要靠都市更新事業來處理，其中包括以重建、整建、維護等方式來更新，其目的是要提供一個良好的生活活動的高品質環境，增進市民生活的富裕和一個適宜於現代的新的生活方式，以此來提高都市的競爭力，吸引更多的人來居住，來從事商務、就業、休閒娛樂、文化、觀光、社會交流等活力，就是活化都市的活力，也就是達到都市再生的目的，從另一觀點是都市能持續的發展²¹。

肆、都市更新與都市再生

一、都市更新

依都市更新條例第三條，對「都市更新」的定義是依本條例所定程序，在都市計畫範圍內實施重建、整建或維護措施。第一條（立法的目的）為促進都市土地有計畫之再開發利用，復甦都市機能、改善居住環境、增進公共利益，特制訂本條例。依前述的目的和定義，都市更新的意義可界定為「都市更新是基於都市政體的利益，經由公私部門持續不斷努力，採取實質與非實質的手段，在一地區內依都市更新計畫施行拆除重建、整修復興與保存維護等措施，以達到都市機能重整與生活環境改善的整體性目標」²²。

這可說是傳統的都市更新的認知，包括實質性的重建、整建、維護的措施，和非實質性的社會性、經濟性、政治性的目的²³。所以早期都市更新的認知²⁴不僅是採實質的措施也要兼顧非實質的層面，因為早期的更新大多是由政府主辦，規模較大，所以易於兼顧非實質的目的。近年來，由於政府鼓勵民間參與都市更新事業，所謂民間活力的運用，利用民間人力和財力參與一般既成市街地的更新事業，並給予種種的獎勵，如稅的減免、協助融資貸款及優惠利率、事業費的補助、放寬土地使用的用途和容積管制等，更新的對象地區不再限於窳陋地區，而擴大到一般既成市街地，從無利可圖的窳陋地區到有利可圖的住宅和商業地區，更新對象地區的規模也逐漸的縮小。

²¹ 養原敬 (2003), 《成熟のための都市再生》，東京：(株)学芸出版社，p.2.

²² 同註1, p.17

²³ 同註1, p.16

²⁴ 早期是指二次大戰後

二、都市再生

1970 年代之後，已開發國家的工業化所帶來的高度經濟成長和都市快速成長，都市化已漸趨緩和，都市無限制擴張的發展方式所帶來的都市空間構造問題開始被嚴謹的討論。加以經濟成長帶給國民生活的富裕，科技發展所帶給國民生活的方便、省力，以及國民價值觀的改變等複合的交互作用之下，對「人」的生活方式的改變和配合此生活方式的都市空間的構造，包括既成都市街地的再發展之都市問題的檢討，深感都市無限度的擴張發展，將帶來留給後代子孫更多的負面都市問題，當前重要的問題是應檢討既成市街地之中，土地利用上誤用、濫用、低度利用、不利用（含荒廢）、不當使用、過度使用²⁵等土地使用上的問題，這些對都市發展是一種妨害，所以要以實施都市更新來導正，但更新必須是在都市發展計畫的指導之下，賦予要更新地區在都市發展上的定位²⁶，引入符合該定位的各種都市機能，促進該地區重新發展起來，亦即都市更新的實施是要能促進該地區的再生、再發展計畫。所以都市的發展計畫，一定要兼顧既成市街地的再發展計畫，否則都市更新將淪為不動產的商品而已，對都市的發展也許沒助益，反而增添新的都市問題。

於上述已開發國家面臨檢討都市發展與都市更新之際，適逢 1970 年代能源危機所帶來的經濟低迷，為了促進經濟的景氣回升，於是英、美、日等國先後提出以都市更新事業來振興經濟。而後，全球化的趨勢漸明顯，國際競爭轉為各國的大都市之間的競爭，各大都市竭力於提升都市的競爭力，引入各種機能活動，包括住宅機能、文化、藝術、商業、業務、休閒娛樂等機能，為此在都市發展計畫之下，採用都市更新的重建、整建、維護的方法來提升「都市的魅力」，創造都市的「活力」和「競爭力」，以達到都市再

生、都市再發展的目的，也就可達到都市永續發展。同時在更新對象地區的範圍，採較大規模或於大規模的範圍之下的幾個更新事業地區的整合，以達到聚小成大的都市更新效益。

1992 年 6 月於巴西里約召開的「聯合國環境會議」通過了「里約環境與發展宣言」、「二十一世紀議程」等重要文件，其中「二十一世紀議程」呼籲各國制定永續發展策略，同時加強國際合作，以謀全球人類之福祉。在此呼籲下，節省資源之中的節省土地資源，不要刻意擴張都市浪費土地資源，以及縮小都市的範圍改變交通手段，以節省能源。此節省資源之前提下，都市發展之模式被重新檢討，節省土地資源以都市更新的重建、整建、維護等手段，達到都市再生、再發展來改變都市的構造，以及都市再生地區的規劃、設計上於環境上的處理手法，採用廣泛的環境永續的理念。

都市更新的演變到今日，都市更新逐漸變成狹義的以重建、整建、維護的手段來做的都市更新，到廣義的都市機能調整、活化都市，達到都市再生的都市更新。一般的用詞也改成都市再發展或都市再生，於英文上的用詞，今日已不用「Urban Renewal」，逐漸改用「Redevelopment」、「Regeneration」、「Renaissance」。其次是都市再生事業已是結合都市更新、都市發展計畫振興經濟、創造都市魅力、提升都市競爭力，並達到都市永續發展的一種事業，所以都市再生事業不能僅視為都市實質建設的事業，是一個綜合性的都市問題。

²⁵ 同註1, p.58

²⁶ 黃健二 (2007), 〈日本大面積都市再生之探討〉, 營建署演講稿, 2007.06.

伍、外國的都市再生例

於此以我國鄰近的日本為例來說明日本都市再生案例。日本的都市再生可以說從 1983 年中曾根首相提出以「都市再開發發展事業」來振興經濟以來，就持續的進行。到 1990 年泡沫經濟發生後，長期的經濟蕭條持續到 2001 年 4 月森首相在經濟對策閣僚會議時決議成立「都市再生本部」作為振興經濟政策的一環，2001 年 5 月小泉首相正式成立「都市再生本部」，由首相親自擔任「本部長」，並制定「都市再生基本方針」，依此來作為選訂都市再生計畫對象地區。2002 年 7 月頒布「都市再生促進法」，開始指定都市再生地區。2004 年 7 月成立「獨立行政法人都市再生機構」來配合執行都市再生事業，到 2005 年 12 月共五次指定了 64 處 6567 公頃的都市再生地區²⁷。日本的都市再生是基於全國性的經濟、文化、環境，甚至是在國與國、城市與城市的國際競爭力提升與推動的大目標下來構成，從 2001 年推動至今，共推行了 12 次都市再生計畫的會議²⁸。

日本自 1990 年泡沫經濟發生後，1999 年經濟協力開發機構 (Organization for Economic Co-operation and Development OECD) 從國際觀點來審查日本都市政策，經過神戶市、松江市、東京都的三廠「OECD 都市政策研討會」提出「都市魅力的再構築」包括八項都市政策，其原本報告書是「JAPAN URBAN POLICY」，這導致設置了以總理大臣 (首相) 為本部長的都市再生本部機構。其中對都市魅力與國際競爭是其一大主題²⁹。

總之，日本的都市再生事業在尚未有都市再生本部設置之前就開始推動，到現在是將都市再開發 (更新)、都市發展、振興經濟、創造都市魅力、提升都市的國內、國際競爭力等多重的目標結合在一起，全力的推動都市

再生，並期達到都市的可持續發展。於此僅就 2000 年以後完成的三個案例來說明：

一、大有丸再生計畫³⁰

1. 位置：東京都心的東京車站，面對皇宮的丸之內及其鄰接的大手町、有樂町。
2. 面積：110 公頃
3. 規劃構想：是一都市機能調整的都市再生事業，將夜間無人的商務地區改造為 24 小時的都市，生活的都市，讓一天 24 小時充滿市民活動有活力的地區。
4. 地區特性：是日本大企業集中的商務中心



圖一 東京大有丸地區都市模型 (攝於株式會社三菱地所東京總公司)

5. 規劃內容：多樣基能活動的引入，包括餐飲、文化、藝術、會議、休閒娛樂等機能，故增加精品店、便利商店、會議中心、餐飲店、旅館等，由單純的商務中心轉變為複合機能地區。

²⁷ 何芳子、丁致成 (2006),《日本都市再生密碼》,台北市:財團法人都市更新研究發展基金會, p.18

²⁸ 黃健二、王章凱 (2007),〈台灣都市更新政策目標的探討〉,中華民國建築學會第 19 屆第 1 次建築研究成果發表論文集 2007.06.02.

²⁹ OECD (2001), "Japan Urban Polis", 國際都市政策研究會譯,《再生!日本的都市》(株)ぎょうせい.

³⁰ 文化大學市政系都市再生網站 <http://www.wretch.cc/blog/PCCUUAEP>

6. 容積獎勵：原計畫用途是商務，容積率 1000%，獎勵之後成為 1450% 的獎勵，增加的 450% 的容積率只能做商務以外的商業或公共、公益事業使用，以期調整純商務地區變為一般市街地的商業區，所以容積獎勵的目的是都市機能的調整。
7. 其他：都市景觀的維護，主要景觀的軸線保留 100 呎 (33.3公尺) 的街裙。
8. 效益：由於增加非商務使用的樓地板面積於該地就業者生活上的便利性增加，同時逛街人潮有增加，增加地區辦公室機能以外的活力，特別每年跨年倒數計畫吸引上百萬人潮。
9. 都市再生機制的運作：
 - (1) 由地主(企業)。組成「大有丸再開發計畫推動協議會」
 - (2) 由地主、千代田區政府、東京都政府組成「都市發展懇談會」，提出「大有丸地區都市發展」的 guide plan，向東京都政府提出，經核准後實施。
 - (3) 由學術界、大學生、區域就業者、訪客、企業等組成「大有丸區域經濟管理協會」來管理大有丸地區空間的使用和舉辦活動。
3. 面積：約 11 公頃
4. 地區特性：地區內南側有木造密集地區，巷道狹小被東京政府都指定為「密集危險地區」必須更新的地區。其他有朝日電視公司、好來塢美容學校等。地區的附近是東京都心之中低層建築較密集地區，也是東京有名的夜店地區。
5. 規劃構想：
 - (1) 創造 21 世紀東京的「新的生活方式」都心居住，省掉長距離的通勤，同時提供生活上所需的購物、休閒、文化、藝術等設施，以及提供就業廠所，此有商務大樓。
 - (2) 都市防災上從「逃出去避難到進來這裡避難」是一個安全的地區，提供密集地區的避難場所，備有發電機及儲存三天的水和乾糧和深水井。
6. 規劃內容：是個多機能複合的地區，部分是立體的複合型態，有住宅、商務大樓、購物區；有精品店、餐廳、電影院、會議中心、展演場、無線廣播臺、電視台、美容學校、俱樂部、圖書館、美術館、展望台、公園廣場、停車場等。
7. 環境改善：
 - (1) 增加公園面積，增加一個兒童公園 1540m²。
 - (2) 增加道路面積 10.020m²。
 - (3) 打通六本木大道與環狀 3 號的交會，有效減少二條幹線道路前後共四個交叉口的交通量，改善了交通流量。
 - (4) 爭取了環 3 道路的上面作為六本木大樓的前面廣場(六本木場)作為日比谷線的六本木車站的聯絡人工地盤，提高與車站聯絡的便捷性。

二、六本木之丘³⁰

1. 位置：位於東京都心三區之一的港區六本木六丁目
2. 交通條件：
 - (1) 道路交通有主要幹線道路六本木大道以及其上面有東京環狀3號道路立體交叉在計畫基地外圍。
 - (2) 鐵路：有大江戶線、日比谷線、南北線三線捷運在附近設站，公共交通非常方便。

- (5) 全區內有約 1200 件公共藝術品，美化都市環境。
 - (6) 全區有1000台的監視、錄影器，作為防災和安全的監視之用。
8. 效益：
- (1) 成功的調整了都市構造，將密集危險地區整整為商住、休閒的地區，開發完成後，每天訪客有 10 萬人，假日有 12 萬人，每年超過 4000 萬人，比迪斯奈的遊客要多。
 - (2) 六本木之丘與鄰近的中城(約 10 公頃，2007 年完工)成功的調整了都市空間構造，將密集住宅區和軍隊營區改造為複合的商、住、休閒、文化的據點，同時也逐漸帶動東京過去土地純化使用，轉變為複合機能混合土地使用，以及夜店地區的印象改變為繁華的住商休閒地區。
 - (3) 增設廣場、公園、道路等公共設施及 1200 建的公共藝術、避難

設施等有效的改道環境及都市的景觀。

- 9. 住戶組織與參與都市更新：1990 年六本木六丁目住戶成立「再開發準備組合」，以讀書會方式，分六個專門委員會，去瞭解再開發相關的資訊和法律，包括權利、義務和運作方式。

三、代官山 Address 住宅社區³⁰

- 1. 位置與交通條件：東京谷區距谷車站東南約1公里，捷運東橫(東京—橫濱)線上離涉谷車站僅一站的代官山車站，基地與代官山車站間有 8 公尺道路以天橋連接，公共交通非常方便。
- 2. 面積：1.7公頃
- 3. 地區特性：代官山 Address 住宅社區是 1923 日本關東大地震後，利用當時外國所捐之善款開發的耐震間防災的住宅社區，附近為谷車站外圍的住宅區，日常生活機能完善，



圖二 六本木建築配置 (圖面取自六本木之丘 (Roppongi Hill) 官方網站)

又因鄰近日本流行中心的原宿地區，因此原宿地區外溢的一些機能和相關行業也散落在此地區。

4. 基地現況：基地當初是以住宅社區的構想來規劃，有公共浴室、公共餐廳、住宅區，以 3 層樓以下鋼筋混凝土造，容積率為 70%，公園綠地比例高的社區。
5. 開發構想：社區之名取為代官山 Address 之意義是將代官山社區開發為「宜住的場所」，社區的居民都會有「打招呼」、「寒暄」的意味。藉代官山社區的開發，能有助於代官山地區環境改善，特別在都市防災與避難、集會和運動設施上形成新的都市空間，提高代官山地區的魅力。
6. 規劃內容：包括
 - (1) 高樓住宅 (36 樓 387 戶、中高樓住宅 (13 樓 42 戶、10 樓 30 戶、8 樓 18 戶、5 樓 24 戶) 這之中包括 34 戶區民住宅(國民住宅)³¹。
 - (2) 商業建築有一超市及三層樓群所形成的 43 家店鋪街，包括服飾店、餐廳、咖啡廳、生活相關小物品等有特色的小店鋪。
 - (3) 公共設施有 (a) 公園、草坪等兼做附近地區的避難所，同時也興建了防災儲備倉庫。(b) 運動中心由谷區公所管理，包括二座室內游泳池、一座室外兒童游泳池、桌球及各種健身運動設施。(c) 集會場所 (類似台灣的社區活動中心) 一棟，供集會、交流、結婚等之場所。(d) 社區與代官山車站間的高架行人天橋。
 - (4) 特殊設施有東京電力公司的地下變電所一處，面積 13051.9m²，該座預備的變電所使用的條件

是，現有谷地區電力使用量未超過某種程度，非增加新的變電所設施前，不得使用此處變電所。東京電力公司為此地下變電所，付給社區 200 億日幣是總事業廢的三分之一。

7. 環境改善：公共設施的增修供鄰近地區居民的使用，提昇環境品質，改善了都市景觀。
8. 效益：代官山 Address 社區完成後，社區內的商業設施假日吸引相當多的人潮，代官山車站出入的旅客，平日是 2 萬人次，假日是 10 萬人次，此並帶動了附近地區商店街的繁榮，據代官山 Address 社區更新會的會長所言：日本國立東京工業大學的教授對代官山 Address 社區完成後，影響地區發展和繁榮，其所帶來地區稅收的效益做評估，3 年就增加稅收 90 億以上，遠超過東京都政府補助此更新案的 90 億³²。



圖三 代官山Address 鳥瞰 (圖面取自代官山 Address 社區簡介)

³¹ 區民住宅：居所提供的出租住宅

³² 日本地方政府對更新時公共設施的提供改善環境有補助，依地方政府的不同，補助更新事業費的比例亦不同，一般大都市補助較少，小都市較大。2007 年 11 月都市更新國際研討會中，日本田中茲夫先生的「日本の再開制度」中提到，東京六本木之丘補助 136 億日幣，佔事業費的 4.7%，仙台 141 大樓補助 270 億日幣佔事業費的 36.2%。

9. 住戶組織與參與都市更新：1980 年住戶成立「再開發考慮會」，以讀書會的方式開始運作 20 年，在整個更新實施過程中，住戶參與，附近居民也參與，涉谷區政府與東京市政府在規劃過程參與協商，所以整個都市更新案可以說是民眾和附近居民參與，也可看成是社區發展的計畫和造街計畫。

陸、台灣的都市更新(都市再生)

一、台灣都市更新沿革概述

台灣的都市更新之沿革，真正提出要做都市更新的應是 1974 年都市計畫法中增訂「舊市區都市更新專章」，而後，1976 年台北市政府於都市計畫處下，增設都市更新科，開始推動都市更新，並於 1982 年頒布台北市都市更新實施辦法，1997 年修訂「台北市都市更新實施辦法」，新增獎勵私人或團體興建都市更新建設事業，更新實施主體由公部門改為鼓勵私部門來興辦都市更新。1998 年中央制訂「都市更新條例」，作為全面實施都市更新的母法，並先後制訂相關子法有九種，並且各地方政府亦先後制定都市更新自治條例，都市更新基金收支保管運用自治條例等都市更新相關的地方政府的自治條例。2000 年公佈「921 震災重建暫行條例」，2003 年總統經濟顧問小組第一次會議將都市更新列入國家重大經濟建設發展計畫。

2005 年行政院核定都市更新示範計畫，做為都市更新的中長程推動計畫，2006 年行政院核定加速推動都市更新方案，做為我國推動都市更新的短期行動方案，並選定公有地為主的都市更新示範地區，對於一般民間申辦的一般都市更新事業，成立單一窗口，主辦協助解決問題³³。

2003 年以後，中央政府已意識到都市更新對國家經濟建設發展的重要，並積極的推動都市更新計畫，同時也開始將都市更新之用詞，改採「都市再生」³⁴。這種政策的轉變和強化都市更新的目標，應是受到日本、英國等之影響，亦是統合全球化下國際都市競爭，經濟建設政策，都市再生，都市發展等的多贏的政策。

2002 年起內政部開始補助地方政府做「都市更新的綱要計畫」、「都市更新事業計畫」。

2006 年、2008 年、2009 年三次委託民間來協助推動都市更新工作，剛開始稱「都市更新總顧問」，現在稱「營建署都市更新推動辦公室」。

2008 年馬英九總統上任，將「都市更新」做為施政建設的「愛台十二項建設」之一。配合此，台北市推動「台北好好看」的都市更新，大舉對都市更新條件和容積獎勵鬆綁，從 2008 年 1 月到 2008 年 10 月 31 日截止，共有 48 案申請，通過 41 案，面積共 41.7 公頃，今年 (2009) 繼續推動「台北好好看」的都市更新事業。

2008 年 11 月，都市更新啟動營建投資誘因，包括六大策略落實啟動民間投資誘因。

2009 年 2 月 1 日，中央政府於內政部成立「中央都市更新基金管理會」，投資和貸款給地方政府要推動的都市更新事業。

³³ 內政部營建署 (2007),《都市更新國際研討會論文集》, 2007.11, 內政部營建署主辦, p.44-47.

³⁴ 同註 33, 台北市的報告英文用 "Taipei City Urban Regeneration" p.165 2007.11

二、台北市的都市更新

台灣在都市更新上，不管實質的事業或以都市更新之名做得事業，做得最多是台北市，以下就台北市這 30 年來的都是更新成效做個回顧。

台北市 1973 年以前為解決違建、美化市容、開闢交通道路等所做的中華商場重建案、華江舊市區改造案、萬大計畫案等³⁵，1980 年以後有很多的老眷村改建，而真正以都市更新之名來執行的事業，是 1990 年以前，由政府主辦的有四處，柳鄉地區 (1.25 公頃)、八德路饒河街口 (1.12 公頃)、大龍段 (1.02 公頃)、台北工專北側 (1.16 公頃)³⁶，面積在 1~1.25 公頃之間，由於是政府主辦，為達到環境改善的目標，因此分別增建了公園、市場、停車等公共設施，對地區環境改善多少有貢獻。

1990 年到 2007 年 11 月，台北市政府以獎勵民間自辦都市更新為主，至今共核定 26 案，面積共 7.6 公頃，已完工 21 案，施工中 5 案，平均每案 2840 平方公尺。台北市目前 (2007.11) 劃定的更新地區共 301 處，共 353 公頃。其中市政府劃定的有 210 處 (327 公頃)³⁷，平均每處 1.77 公頃，自行劃定的有 91 處 26 公頃³⁸，平均每處 0.2857 公頃，市政府劃定的更新地區於實施時，可以將更新地區分成數個單元分別實施，所以真正實施時，每一個更新單元遠小於平均的 1.77 公頃。

依都市更新條例核定實施都是更新面積規模分佈³⁹，共核定 45 案，其中 1000m² 以下 4 案 (8.9%)，1000~2000m² 的 10 案 (22.2%)，2000~3000m² 的 17 案 (37.8%)，3000~5000 的 8 案 (17.8%)，5000m² 以上 6 案 (13.3%)，有約 30% 在 2000m² 以下，約 70% 在 3000m² 以下，3000m² 以上才約

30%，5000m² 以上才 13.3%。由上之統計，更新基地規模很小，大概都只能建一棟大樓。所以，對環境改善，特別增修公共設施部分，幾乎沒有辦法提供，形成是建物拆除改建大樓的「不動產開發事業」，這種更新給予容積獎勵，增加土地使用強度，增加地區的密度、擁擠度，降低每人使用公共設施的水準，對都市再生、活化地區、改善環境是沒幫助，是否值得獎勵容積，值得商榷。

依台灣的都市更新條例，對都市更新的獎勵有容積獎勵和稅捐減免兩項。台北市是高房價地區，對建築物的開發商來說，容積獎勵是最大的誘因。容積獎勵的型態，基本上分為兩種類型，(1) 第一種類型態 $\Delta F1$ 是現有建物的容積率，已超過法定容積率者，其獎勵容積是現有容積率的 30%，即都市更新時的容積是「現有容積」的 130%。(2) 原有容積率未達法定容積率者，其主要獎勵的內容主要分五大項，總獎勵的容積率，最多不得超過法定容積率的 50%，容積獎勵的五大項分別為：(a) $\Delta F2$ 居住水平：原居住的每人居住面積未達台北市平均者。(b) $\Delta F3$ 更新時程：被劃為更新地區，早日實施者。(c) $\Delta F4$ 捐贈： $\Delta F4-1$ 捐公共、公益設施， $\Delta F4-2$ 協助周邊地區開闢都市計畫公共設施， $\Delta F4-3$ 認養相關設施、公共藝術等增進都市景觀美化所需經費。(d) $\Delta F5$ 更新單元之設計： $\Delta F5-1$ 建築設計， $\Delta F5-2$ 開放廣場， $\Delta F5-3$ 人行步道， $\Delta F5-4$ 歷史建物保存， $\Delta F5-5$ 基地規模。(e) $\Delta F6$ 違建處理。

2007 年 7 月以前，依「台北市都市更新自治條例」申請核定實施的 38 件都市更新案⁴⁰ 平均基地面積 3405m²，若扣除二個軍眷

³⁵ 同註33, p.44

³⁶ 同註33, p.66~68

³⁷ 同註33, p.178

³⁸ 依都市更新條例第十一條 民間可自行劃定更新單元

³⁹ 同註33, p.179

⁴⁰ 林政洲 (2009), 《台北市都市更新容積獎勵政策之研究》，中國文化大學碩士論文, p.96

村改建共38920m²，其餘的 36 件之平均為 2513 m²。其容積獎勵額度如下表：

容積獎勵表

獎勵項目 項目	原容積 △F1	居住水平 △F2	更新時程 △F3	捐贈 △F4	公益設施 △F4-1	公共費用 △F4-2	協助整護 △F4-3	單元設計 △F5	建築基地 △F5-1	開放廣場 △F5-2	人行步道 △F5-3	歷史保存 △F5-4	基地規模 △F5-5	違建處理 △F6	小計
申請件數	11	0	32	17	4	15	0	30	29	4	27	0	7	17	38
平均獎勵(%)	55	0	10	8	2	9	0	13	4	10	7	0	5	10	43*

• 38件中有8件是921地震災害更新。*扣除921震災的8案，平均獎勵是37%

申請案件中，採以原容積獎勵的有11件，平均獎勵 55%，是單項獎勵最多。申請案件最多的更新時程獎勵 (32 件)，單元設計有 30 件，其中有29件是因建築設計，27 件是留了2m 寬的步道，其實這兩項獎勵都可由建築設計和配置上，要求考慮地區環境品質，也可做到，是否一定給獎勵。捐贈公益設施僅 4 件，平均獎勵的容積僅 2%，應是可加強的部分。

整體來說，捐贈和單元設計兩大項的獎勵，是關係環境品質的問題，亦是都市更新得到獎勵，該更新地區要對地區回饋貢獻的部分。

像這樣只指定都市更新地區、而未有整體規劃和整體開發機制的計劃與實施，而將都市更新地區於開發時可細分為數個「更新單元」來開發，以致分別完成後的更新單元造成平均 2800m² 或 2513m² (包括 921 震災小面積之更新) 的不動產開發，沒有更新地區的整體規劃，和公共設施的增修也沒有地區景觀的改善計劃等環境改善的效果，更談不

上經由都市更新來創造都市魅力帶來都市活力、提升都市競爭力，以及調整都市機能、促進都市計畫有計劃發展的效果。

三、台灣都市再生案例和計畫⁴¹

到目前為止，台灣的都市再生案例較為人知的有幾個，但都不是以都市更新之名或都市再生之名來推動的事業，成果最顯著有：

- (1) 台北市信義計畫：有 143 公頃是結合部分工廠和農地，以市地重劃方式來開發，現在是台北市政府所在和大企業總部，並結合休閒娛樂和住宅，世界最高大樓 101 大樓亦在此，是目前台北市政府(地方政府)、國際商辦中心，亦是台北市豪宅集中地區。
- (2) 台北火車站特定區：是為鐵路地下化、車站改建，並整合匯集到台北車站的捷運轉乘系統，面積 46 公頃。台北車站附近是日據時代就是台北繁榮的商務中

⁴¹ 同註33, p.44~46

心，經過本次的更新和周邊的配合更新，預期將再度展現過去的繁榮和熱鬧。

- (3) 高雄經貿園區：高雄經貿園區是沿高雄港的工業區和碼頭的更新計畫，面積約 530 公頃。是多功能的發展計畫，有觀光遊憩碼頭、旅館、廣場、貿易展覽、商業、業務、生態公園、藝文休閒商業、百貨、國際會議中心、流行文化音樂中心、住宅等，現已開始逐步的開發中，預期完成後將調整高雄市的空間架構，將形成沿港口周邊的水岸都市。
- (4) 新板橋車站特定計畫：在台北縣政府所在的板橋市，為地鐵地下化和車站的遷移做的開發計畫，面積有 48 公頃，原址大部分為工廠用地，有一所國中，以及部分住宅社區。配合此開發計畫，縣政府亦遷移於此開發區。是一個交通轉運中心、行政中心、商業、業務中心、文化藝術中心、縣民戶外活動集會中心，亦是板橋市豪宅集中地區，目前已近開發完成，使板橋市都市發展空間構造有了調整，生活環境品質提升，並帶動板橋市都市更新的風潮。

以上四個案例，是都市更新計畫配合都市發展計畫、經由都市計畫審議委員會通過後來執行的都市再生計畫，有依照更新計畫來實施的公共設施興闢，和各種計畫用途建地的開發，所以是都市發展計畫、都市更新計畫含不動產的開發是結合的，這樣才能達到原訂訂都市更新地區所做的都市更新計畫效果。

柒、結論

- 一、都市更新(再生)是都市計畫與都市開發事業的一部份，所以都市更新計畫要接受都市計畫的指導，並且要民眾的參

與，以便規劃的更新計畫對地區環境品質改善和都市發展有貢獻，所以都市更新是一種「造街」(台灣稱社區總體營造)事業。

- 二、我們應要有這種基本的理念，都市中的任何一宗土地，雖有的是屬於私人所用，但在使用上，應考慮其對都市應分擔的職責，所以要接受都市土地使用之規劃，於都市更新時，要思考該土地能對都市的貢獻(或說職責)是什麼？亦即對公共利益貢獻了甚麼？
- 三、現在都市更新的世界潮流是在創造一個未來生活方式之前題，未考慮利用都市更新來推動經濟建設計畫和配合都市發展政策下來對都是更新地區給予分擔都市發展的定位，然後做都市更新地區的規劃，以期達到都市的永續發展，而不是更新地區自我為主不考慮都市發展的規劃，或是一個建物拆除重建的不動產開發事業。
- 四、在今日全球化之下，國際城市競爭也好，國內的區域間的都市競爭也好，各都市竭盡全力，創造都市魅力，提高競爭力，以爭取主導位置，帶動都市的活力和繁榮。這此魅力的創造在空間和設施上大部分是要利用既成市街地的更新來達成，所以都市更新也被用於創造都市魅力，提升競爭力。
- 五、擬都市更新計畫時，不管是考慮環境改善、都市再生、都市發展，創造都市魅力，提升都市競爭力，或做為振興經濟建設計畫的一部分，都要有一個統等的機構來主導，那就是政府，所以政府應在計畫階段更強力介入，並且幫助排除困難，不管在行政作業上、法令規制上、對資金上等的協助，甚至政府亦參與投資，整體來說，都市事業是要政府和民間的合作，政府和民間是夥伴關係，才易推動執行。

- 六、於推動都市更新事業時，要多方面的思考，現階段的事業計畫於財務上也許沒辦法執行，但此計畫對都市發展和都市機能調整以及地區環境改善上至為重要時，也可思考在公共設施的經費上之補助，或政府參與投資，以此帶動地區的發展與更新，政府的補助或投資可能數年之內就可從稅收上來回收。
- 七、由前面介紹的日本案例以及台灣四個都市更新地區以及台北市獎勵民間都市更新之成效來看，都市更新的規模若是太小，特別是1公頃以下，對改善環境和調整都市機能是不會發生作用，亦即難以顧及公共利益。

參考文獻

1. 黃健二、王章凱 (2007), 〈都市更新政策目標的探討〉, 中華民國建築學會第 19 屆第 1 次建築成果發表論文集, 2007.06
2. 黃健二、王章凱 (2005), 〈從日本「都市再生」的推動看我國都市更新觀念瓶頸〉, 中華民國都市計劃學會、區域科學學會、地域發展學會 2005 聯合年會暨論文研討會, 2005.12.
3. 黃健二 (2007), 〈日本大面積都市再生之探討〉, 營建署演講稿 2007.6
4. 蓑原敬 (2003), 《成熟のための都市再生》, 東京:(株)学芸出版社.
5. 中國文化大學市政系都市再生網站 <http://www.wretch.cc/blog/PCCUUAEP>
6. OECD(2001), “Japan Urban Polis” 國際都市政策研究會譯, 《再生! 日本の都市》, 東京:(株)ぎょうせい.
7. 內政部營建署 (2007), 《都市更新國際研討會論文集》, 內政部營建署主辦.
8. 黃健二 (1984), 《都市更新之研究》, 台北市:大佳出版社.
9. 何芳子、丁致成 (2006), 《日本都市再生密碼》, 台北市:財團法人都市更新研究發展基金會.
10. 財團法人都市更新研究發展基金會 (2002), 《都市更新魔法書》, 台北市:財團法人都市更新研究發展基金

會.

11. 深海隆 (1992), 《都市開發と民活主義イギリスとアメリカにおける経験》, 東京:(株)学芸出版社.
12. 鶴井哲夫 (1980), 〈都市再開發案—改正的背景及び今後の課題〉, 住宅月刊.
13. 東京都 (1999), 《東京都市白皮書 2000 》, 東京:東京都都市計畫局.
14. 日端康雄 (1983), 〈都市再開發と民間活力の活用について〉, 地域開發.No.228..
15. 林政洲 (2009), 《台北市都市更新容積獎勵政策之研究》, 中國文化大學碩士論文.

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最近三年兼任委員：

- (1) 內政部營建署委外的推動都市更新辦公室 (總顧問) 之顧問 (2007.01~2007.12)
- (2) 內政部營建署委外的推動都市更新辦公室 (總顧問) 之顧問 (2008.01~2008.12)
- (3) 內政部營建署委外的推動都市更新辦公室 (總顧問) 之顧問 (2009.01~現在)
- (4) 內政部中央都市更新基金管理會委員 (2009.01~現在)

Applicability of Partnership and Transfer of Development Rights (TDRs) in Urban Regeneration in HK

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1. Introduction

One of the more frequently asked questions regarding the real benefit of urban renewal is: "Who gets to enjoy the fruits of renewal?". More often than not, a district/neighbourhood needs to be renewed because it is old and properties are dilapidated. Hence, the existing owners are relatively poor. To renew the district, the current owners of the site need to be displaced to other areas. Renewing their district means they need to move to some other places which they can afford, namely almost as old as the former district/neighbourhood, or to some other locations which are far away, if not more remote. When the site is cleared and upgraded, property values will increase due to a new image or a new use and those who can afford to move in will usually not be those who have been moved away. Hence, the poor are constantly being "displaced" from one old and dilapidated district to another, leaving an upgraded community to be enjoyed by a wealthier class. The resulting social damages also include dispersion of social capital. Coleman (1990) defines social capital as a resource embodied in the relations among persons and positions that facilitates action. In other words, social capital provides different groups in the community and society (including disadvantaged groups, such as infants and the disabled) with resources, otherwise unattainable, which form certain "*networks, norms, trust that facilitate coordination and cooperation for benefit*" (Putnam, 1993, p. 36). In old established communities, one of the more valuable kinds of social capital is

the personal network among senior citizens. Following relocation by the developer or the authority, this social network ceases to exist. This form of social capital cannot always be compensated by a better neighbourhood in the new settlement as these social ties may be very important in a socially-disadvantaged group (Phillipson, 2003).

On the other hand, the experiment of the Hapdong model of partnership (to be explained below) in Korea illustrates that most residents prefer immediate cash compensation and this causes some scholars to re-think the rationale of urban redevelopment. Among them, Lee, at al (2003) show that in Korea, existing owners are not really that eager to move back to the redeveloped neighbourhood when cash compensation becomes more attractive immediately. Lee, at al eventually raise the question that "*... the correct approach might be to change our outdated ideas on residential redevelopment. With this market-driven and owner-initiated gentrification process, the original owners do not need to be rehabilitated in the same area.*" This statement very much spears directly at a heart of a common argument against urban redevelopment that social capital cannot be retained after the redevelopment project is completed. On this, another scholar, Ahn, (2002) shows that the job-searching network has already been weakened in the redevelopment areas, not because of the redevelopment but because of changes in the vocational configuration of the residents due to overall nationwide economic changes. In a similar way, therefore, social

network will also be altered and dilated after the redevelopment with a new physical environment attracting (or deterring) different types of residents into this social network.

To the private developer who initiates the renewal process, a major problem is efficiency in site assembly. Time cost is always a problem when the developer needs to trace ownership. Moreover, individual property owners may have too great an expectation of the development value of their own properties, especially when they are aware that their properties are the last few remaining to be assembled. In such cases, it is not usual for these owners to demand a sum much more than the current value of similar properties in the market, taking into account the potential value their properties have for the developer in the renewal project. While this is a pure commercial negotiation process, if the price expectation of these owners deviates substantially from that of the developer's, the developer will have no choice but to halt the whole project, or to design an inefficient use of the site that will exclude the unpurchased properties.

For publicly-initiated renewal projects, the use of the principle "eminent domain" or compulsory purchase has solved some of the problems private developers face in the renewal process. Cypher and Forgey (2003) show that "*...municipalities employing eminent domain in a redevelopment project experienced only a minimal to moderate project delay...*" (p.266). However, they also note that to make it an effective tool

in urban renewal, the authority will have to increase the publicity of the concept, and may even have to increase the compensation to more than the fair amount so as to prevent potential litigation from the affected owners. In this respect, it becomes a financial burden for the local authority when it starts to initiate renewal projects. Furthermore, it also becomes unfair that property owners who happen to be holding on to dilapidated properties in the renewal district will be able to earn excessive profit from selling their properties to the authority.

In this paper, we are going to discuss two alternative models to conventional urban regeneration model, namely the urban partnership and Transfer of Development Rights. In the process of discussion, we will try to elaborate on how applicable these alternatives are in helping to solve urban regeneration problems in Hong Kong.

2. Partnership model for urban renewal

Urban partnership adopted in the process of regeneration has been academically known as Land Readjustment (LR). This concept was first used by President George Washington when he formed an agreement in 1791 with the landowners of the site where the present Washington D. C. laid (UNESCO report, 1995), which included donation tracts of land for the new capital and sales of lots to generate money for public buildings.

The idea of LR is simple and the mechanism is designed almost with an objective to solve the problems of conventional renewal

process. According to the LR concept, individual owners of plots or properties within the renewal boundary will become part of the redevelopment team, not the target of compulsory purchase. The public authority, who usually is the leading party in the renewal scheme therefore does not aim at purchasing the property rights from these owners, but to work with them side by side for the re-alignment and readjustment of the plots within the renewal boundary.

Individual owners contribute their own plots/properties as their capital input while the public authority/developer coordinates and provides the needed infrastructure. During the readjustment process, individual owners either move around the boundary in a rural settings, or move out of the community. In any case, re-housing is meant only to be temporary. After the improvement is completed, individual owners will be allocated to a pre-agreed plot, whose value due to the improvement works has been increased. The public authority/developer in return, obtains a plot (or more) contributed by all owners. In this way, a win-win situation has been created.

Conventionally, Land Readjustment (LR) schemes are applied in rural or sub-urban districts horizontally where a whole piece of area is "realigned" or re-planned according to the LR principles. In a way, residents are being transferred from one location to another within the district during the redevelopment and the whole district is being "reconfigured", or upgraded. In Hong Kong, Li and Li (2007) show that it can also be applied, under certain unique conditions,

"vertically" in a densely developed city.

In Korea, a much more elaborated form of partnership in the urban renewal programme has been adopted. Lee, et al (2003) explain the Korean authority's scheme of residential redevelopment, commonly known as the Hapdong (partnership) redevelopment in details. In this scheme, an association composed of the property-owners and a construction company, takes the lead for redevelopment without public assistance. The city controls the maximum development density for each redevelopment project to guarantee market profits for all participants in the project. The rest of the work is market-driven.

The interesting feature of this Hapdong redevelopment approach is the leading role of the existing property owners. The redevelopment scheme is initiated by the owners to form an association to implement the renewal project, rather than led by the city government's renewal strategy or plan. The owners' association is empowered to select a construction company that will proceed with the redevelopment project; and the city government allows higher density development to ensure reasonable extra floor areas to be sold as profits for all participants.

In Korea, this model proves to be relatively more effective than the conventional one and hence in practice, construction/development companies usually take the initiative in implementing the scheme. This market-oriented approach received enthusiastic responses in the market since

its introduction. To the individual property owners in the dilapidated neighbourhoods, the benefits are more direct, such as bigger residential flats as well as better-quality services which in the past might not have been financially feasible.

To the public authority, the Korean *Hapdong* model is basically a private-private partnership, with a very minimum government involvement. The main role of the government is to provide a platform that will facilitate this collaboration. Financially and socially, this is a cost-minimization model that most public authorities are seeking.

Apart from Hong Kong, and Korea, Shenzhen has also tried out this partnership model in a high-rise development environment. Yunong village redevelopment, which is the site next to the Luohu checkpoint, has been one of the few successful examples of applying urban partnership by which, the original residents could enjoy the product of redevelopment by being able to re-enter the regenerated site, while financially the regeneration project sustained its profitability for the developer.

3. Transferable Development Rights (TDRs)

The concept of transferable development rights is based on the assumption that property rights can be viewed as a 'bundle' which, for legal purposes, can be separated into different parts as, for example, leasehold interests may be

created in a freehold interest. In principle, providing the institutional arrangements allow, there is no reason why certain rights cannot be **permanently** severed from legal ownership rights and it is the notion of specifically separating development rights from ownership rights which underpins the ideas and practice of TDRs.

The Transfer of Development Rights (TDRs) mechanism has been perceived as a model which could address two major issues in the land use/planning system. The first relates to equity, or the issue of mitigating "windfalls" and "wipeouts" that frequently accompany the regulation of land use. Local government very often 'downzones' certain areas to discourage development. In these circumstances the development potential of sites within the down-zoned areas is greatly reduced and land owners may suffer a financial loss. On the other hand, when a local government chooses to 'up-zone' certain areas, landowners stand to enjoy "windfalls". Using a TDRs approach, the government can attempt to balance the situation by allowing the 'trading' of development rights between differently affected landowners. This approach allows an adversely affected owner in the down-zoned area to sell their development rights to owner or developer in an up-zoned area where increased levels of development are permitted.

The second issue relates to the financial implications and difficulties of protecting land and buildings with historic or social and community value without incurring major outlays of government revenue. Local

governments are normally constrained by limited budgets but have to operate within an environment of competing demands. As a result they are tasked with providing for school construction or improvement, road and sewer extensions, police and fire services and other municipal services whilst having at the same time to assume responsibility for preserving land and property with specific ecological, agricultural or historical importance.

In the absence of a TDRs system local governments will either have to use public finance to fund or purchase 'socially desirable' assets outright, or to apply administrative measures to stop development completely, options which will undoubtedly meet with opposition from different fronts. The advantage of TDRs is that it can provide local governments with a least-cost option since it creates a platform by which affected owners of land and properties can trade development rights in the open market and thereby be compensated by owners/developers of land that can be allowed for a higher density of development.

4. The Mechanism

The way in which TDR operates is based on the assumption that land-based development rights may be either be used, thereby creating an economic value for the owner, or, if government action prevents their use, the equivalent right may be then transferred or sold to a third party. In order to formalise the arrangement in those circumstances where development rights

have been severed, an easement is placed on the property. Easements are legal encumbrances on land that restrict and bar current and subsequent owners of the parcel from certain identified actions and land uses.

In the American system, a basic TDRs programme consists of four elements:

- sending areas;
- receiving areas;
- the definition and specification of parcels' severable development rights;
- the process by which development rights may be transferred.

A sending area represents a district which the authority intends to preserve and protect from development. In this zone, the right to develop/redevelop on the existing properties is transferred or 'sent' to designated regions (i.e. receiving areas) for development in that area. This transfer is a market transfer in the sense that landowners in the sending areas receive a payment representing the value of their properties' development rights. What they have sold is not their existing properties, but the development (or redevelopment) potential of their properties which in the absence of government negative action, would have been allowed on the site. Hence, after selling their land's development rights, landowners are still permitted to continue with the existing uses on their property. An easement will be created to register the sale or transfer, to acknowledge the rights to the existing use of the site, and most importantly, to provide a cap on further development of the site.

Under the TDRs system such development rights can only be transferred to a designated receiving area. However, the delineation of the receiving areas varies from state to state, or even county to county in America and in practice TDRs transfers may take place between adjacent sites; within a designated district; from non-urban to urban areas within a jurisdiction or within a region between jurisdictions. In most of these cases, TDR programmes' receiving areas are those regions to where the authority intends to direct more intensive growth and development. TDRs usually permit development of a particular type and density beyond those permissible under the receiving area's standard (base) zoning and regulation. As a result, there is a complication in TDRs receiving areas that needs to be considered, i.e. land in the receiving areas will be subject to dual zoning regulations - a base zoning regime and a bonus zoning regime for sites with applicable TDRs. There will be both planning as well as political concerns over this dual zoning control.

In the USA, communities with TDR programmes base planning projections on the number of TDRs they expect and allow to be transferred. There are two general approaches for calculating a programme's number of TDRs. The top-down approach starts with a community determining the total amount of appropriate future development. That projection/estimate is then used to establish base zoning and TDRs (bonus) opportunities. In contrast, the bottom-up approach first uses some

metric or categorization of land (e.g. area, zoning or land type) in the sending area to calculate the total number of TDRs to be made available. This total number of TDRs is then allocated to the landowners in the sending area based on a distribution scheme (e.g. x per unit area) often with some consideration of property characteristics and previous zoning.

Following the initial trial of TDRs as a means to save historic buildings, in the early 1980s two massive TDR schemes were implemented in Montgomery County, Maryland and the New Jersey Pinelands. The notable difference in the implementation of these TDR schemes was the dramatic extension in the distance between sending and receiving areas. The extension of distance was necessary because in these two TDR programs, the major policy objective was to preserve agricultural and wooded lands from development by using TDRs to move density further away from the sending site and onto a receiving site designated for compact growth. More recently, the element of distance has become a regular feature, even in urban TDRs programmes such as King County in the State of Washington where the TDRs programmes are aimed at moving development pressure away from traditional farmland to areas in Seattle's metropolitan core. Similarly, even a highly developed city like New York has expanded the distance between the sending and receiving areas when special reasons emerge such as conservation of designated Broadway theatres.

In practice TDRs programs provide an interesting solution to a major land use problem, namely preserving areas which are perceived to have historic or community value whilst, at the same time allowing such conservation to be more equitable, commercially viable and politically palatable by compensating affected landowners through the market system rather than from public finances.

5. TDRs Bank

The concept of TDRs bank was first proposed by the economist Professor Costonis in Chicago. With the emergence of TDRs as a mechanism of exchange the idea of a trusted trading platform was developed to overcome a lack of confidence in a market where both sellers and buyers faced uncertainties as trading activities were not frequent. A TDRs "bank" was viewed as an ideal mechanism to facilitate market activity through the process of buying the development rights from willing sellers in conservation areas for subsequent sale to developers who wished to undertake higher density developments in receiving areas. The bank's capital could then act as a revolving fund which accumulated as developers buy TDRs. In principle TDRs banks may be either privately owned or operated by the government.

The introduction of a formalised TDRs banking system will also address two issues in the market development of TDRs, namely the valuation process and the marketability of TDRs. Once a TDR bank is set up by the authority, it will set the minimum purchase

prices for TDRs in the region. In most cases, TDRs banks can also guarantee loans by using the TDRs as collateral, or can directly purchase TDRs from owners of land/properties and subsequently resell the development rights in the market at a later stage when demand rises. Although in most cases TDRs banks act as a clearing house and an information centre, helping to match buyers with sellers and assisting with transactions, the system can also minimize market fluctuations by acting as a buffer or broker between buyer and seller. In a complex model the TDRs bank may also serve as an administrative body and as a means of generating funds so that the mechanism can be self-sustainable.

6. Valuation / exchange standard for TDRs

Uniform standards, preferably based on quantifiable measures such as density, area, floor-area-ratio and height, should be used to determine what development right is being transferred. However it is not necessary for the transfer (exchange) of TDRs to be constrained to the same use and a number of jurisdictions have allowed use variance in the TDRs in America. The following provides a very simplified illustration of how the TDRs are priced under the price mechanism:

Assumptions :

- Sending Zone : 80,000 sq.ft. per lot
- One lot = One DR
- Receiving Zone : original density is 20,000 sq.ft. per lot
- With TDRs, density becomes 10,000 sq.ft. per lot

Sending Zone : DRs calculation

- 75 acres* divided by 80,000 sq.ft. = 40DRs in the zone
- Without TDRs :
- 75 acres @ US\$17,330/acre of residual land value = US\$1,300,000
- Sending Zone with TDRs :
- Assuming only 4DRs are allowed to be realised.
- Each developed lot will be worth : US\$200,000 each.
- Total commercial value of the constrained Sending Zone is US\$800,00

Bottom line value of outgoing TDRs :

- US\$1,300,000
- Minus US\$ 800,000
- => US\$ 500,000
- Value per TDR : US\$500,000 divided by 36 TDRs = US\$13,890 per TDR

Receiving Zone without TDRs

- 30 acres divided by 20,000 sq.ft. = 65 developable lots
- Value of each developable lot : US\$60,000
- Total value of the zone : 65 x US\$60,000 = \$3,900,000

With TDRs and increased density

- 30 acres divided by 10,000 sq.ft. = 130 developable lots (ie. improvement brought about by 65 TDRs)
- Value per lot : US\$40,000 (drop in value per lot due to increase in supply)
- New value of the Zone : 130 x US\$40,000 = US\$5,200,000

Value of TDRs in Receiving Zone

- US\$5,200,000 - US\$3,900,000
- =US\$1,300,000 (65 TDRs)
- One TDR = US\$1,300,000 / 65
- =>US\$20,000 per TDR

Hence

- TDRs market will determine the final value of each TDR, mainly by negotiation between the sellers and buyers from the 2 zones.
- TDRs value will likely to fall between US\$13,890(Sending Zone bottom line) to US\$20,000 (Receiving Zone ceiling)

7. Conclusion

An interesting feature in the urban partnership model is the financial implications to the authority. In most of the cities that adopt this model, financial contribution from the authority/developer in achieving renewal result is very minimal, as there is no need to acquire property rights. Initially, the major cost item for the authority/developer is expenditure on carrying out renewal infrastructure works, which is relatively low compared to acquiring the legal interests from the owners. In most of the cases, these costs will eventually be recovered, sometimes more than enough when the dedication of proportionate site area from each owner as their contribution to the renewal scheme outweighs the initial costs borne by the authority/developer. In the other words, in return for an expected upgrading of their own site value due to the renewal effort, individual owners are paying the authority in kind by means of accepting a smaller (but better) site after the renewal. However, one should also note from some overseas example such as the Korean case that most residents do at the end prefer immediate cash compensation rather than the right of re-entry.

Nevertheless, it should be noted that this model is very much constrained by the design of the site if residents all demand a "no-change" situation after regeneration. The case of Hong Kong in Tai Hang district illustrated one of the very few successful applications since the site configuration dictates a highly symmetrical design and layout before and after the redevelopment. In this respect, urban regeneration projects that involve a large quantity of retailers will not be applicable. This situation will deteriorate when in many URA projects which involves merging of different sites. In this way, the final design of the amalgamated site will not be able to satisfy the claims of all the participating owners for a flat of similar view and orientation.

Moreover, while it is almost a universal rule in all the cases we examined that the public authority/developer acting as project manager overseeing the project is entitled to receive contribution sites from the owners for either public infrastructure or even for profit, these bonus sites may, in the situation of Hong Kong, create unnecessary political problems for the authority as this could be seen as a "rip-off" by the authority/developer. Not to mention the fact that not all residents would like to contribute part of their property as cost of redevelopment. To assess their degree of acceptance of this contribution factor, a total of 828 residents were interviewed. However, in order to obtain the views of those who are

in relative greater need for urban renewal/regeneration, we concentrated more in the old areas. As a result, 12% came from San Po Kong/Kowloon City area; 7.7% from Hong Kong East; 10.4% from Kwun Tong/Lam Tin; 10.3% from Shan Shui Po; 13.3% from To Kai Wan and 17% from Mongkok/Yau Mai Tei/Jordan/Tsim Sha Tsui district. In our survey, we find that most people can only accept a replacement flat not smaller than 95% of their original flat (Chart 1). Any scheme that results in a 10% or more reduction in flat size will only receive very little support.

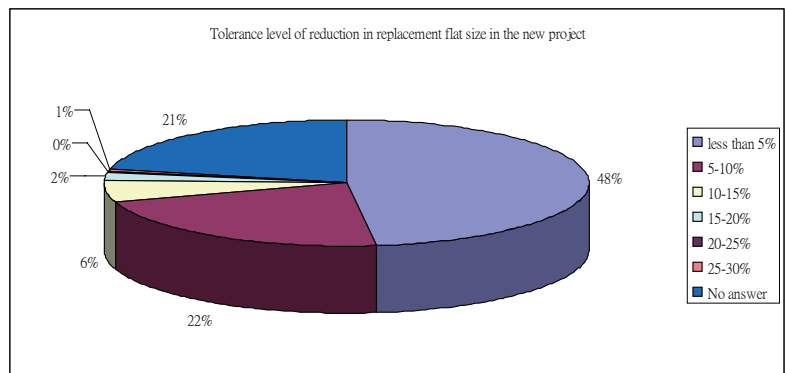


Chart 1: Tolerance of reduction in replacement flat size

On the other hand, Transfer of Development Rights which initiated from America with an objective of conserving farming while demands for development are directed to designated locations, seems to be an administratively less complicated model. The mechanism has over the years been developed into conservation of historic buildings in the urban cities. The concept is not completely new in Hong Kong but implementation requires a new management model. In Hong Kong, we expect the model to be more useful in the conversation of

historic buildings, which is now a popular trend in urban politics, than in directing development. The concept allows the market as the arena for compensating the loss of development rights due to the social benefits of preserving certain structures privately owned. To the government, it is a least cost option as long as the designation of sending and receiving zones as well as the stipulation of development rights for transfer are well delineated. However, this very issue also forms the core problem of the model as usually up-zoning is to be allowed on the receiving zone for this mechanism to work. In this case, the current trend of reducing development intensity in Hong Kong may not work in favour of this model.

Nevertheless, we need to emphasize here that the two alternatives provide positive outputs only when certain conditions are met. These two concepts are never meant to be antidote for ALL urban land use problems we all face. Implementation of these models needs substantial government effort in educating the public and to a certain extent making political compromises. We see potential benefits to the society as a whole in seriously considering incorporating these models into our land use system in Hong Kong and if realised, these new concepts may act as catalysts to further refine and revolutionise our current land use mechanism.

8. References

Ahn, N-Y (2002), The analysis of the rolling redevelopment's effect of some implications to

the rental housing policy, unpublished MA Thesis, Seoul National University

Brandywine Conservancy Environmental management Center, (2003), Transfer of Development Rights: A Flexible Option for Redirecting Growth in Pennsylvania, Brandywine Conservancy: Penn.

Coleman, J.S. (1990), Foundations of Social Theory, Cambridge MA: Harvard University Press

Cypher, M and Forgey, F. (2003) "Eminent domain: An evaluation based on criteria relating to equity, effectiveness, and efficiency", Urban Affairs Review. Thousand Oaks: Nov 2003.Vol.39, Is. 2; pg. 254

Lee, C.M.; Lee, J.H and Yim, C.H. (2003), "A Revenue-sharing Model of Residential Redevelopment Projects: The case of Hapdong Redevelopment Scheme in Seoul, Korea", Urban Studies Vol. 44, No. 11 , 2223 - 2237, 2003

Li, Ling Hin and Li, Xin (2007), "Land Readjustment: A new experiment to solve urban renewal problems in China: the cases of Hong Kong and Pujiang", in Hong and Needham (eds.), (2007) Pooling and Reallocating Property Rights in Land: Reassessing Land Readjustment as a Land Management Tool, Boston: Lincoln Institute of Land Policy

Phillipson, C. (2003), "From Family Groups to Personal Communities: Social Capital and Social Change in the Family Life of Older Adults", in Bengtson, Vern L. and Lowenstein, Ariela (2003) (eds.), Global Aging and Challenges to Families, New York: Aldine De Gruyter

Putnam, R. (1993), "The prosperous community; Social capital and indirect effects in multilevel designs with latent variables," The American Prospect, Spring 35 - 42

UN ESCAP (1995) Municipal Land Management in Asia: A Comparative Study. CITYNET. Regional Network of Local Authorities for management of Human Settlements, United Nations, New York.

Internet Resources:

Speech on transfer of development rights
(by John Tsang, December 2001)

<http://www.info.gov.hk/gia/general/200112/18/1218098.htm>

Incentives for Historic Properties in Seattle

http://www.seattle.gov/neighborhoods/preservation/incentives_state.htm

Legal Memorandum: Transfer of Development Rights

<http://hellskitchen.net/csdc/doslm.html>

Field Guide to Transfer of Development Rights (TDRs)

<http://www.realtor.org/libweb.nsf/pages/fg804>

Transfer of Development Rights (TDR) - Case Study

http://www.mass.gov/envir/smart_growth_toolkit/pages/CS-tdr-seattle.html

with different institutions such as Tsinghua University and Peking University in Beijing; Griffith University in Australia and the Institute of Oriental Studies in France.

Biography



Dr. L. H. Li, a land policy analyst, is currently an Associate Professor and the Programme Director of the China Network MSc programmes in the Department of Real Estate and Construction, the University of Hong Kong. A Fulbright Hong Kong Scholar, Dr. Li has a wide range of research interests in social and economic aspects of land use policy, more specifically in the areas of urban land regeneration; impact of the built environment and urban development. Dr. Li has written extensively on land use policies in Hong Kong and in Mainland China with a total of 35 papers published in various international and professional journals, together with five academic books. Dr. Li's research has been widely supported by various government and private sector grants. In terms of international collaboration, Dr. Li has had previous and current research projects



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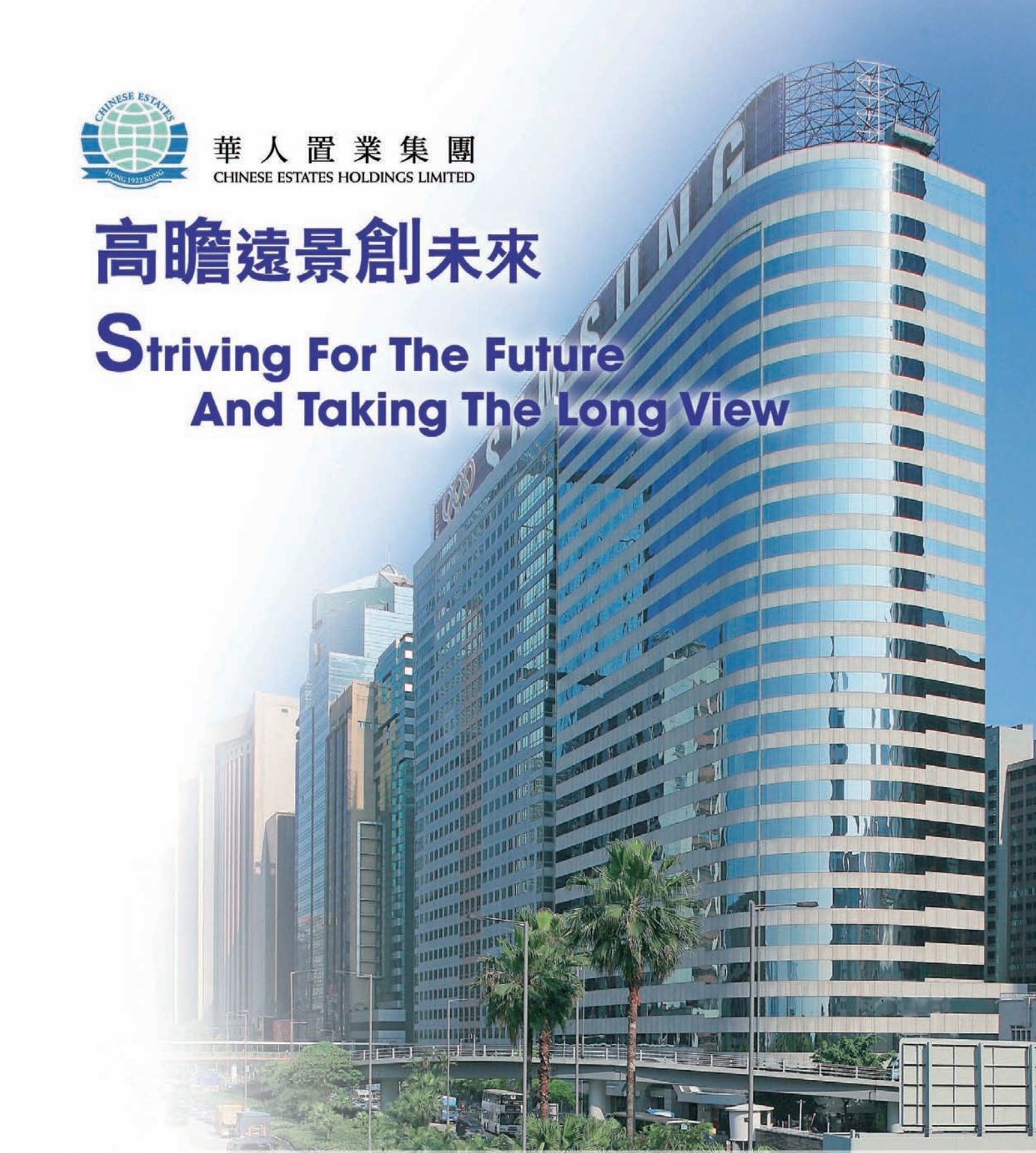
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INTRODUCTION

The Hong Kong Institute of Surveyors was founded in 1984 and registered under the Societies Ordinance. It had 85 founder members, the number of members has now grown to around 4,793 as at August 2009 - Members and Fellows - distinguished by the initials MHKIS and FHKIS. The HKIS is now incorporated by ordinance, with the passing of the Hong Kong Institute of Surveyors Ordinance in January 1990. In July 1991, there was also passed the Surveyors Registration Ordinance to set up a Registration Board to administer the registration of surveyors.

To qualify as a corporate member of the HKIS, surveyors must possess a recognised academic degree or similar qualification, followed by a minimum 2 years supervised professional experience within strict guidelines, followed by an Assessment of Professional Competence. HKIS members are also bound by a comprehensive Rules of Conduct.

The title of "Surveyor" embraces a number of disciplines involved with land and its development with buildings. Usually the

first to be involved is the Land Surveyor who measures and sets out the site. Next follows the Quantity Surveyor who is concerned with the building contractual arrangements and cost control. The General Practice Surveyor is involved in the valuation, sale, leasing and management of the finished product. Planning and Development Surveyor advises on the possible change of zoning likely environmental impacts and make suggestion on preliminary development contents, while the Building Surveyor is involved in the construction and maintenance of the fabric of the building. The Property and Facility Management Surveyor plans, organises and manages accommodation services, supplies and other facilities relating to building occupancy.

The HKIS has reciprocal agreements with the following overseas surveying institutes:

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- The Australian Property Institute
- The New Zealand Property Institute
- The Singapore Institute of Surveyors and Valuers

- China Institute of Real Estate Appraisers
- China Engineering Cost Association
- China Association of Engineering Consultants
- The Australian Institute of Quantity Surveyors
- New Zealand Institute of Quantity Surveyors
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