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**COMMENTS
ON THE
CONSULTATION PAPER
ON THE
URBAN RENEWAL
AUTHORITY BILL**



Submitted by:
THE HONG KONG INSTITUTE OF SURVEYORS
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1.0 INTRODUCTION

The Government issued a Consultation Paper on the Urban Renewal Authority Bill (the "Paper", the "URA" and the "Bill" respectively) in late October 1999. After the issue of the Paper Government carried out quite extensive consultation. The Hong Kong Institute of Surveyors (the "HKIS" or "we") was one of the professional bodies consulted by the Government.

1.1 Support of the HKIS

The HKIS, which consists of five disciplines namely, building surveying, general practice, development and planning, quantity surveying, and land surveying, has a total of over 2,800 qualified members who are well conversant with the various stages of property development and urban renewal ("UR"). Our members have experience and expertise in many aspects of UR and are uniquely qualified to comment on the Paper. The HKIS has formed a standing committee on UR (the "Standing Committee") and an Adhoc Committee of LDC Projects (the "Adhoc Committee"). Memberships of these two committees are shown in Appendix 1 and 2 respectively.

1.2 Discussions

- 1.2.1 On November 12, 1999, the government gave a briefing of the Paper to the HKIS. Stephen Fisher (Deputy SPEL), Miss Olivia Nip (Principal Assistant Secretary/Urban Renewal), Mr. T K Lee (Acting AD Urban Renewal/Planning Department), and Mr. Edward To (Assistant Secretary/Urban Renewal) gave a presentation to the representatives of the HKIS.
- 1.2.2 On November 19, 1999 representatives of the HKIS also attended the Legislative Council Subcommittee to study the URA White Bill. The representatives consist of Mr. David C Lee, Mr. Edwin Tsang and Mr. Benson Wong. The representatives presented the views of the HKIS at the meeting.
- 1.2.3 On December 7, 1999, the HKIS also held a forum to discuss the UR Strategy. This forum was attended by over 30 members and the discussion was held in a well-structured manner. Opinions expressed by the members are summarized in Appendix 3 of the Report.

1.3 The Report

1.3.1 The two committees met on many occasions and as a joint effort produced this report (the "Report") which contains our comments on the Paper as well as our views on UR. As UR is a very wide subject, the Report cannot be treated as exhaustive. We have only endeavored to put down what we believe to be the salient points.

1.3.2 The Report gives comments on the following points:

- 1 Introduction
- 2 General Comments
- 3 The Objectives
- 4 Deficiencies of the Existing System
- 5 Urban Renewal Agents
- 6 Purposes of the URA
- 7 General Power of the URA
- 8 Rehousing Agents
- 9 Compensation for Acquisition and Resumption
of Properties
- 10 Planning Procedures
- 11 Urban Design
- 12 Financial Arrangements
- 13 Freezing Survey
- 14 Corporate Plan and Business Plan
- 15 Facilitating Urban Renewal by the Private Sector
- 16 Preservation of Existing Buildings
- 17 Facilitating Maintenance Improvement and
Alteration Works to Existing Buildings
- 18 Take Over of the LDC
- 19 The URA Board
- 20 Conclusion

1.4 Contacts at the HKIS

Representatives of the HKIS will be pleased to have further consultation with the Government on the subject of UR as well as the establishment of the URA. If the Government wishes to discuss any issues with the representatives of the HKIS, they may contact the following persons:

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1.5 Further Support of the HKIS

- 1.5.1 After the initial consultation, we anticipate that the Government may require further consultation in the drawing up of the more detailed implementation proposal of the URS, the formation of the URA and the drafting of the Bill. The HKIS will be very pleased to offer further views to the Government during this process. The HKIS are fully supportive of the URS and will be prepared to contribute to assist in making the URA a success.
- 1.5.2 The HKIS are also prepared to assist the Government by nominating representatives on any committee the Government may wish to form to discuss any particular issues or to carry out reviews jointly with the Government.

2.0 GENERAL COMMENTS

2.1 Focus of the Paper

The Paper issued by the government focuses on the URA. At the same time the government also introduced but only very briefly the Urban Renewal Strategy ("URS"). Whilst the Paper was a public consultation document, the government has not specifically invited comments on the URS. As a strategy, the HKIS believe this is not the best arrangement. The view of the HKIS is that the URS is a very important policy of the government which will substantially affect the SAR in many ways. The government should very openly consult the public on the URS.

2.2 The URS

2.2.1 In the URS outline, the focus appears to be placed only on the nine Target Areas. We believe it is not the intention of the government that UR will only take place in the nine Target Areas. Unfortunately this seems to be the message that the government has conveyed to the public. There are many obsolete buildings in other parts of Hong Kong outside the nine Target Areas, which also need UR. The government needs to also announce and publicize the strategy for carrying out such UR work.

2.2.2 Urban Regeneration

The HKIS understands that the government is using the term 'Urban Renewal' as the term is well used and is the term which is best known to the public. We also understand that it is not the intention of the government to pull down all the old building and replace them with new ones and that the government is also encouraging rehabilitation and maintenance of old buildings. To the public, however, the term 'Urban Renewal' and the Chinese term of '市區重建' conveys the message of demolition and re-building. The HKIS therefore recommends that the government should at the same time also promote the term 'Urban Regeneration' or '市區重生' in Chinese so that the right message can be relayed to the public.

2.3 The Nine Target Areas

One confusion will arise in respect of maintenance of the existing dilapidated buildings falling within and outside the nine Target Areas. All such buildings require regeneration. The buildings within the Target Areas will be treated in a manner different from those outside the Target Areas. This may result in the owners of the dilapidated buildings outside the nine Target Areas required to carry out more extensive repair work than the buildings within the Target Areas. Such repair work may prove to be unnecessary. This will cause confusion to and dissatisfaction from the owners of these buildings. A more detailed description of this issue is given in Section 17 of this Report.

2.4 Urban Renewal to take 20 Years

The Paper indicates that UR within the nine Target Areas will be completed within a time span of 20 years. This statement conveys to the public the misconception that UR will be completed after 20 years. This is of course not the case. In spite of the government's efforts in promoting rehabilitation and maintenance of existing buildings, more buildings will become obsolete in 20 years and require redevelopment. UR is an ongoing process and there will be no end to it. The government should emphasize this point and encourage owners to undertake repair and maintenance work in a more organized manner.

2.5 Social Impact

UR has a significant social impact and affects substantially the living habits of the residents in the old buildings. In many cases, the intention to improve the quality of life of the residents may be misconceived as uprooting of social networks which have been established for decades. The migration of people from the old districts to the new towns and the relocation or possible closure of the "cottage industries" also create immense social problems. The Paper is however silent on the social aspect of UR. We hope this omission in the Paper does not reflect that the Government is taking the social impact of UR lightly.

2.6 Chapter Conclusion

Generally speaking, the HKIS wishes to give its full support and appreciation to the government for proposing such a bold yet practical URS. The HKIS is confident that the URS will improve the environment of the urban area of Hong Kong and will produce a city which all the Hong Kong people will be proud of, and a cityscape which will be compatible with Hong Kong's reputation and role as the leading financial centre of Southeast Asia.

3.0 OBJECTIVES OF THE URBAN RENEWAL PROGRAMME

3.1 The Stated Objectives

3.1.1 Paragraph 6 of the Paper highlights the Government's strategy to continually regenerate the fabric of Hong Kong's built up areas through timely urban renewal. The HKIS agrees with this strategy whole-heartedly. The Paper lists out five objectives, namely:

- a) improve the built environment of Hong Kong and the layout of built-up areas by replacing old and run-down areas with new developments, which are properly planned and provided with adequate transport and other infrastructure and community facilities;
- b) achieve better use of land in the dilapidated built-up areas and under-utilized industrial areas and make land available to meet various developments needs;
- c) prevent the decay of built-up areas by promoting the maintenance and improvement of individual buildings as regards their structural stability, integrity of external finishes and fire safety as well as the improvement of the physical appearance and conditions of the environs of these buildings;
- d) preserve buildings of historical, cultural or architectural interest in urban renewal action areas; and
- e) engage in such other activities so as to promote and facilitate urban renewal.

3.2 Additional Objections Prepared by the HKIS

3.2.1 In addition to the above objectives, the HKIS suggests the following be added to the list of objectives in the Paper:-

- f) facilitate urban renewal by the private sector;
- g) facilitate owners of existing buildings to carry out maintenance, improvement and alteration work; and

- h) at locations of historical or cultural interests, improve the character of such areas by better urban design.

3.2.2 UR by the Private Sector

The HKIS believes that the private sector should be encouraged to take part in the UR process. In Section 15, we have proposed certain measures to overcome hurdles which currently discourage the private sector from participating in UR.

3.2.3 Approval System Not Sympathetic to A&A work

The current system of building plans approval in operation at the Buildings Department, the Lands Department and the Planning Department is devised with new works in mind. It is actually very cumbersome and tedious to carry out alteration work in a proper manner, fully complying with the procedures, the Buildings Ordinance, the Government Lease Conditions and planning approvals. This point will be expanded upon in Section 17.

3.2.4 Improve Urban Design

Urban design in Hong Kong has tremendous room for improvement. A lot of the landscaping work is carried out by the Urban Services Department under the direction of the Urban Council (the Regional Services Department and the Regional Council in the case of the New Territories). With the abolition of the Urban Council and the Regional Council, there is scope for landscaping, street scaping and urban design to be carried out in a more integrated manner, particularly in strategic areas of historical and cultural interest. This point will be expanded on in Section 11.

4.0 DEFICIENCIES OF THE EXISTING SYSTEM

The existing approach to UR is to demolish the old buildings and rebuild. This has created a number of problems. We highlight below some of the more prominent problems.

4.1 Planning and Urban Design

- 4.1.1 Loss of Hong Kong's building heritage.
- 4.1.2 Disruption of traditional street patterns and character of local communities.
- 4.1.3 Proliferation of Hong Kong's infamous "pencil buildings" as piecemeal development of individual lots has been undertaken in an uncoordinated fashion.
- 4.1.4 Increased development densities have overloaded the infrastructure, particularly the traffic network, in central areas.
- 4.1.5 Where historic buildings have been preserved in isolation they are overshadowed by adjoining developments.
- 4.1.6 When individual buildings are redeveloped this does not necessarily lead to an improvement in the surrounding environment.

4.2 The Problems Caused By Zoning a Certain Area for Redevelopment By the LDC

- 4.2.1 Time lag between CDA designation and implementation will increase the number of speculative tenancies in the LDC target areas.
- 4.2.2 CDA zoning freezes all redevelopment potential. Owners are deprived of their chance to redevelop their properties.
- 4.2.3 Increase in speculative tenancies will increase the burden of compensation and affect the financial viability of the LDC projects.
- 4.2.4 Creates planning blight in terms of physical condition and users.

4.3 The Problems Caused By Timing

- 4.3.1 Long development period as a result of delay in acquisition of properties.
- 4.3.2 Disputes due to changes in market conditions over long negotiation period.
- 4.3.3 Long development period damages the image of the LDC.
- 4.3.4 Increase in LDC's administration costs.
- 4.3.5 Long development period is fatal to LDC project as:-
 - (i) impact on financial viability due to unexpected surge of interest cost;
 - (ii) greater market risk; and
 - (iii) standard of living environment will deteriorate as owners are not willing to spend money on maintenance.
- 4.3.6 The time required to obtain approval from ExCo on compulsory purchase is too long.
- 4.3.7 Holding cost is very high.

4.4 Assessment of Compensation Package

- 4.4.1 The burden of HPA sometimes render a project not profitable.
- 4.4.2 The measurement of floor areas by LDC may cause disputes.
- 4.4.3 Lack of recognition of marriage value.
- 4.4.4 Affected tenants have no bargaining power on the basis of compensation.
- 4.4.5 Affected commercial properties with unauthorized residential accommodation are under-valued under the current system.

- 4.4.6 The Pointe Gourde Rule prohibits the enhancement in value as a result of the LDC scheme.
- 4.4.7 Compensation not enough to cover transaction cost of acquiring alternative accommodation nor lost of development potential.
- 4.4.8 Failure to recognize the value of illegal or ancillary areas.
- 4.4.9 Different treatment for domestic and non-domestic properties as regards to ex-gratia payments.
- 4.4.10 Time lag for different rounds of negotiations.
- 4.4.11 The existing basis of valuation is arguable.
- 4.4.12 The ex-gratia payments to shop owners are arbitrary.

4.5 Fairness

- 4.5.1 CDA zoning is regarded as unfair to small owners as their redevelopment rights are deprived.
- 4.5.2 LDC is alleged of neglecting the genuine needs of people affected by the redevelopment projects.
- 4.5.3 No statutory appeal against the decision of the LDC.
- 4.5.4 Despite strong objection, LDC projects can always proceed without any amendment.
- 4.5.5 Affected owners/tenants are uninformed until the projects are at their implementation stage.

4.6 Joint Venture

- 4.6.1 Difficult to control the phasing of acquisition/construction by JV partners in case of change of market conditions.
- 4.6.2 Private property rights sacrificed for profit-seeking joint ventures.

4.7 Procedures

- 4.7.1 LDC requires lease modification/exchange which will lengthen development period and increased risk due to fluctuation of premium.
- 4.7.2 LDC cannot stop or delay the progress of a project even in market downtrend, this will increase the risk of LDC and it will rise to great loss.
- 4.7.3 LDC may become insolvent after suffering a huge loss.
- 4.7.4 The need for Government departments' comments and approvals on LDC projects from inception to resumption is a major cause of delay.
- 4.7.5 Once a project is approved by the Government, LDC has little flexibility in changing the terms of the project or its financial commitments even the original scheme has become not feasible.
- 4.7.6 If resumption is the ultimate resort why bother to go for negotiation.

4.8 General

- 4.8.1 The composition of the LDC and its managing board are alienated from the general public and lack of representative from the grass-root and political parties.
- 4.8.2 Large scale urban redevelopment could deprive private owners of their property rights and freeze property values within the affected area.

4.9 Chapter Conclusion

The problems highlighted above are by no means exhausted. We have attempted to offer solutions to some of the problems but have not addressed all the points in the Report.

5.0 URBAN RENEWAL AGENCIES

5.1 The URA

In the Paper, the government has identified the URA as the UR agency for carrying out UR. This URA is obviously the most efficient and effective agency in carrying out UR work. However, given the magnitude of the task and the burden of rehousing and relocation of the businesses affected, it is quite clear that other agencies should be identified to carry out UR in cases where the URA's involvement may not be the most efficient.

5.2 Other Agencies Identified by the HKIS

In this regard, the HKIS has identified the following to be suitable UR agencies:-

- The private sector;
- The Hong Kong Housing Society;
- The Hong Kong Housing Authority; and
- Non-profit making organizations sitting on under utilized urban sites.

The role of each of these organization is described below:-

5.3 The Private Sector

5.3.1 Whilst confirming that the Government remains fully committed to UR, the recent changes in the economic environment and the property prices provide the opportunity to revisit the whole issue as to the role of both the public and private sector in UR. The private sector has been a key player in UR well before the LDC was established. The private sector has the experience and expertise to take on the responsibility directly from site assembly, rehousing to lease modification and marketing.

- 5.3.2 Having said that, it should also be remembered that all the relatively easy CDA/Urban Renewal schemes have already been tackled so what are left with are the more complex, difficult and possibly financially or legally unviable schemes. It is these schemes that need to be addressed before the buildings deteriorate further to the point of causing threat to the lives and properties of their occupants.
- 5.3.3 In Section 15, we will discuss the problems encountered by the private sector in carrying UR. With the adaptability and pragmatic approach of the private sector, the government should encourage the private sector to take a more active role in UR.
- 5.3.4 Besides being the URA, the private sector can also participate in UR as the joint venture partners of the URA. The URA, being a quasi-government organization, is not as commercial and flexible as the developers in making commercial decisions and is therefore at a more disadvantageous position in undertaking of the redevelopment projects as a commercial venture. Moreover, the URA's primary objective is to assemble land on which dilapidated buildings stand and apply to the government for the necessary planning approval and land exchange. The URA should confine its financial resources to such activities.
- 5.3.5 The URA should also avoid taking on the commercial risks associated with property development. The development process should therefore be entrusted to the developers who have better expertise and the financial resources to carry out such activities. The URA should refrain from carrying out the developments itself, except in very special circumstances and should, as a rule, enter into joint ventures with the private developers in the implementation of the development schemes. By so doing, the URA will be able to contract out the commercial risks and utilize its funds only for the purpose of land assembly and project planning.

5.4 The Hong Kong Housing Society (the "HKHS")

- 5.4.1 The HKHS has pioneered in UR even before the LDC was established and has undertaken such activities continually. The latest examples of such projects are Hollywood Terrace at Sheung Wan and Jubilant Place at Ma Tau Kok.

5.4.2 The HKHS has also agreed to be the re-housing agent for the LDC and also been identified as the re-housing agent for the URA. With the experience of the HKHS, it will be desirable for the HKHS to take part in UR.

5.4.3 In order that the roles of the URA and the HKHS are not duplicated, the HKIS proposes that the URA could be charged with the responsibility of carrying out UR work for the nine Target Areas whereas the HKHS could continue to carry out UR work on a smaller scale.

5.5 The Hong Kong Housing Authority (the "HKHA")

5.5.1 The HKHA is another agency which could participate in the Urban Renewal exercise. Last year, the HKHA has identified four aging districts as targeted UR areas. These areas are Shek Kip Mei, Ngau Tau Kok, Ho Man Tin and Cheung Sha Wan.

5.5.2 In order to successfully implement UR in these areas, the HKHA appointed multi-disciplinary consultancy teams to carry out studies aimed at formulating a restructuring strategy for each of the districts so as to improve the overall socio-mix, environmental quality, traffic circulation and network, urban design, landscape, GIC facilities and open space in the areas. The studies also investigate the redevelopment potential of these aging districts, the opportunities and constraints for restructuring the areas, to establish a conceptual land use budget and to propose an institutional framework for implementation.

5.5.3 The HKHA is aware of the advantages of private sector participation in UR schemes. The private sector can provide additional funding and resources in implementing the schemes, thus speeding up the urban renewal process. On the other hand, the ad hoc redevelopment efforts of the private initiatives can be coordinated by the HKHA within an overall unique restructuring framework.

5.6 Non-profit Making Organizations Sitting On Under Utilized Urban Sites

- 5.6.1 There are many non-profit making organizations which were granted land by the Government many years ago for purposes associated with the activities of such organizations. Examples of these are, the Salvation Army, the Red Cross, the churches, YMCA, etc. The land may be granted at nil premium, nominal premium, concessionary premium or full market premium. At the time land was granted to such organizations, the land was probably at the fringe of the then urban area. With the growth of the SAR, the urban areas have expanded extensively and many of such land are now at prime urban locations. Many of the buildings standing on such land are low rise and by present day standard may be considered as under utilization of the land.
- 5.6.2 The Executive Council has approved a policy of allowing such non-profit organizations to redevelop such land to allow income from the property development to subsidize the activities of such organizations. We do not want to go into details of such policies in the Report, but wish to point out that there is tremendous potential in such land being redeveloped, not only for the purpose of providing necessary funds for the operation of the organizations but also to provide an opportunity to improve the facilities for the organizations. In addition, such land usually contains development potential which will assist in enhancing the financial attractiveness of the UR projects.
- 5.6.3 The HKIS propose that the Government should not only passively approve such redevelopment but should also actively encourage redevelopment of such land, particularly in association with a larger UR Scheme.

5.7 Chapter Summary

The above are the major URA identified by the HKIS there are probably other organizations, like the utility companies, which may also play a smaller role. The Government should take a wider perspective in encouraging different organizations to take part in UR projects.

6.0 PURPOSES OF THE URA

The purposes of the URA is put down in Section 5 of the Bill. The list is very comprehensive and HKIS would like to give its full support. We have, however, gone through the Bill in detail and wish to make the following refinements to sub-sections (a) and (b). The additions below are shown by an underline, while those struck through are proposed to be deleted. The explanations for the amendments are shown within square brackets following the relevant sub-sections.

6.1 Amendments proposed by the HKIS

- (a) *replace the Land Development Corporation as the body corporate established by statute having the responsibility of improving the standard of housing the living and working conditions and the built environment of Hong Kong by undertaking, encouraging, promoting and facilitating urban renewal;*

[the HKIS suggests that the 'standard of housing' be changed to 'the living and working conditions' as the purpose of the URA should not only be restricted to "improve the standard of housing and built environment of Hong Kong..." but also to both the living and working conditions].

- (b) *improve ~~the standard of housing~~ the living and working conditions and the built environment of Hong Kong and the layout of built-up buildings and areas by replacing old and run-down areas with new development which is properly planned and, where appropriate, provided with adequate transport and other infrastructure and community facilities;*

[The original text suggest the URA will only undertake large scale developments covering "run-down areas". The amendment is suggested to include run down buildings as well].

6.2 Preservation of Buildings of Historical, Cultural or Architectural Interest

The URS described in the Paper suggests that buildings of historical, cultural or architectural interest should be preserved. It is not clear whether such a responsibility should vest with the URA or another Government department. If it is the intention of the Government that such duties should be undertaken by the URA, the purposes of the Bill should be amended accordingly.

7.0 GENERAL POWER OF THE URA

7.1 Section 6 of the Bill

The general power of the Authority is very clearly laid down in Section 6 of the Bill. The power proposed is generally quite adequate and in keeping with an organization charged with such duties.

7.2 Amendments Proposed by the HKIS

We have gone through this Section of the Bill in detail and would like to propose the following amendments be made to each paragraph.

- (1) *The Authority shall have power to do anything which is expedient for or conducive or incidental to the attainment of the purposes declared in or permitted or assigned under section 5 and shall exercise that power so as to improve ~~the standard of housing~~ the living and working conditions and the built environment of Hong Kong by way of development or redevelopment.*

[The URA should improve not only the standard of housing but also the working environment.]

- (2) *Without prejudice to the generality of subsection (1), the Authority shall have power to and may –*

(a) to (f) *No change*

- (g) *lease, purchase or otherwise acquire and hold land of any description or any interest therein in Hong Kong for the purpose of either undertaking development, providing accommodation for the Authority, for providing residential accommodation for persons displaced by the carrying out of the purposes of the Authority or for providing accommodation for business or industrial undertakings displaced by the carrying out of the purposes of the Authority;*

[The URA may not only hold land, it may also hold interests in land.]

The URA may wish, in addition to providing re-housing for residents, to provide accommodation to re-house commercial or industrial undertakings.]

(h) *No change*

(i) *alter, improve, construct, demolish, maintain, ~~or~~ repair, upkeep or manage any building premises or structure ancillary thereto;*

[These amendments will give the URA more comprehensive power with respect to existing buildings, particularly in cases of rehabilitation.]

(j) *provide and where appropriate alter, maintain, improve, ~~or~~ repair or manage roads, footways, parks, recreational facilities and similar open spaces, bridges, drains, sewers and water courses other than those the maintenance of which the Government or other public body has undertaken or decides to undertake.*

[These amendments will give the URA more comprehensive power with respect to existing buildings and private roads.]

(k) *No change*

(l) *No change*

(m) *No change*

(n) *No change*

(o) *grant, sell, convey, assign, surrender, yield up, demise, let, license, transfer, part with possession or otherwise dispose of any land or building, messuages, tenements or any interest therein, vessels, goods and chattels for the time being owned or held by the Authority on such terms and conditions as the Authority thinks fit.*

[The URA should be empowered to grant licenses or other wise part with possession of any buildings that it owns. For example, it may allow the original occupier to remain on the premises for a short period of time after acquisition of the property or reversion of the property to the government. Such occupation is usually granted under license. The URA may also allow an old building to be used for a particular purpose (for example, shooting a film, holding a carnival, etc.) for a short period of time. The addition of "license" and "part with possession" will allow the URA to do so.]

The URA should also have the power to deal with interests in land.]

- (p) *enter into agreements with any person for the management by such person of any building or land owned or held by the Authority;*

[The URA should have the power to appoint third parties to manage buildings as well as land held by it.]

- (q) *conduct any survey and census as it thinks fit for the purpose of drawing up any plans and for the purposes of ascertaining a rehousing commitment resulting from any project of the Authority and the identity of such commercial or industrial undertakings occupying such buildings, premises or structures ancillary thereto;*

[The freezing survey should also be carried out for commercial or industrial premises. Under the provisions of the Lands Resumption Ordinance, a person running a business may still be entitled to compensation even if the business is not registered.]

- (r) *surrender any Government lease or apply for and agree to the modification of Government lease conditions or enter into any land exchange;*

[Does lease mean Government lease? Is it necessary to clarify this point?]

- (s) *No change*

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(t) *No change*

(u) *appoint such employees as it may determine on such terms and conditions as the Authority thinks fit including the payment of allowances, benefits and remuneration;*

[duplication of (d)?]

(v) *No change*

(w) *establish any body corporate for the purpose of doing all such things which the Authority may do and may vest in any such body corporate so established such objects and powers as in the opinion of the Authority are ~~calculated~~ necessary to facilitate the attainment of the purposes of the Authority under this Ordinance;*

[is "necessary" a clearer word?]

(x) *No change*

8.0 REHOUSING AGENTS

8.1 Government's Rehousing Policy

The Government has made the commitment that no one will be rendered homeless in the process of UR. The HKIS fully support this noble commitment of the Government.

8.2 HKHA and HKIS as Rehousing Agents

8.2.1 Rehousing has been a major obstacle in the implementation of UR by the LDC. It must also be acknowledged that UR is also a housing issue in the sense that it improves the living conditions of the people living in the dilapidated and overcrowded conditions. The HKIS is therefore very glad to learn that the Hong Kong Housing Authority (the "HKHA") and the Hong Kong Housing Society (the "HKHS") have agreed to be the rehousing agents for the URA. We fully support this decision and look forward sharing the experience gained by the HKHA and HKHS in their previous redevelopment projects.

8.2.2 Apart from their extensive experience in the redevelopment process, the HKHA and HKHS may also have a small stock of available rehousing sources suitable for the purposes of UR. They may take the form of public rental housing, home ownership scheme, sandwich class housing, interim housing, temporary housing, transit centres, privately build blocks of flats, the Private Sector Participation Scheme (PSPS), or the latest in Mixed Developments.

8.2.3 No Queue Jumping

Care must, however, be exercised to make sure that people do not use the UR process as the shortcut (or queue jumping) for access to rental housing.

8.2.4 Impact on the Private Sector

By utilizing the HKHA and HKHS as the rehousing agent, the Government is introducing a distinction in the rehousing arrangement for projects undertaken by the URA and the private sector. Whilst we agree that the benefit of the HKHA and HKHS in providing rehousing, we wish to caution the Government that such an arrangement will be taken as the norm to the jeopardy of the developers. It will not be possible

for the developers to match the rehousing offer by the URA and hence vacation of existing buildings by the private sector will be increasingly difficult.

8.3 Relocation of occupants of non-residential premises

8.3.1 The Government has rightly placed strong emphasis on rehousing of the occupants of residential buildings. The HKIS wish to point out that in certain cases, particularly those of the "small businessman", relocating the operations of the small businessman is equally important. To many of these businessmen the business is all they have and demolition of the building in which they operate will often mean an end to the business. This will have significant financial and psychological impact on the operators. It may also mean that many of the small operators, particularly those in the maintenance and servicing sector or the "cottage industries" will die out. In spite of the Government's grand vision of building an environmentally friendly city, the demand for the cottage industries "at our backyard" will not vanish.

8.3.2 The HKIS proposes that such businesses be systematically relocated so that the operators are offered a decent and improved environment to work in.

9.0 COMPENSATION FOR ACQUISITION AND RESUMPTION OF PROPERTIES

9.1 General

9.1.1 The LDC is often criticized by the public that compensation packages offered to the affected owners are not fair and reasonable as they are insufficient to compensate for the loss suffered. This is to be expected as we can expect compensation are never enough. In the care of non-residential properties, we believe that some genuine problems do exist.

9.1.2 Neither the Bill nor the Paper contains any provisions for the assessment of compensation payable to the affected owners. In the briefing session held by the SPEL, the HKIS was advised that assessment of compensation will be based on "*full market value*" so that the affected owners would not suffer from any loss in property value after the acquisition. However, the definition of "*full market value*" itself is meaningless. In determining the "*full market value*" of a property, a valuer is bound by a set of parameters defined by his client. Variations in any of the parameters will give rise to a different value figure. Hence the HKIS recommends the Government or the URA to define the parameters for assessment of "*full market value*" clearly and precisely by issuance of the Guidelines for Assessment of Compensation Packages (the "Compensation Guidelines") to the public in order to avoid confusion and disputes. The HKIS will be very pleased to provide inputs in the preparation of the Compensation Guidelines if the Government or the URA should decide to issue them. The aspects of particular concern are listed below for discussion purposes.

9.2 Resumption

9.2.1 Like the LDC Ordinance, there is provision for resumption in the Bill if acquisition of the affected properties cannot be completed within a certain period of time. From the LDC's experience, the compensation packages offered to affected owners, which include ex-gratia payments, are often more generous than the compensation packages assessed under the Lands Resumption Ordinance (the "LRO"). Affected owners and politicians often regard the resumption power a weapon to compel the owners to accept unfair compensation packages rather than a fair

solution to the disputes. The HKIS considers that the root of the problem arises from the different basis of assessment of compensation both under voluntary acquisition and the LRO. The Lands Tribunal (the "LT") cannot remedy the situation as it is bound to determine the quantum of compensation under the principles laid down in the LRO only. They cannot determine the amount of compensation, ex-gratia or otherwise, which is not laid down in the LRO.

9.2.2 UR will initiate resumption in a wholesale manner. The issue of compensation will therefore have to be fundamentally reviewed. If the matter is not handled properly, it will become a political issue and will undoubtedly hamper the progress of UR and indeed other infrastructure projects where land resumption is required. We must remember the recent incident in November of 1999 at Sheung Shui, Shek Wu Village where the residents had a major conflict with the police and resorted to violence. (See Appendix 4 for the newspaper cutting). Irrespective of whether the Government is right or wrong, such scenes are sensational to the press and will attract extensive media coverage, resulting in adverse publicity both to the Government and UR.

9.2.3 The HKIS therefore suggests the Government to:

- (i) comprehensively review the policy for compensation, particularly for non-residential properties;
- (ii) revise the LRO to enable the same basis of compensation be adopted for UR cases both before and after the deployment of resumption powers. This will have a wide impact on the compensation payable for resumption not initiated by UR (but then why should the statutory compensation be different for resumption for different purposes?); or
- (iii) incorporate the essential parts of LRO into the URA Ordinance so that resumption power stems from the URA Ordinance rather than the LRO, and the URA Ordinance can have its own basis for assessment of compensation. The LT can then determine compensation under the URA Ordinance.

9.2.4 In addition to the above recommendations, the HKIS also wishes to highlight the following issues:

9.3 Unauthorized Building Works ("UBW")

9.3.1 The current practice adopted by the LDC and the Lands Department is that no compensation is payable for UBW. In reality, many purchasers are willing to pay additional price for UBW such as covered yards for ground floor shops or covered flat roofs. Whilst the HKIS is fully aware that UBW are not to be encouraged, the practice contravenes the fundamental principle of compensation – *the principle of equivalence* – putting the affected owner into the same monetary situation as that before resumption. The matter is further complicated by the fact that the Buildings Department has in the past 50 years, taken little or no action on the UBW, even if the UBW have been inspected by the Buildings Department. In the LT's case *Time Hero Trading Limited vs. Director of Lands*, the LT decided that the concrete cockloft be awarded compensation at the quarter of the ground floor rate without having regard to whether or not the concrete cockloft or any part thereof was an authorized structure. There are also numerous LT decisions on the Ma Tau Kok resumption where the LT awarded concrete cocklofts at one quarter of the ground floor value.

9.3.2 In most cases, the affected owners can enjoy the value of the UBW should there be no resumption. Moreover, the LRO is ambiguous in this aspect and hence the LT is not precluded from ascribing value to UBW in determining compensation under the LRO.

9.3.3 The HKIS is well aware that this is a complicated issue and will involve further detailed study by the Government. After the Government has decided on the policy, the HKIS would recommend that clear parameters to the treatment of UBW be given in the Compensation Guidelines.

9.4 Development, Marriage and Hope Values

9.4.1 Under the current practice, individual strata title units are assessed on existing use basis. The practice attracts much criticism as the affected owners are deprived of development, marriage and/or hope values which they may realize if the properties are not affected by the LDC or resumption scheme. On the contrary, the LT can determine that an owner is entitled

to compensation for loss of redevelopment value if, on the evidence produced, redevelopment potential has been established. In fact, such marriage or hope values form an integral part of market values of properties. Where the L(CRO)O applies, our view is that redevelopment value should apply. There will be ambiguity if an owner owns between 80% to 90% of the shares in a property. The following two examples can illustrate the deficiency of the existing use basis in assessing compensation:

- (i) one of the few units within a low-rise building which has substantial gain in plot ratio upon redevelopment; and
- (ii) the overwhelming majority shareholding of a building (eg: 17 out of 20 units within a building which has redevelopment potential).

9.4.2 Any arbitrary use of the existing use basis of assessment will create grievances to owners and attract criticism.

9.4.3 The HKIS suggests that such marriage or hope values be fairly compensated and clear guidelines to be published in this respect.

9.5 Ex-gratia Compensation for Residential Properties

9.5.1 Ex-gratia compensation, in the form of Home Purchase Allowance (the "HPA"), are currently paid by the LDC in acquisition of affected residential properties. Although the HKIS agrees to the rationale of improving the living conditions of the affected owners, besides improving the physical environment of the scheme area, the quantum of such ex-gratia compensation should not be over generous to render a scheme financially not viable.

9.5.2 The Government is proposing that the HPA should be based on a 10 year old building in the same district. Some politicians are proposing that the age of the comparable building should be 5 years. This is a political issue rather than a land or valuation issue and the HKIS does not wish to intervene. In some locations, there may be no buildings of comparable age to make the precise comparison. The HKIS wish to point out that any reference to a 5- or 10-year old building is arbitrary and suggest the Government to consider the HPA to be "for a well-

maintained building at the same or similar district with an age of between 5 to 10 years".

- 9.5.3 The HKIS suggest that clear guidelines for determining ex-gratia compensation, which should take into account of the age and condition of the existing buildings, to be published.

9.6 Ex-gratia Compensation for Non-Residential Properties

- 9.6.1 The Government's policy regarding compensation for non-residential properties has often been a subject of contention. People affected by resumption cases i.e. whose properties were resumed or businesses closed down/relocated, have often reacted strongly to the resumption order.

- 9.6.2 The HKIS is fully aware of the difficulties in determining the genuine profitability of a business, the issuance of clear guidelines to the basis of assessment, together with a list of heads of claims, will help to eliminate much confusion and disputes.

- 9.6.3 The Government is currently resuming Wah Kai Industrial Building at Kwai Chung for the West Rail. The owners of this property have expressed grave discontent and have already held a number of demonstrations. The last time a large-scale resumption of non-residential properties was carried out for the Hong Kong Housing Society project at Ma Tau Wai. At that time, the owners and operators of the shops and businesses were very dissatisfied with the amount of compensation.

- 9.6.4 The LDC is also in the process of acquiring certain non-residential premises at the projects at Kennedy Town and Tseun Wan and faces the same problems regarding compensation.

- 9.6.5 The Government has come up with a very innovative URS which includes, for the first time, plans for the redevelopment of obsolete industrial areas. The principle behind this strategy is sound and beneficial to Hong Kong but the Government must look at the issue of compensation for non-residential properties and the business loss to business operators very carefully, if the scheme is to be implemented in a satisfactory manner.

- 9.6.6 The problems faced by the owners of non-residential properties and the business operators are very different. Many of the business operators at the properties affected by UR are small businesses, ran in a very old fashioned manner. To many of the operators, their business is all they have. Demolition of the property in which they operate will mean closing down the business. This will have significant financial, social and psychological impact on the operators. The government must recognize this very important social aspect of UR, otherwise the resumption could lead to tragedies.
- 9.6.7 Small business operators do not usually keep adequate accounts and records of their business. They do submit their business accounts (through their accountants) with their tax returns to the Inland Revenue Department. However this is often not the true picture of their business.
- 9.6.8 A Presiding Officer of the LT once said: "*tax avoidance is lawful although tax evasion is not*". The principle is that the claimant is to be fully compensated for all his loss due to resumption, no more and no less. The claimant has done nothing wrong for not keeping adequate records. In fact the wrong (resumption) is done by Government. Normally Government will only accept written evidence to prove loss. In this way some actual loss without written evidence will not be compensated. This is contradictory to the purpose of the provisions in the Ordinance which are "to provide fair compensation for a claimant whose land has been compulsorily taken from him - the *principle of equivalence*". The Government should therefore consider oral evidence, as does the LT, and offer compensation in reasonable cases. The principle is to give fair compensation to the claimant and not to hold up fair compensation just because of the lack of written evidence.
- 9.6.9 The HKIS, therefore, hold the view that the monetary compensation payable to the owners and occupants must be adequate to reflect as least the monetary loss. We reiterate that if the matter is not handled carefully, social unrest or even violence will result.

9.7 Shadow Period

- 9.7.1 The period proposed in the Paper between the commencement date of a UR project and the date of resumption has been substantially shortened. This will help alleviate any problems caused by the Shadow Period. However, between the unofficial announcement of the project (such as the identification of the nine Target Areas in the Paper) and the commencement date under Section 20 (2) of the Bill, the time lag is still very significant and could go on for a few years. The shortening of the period between the commencement date and resumption cannot eliminate the adverse effect of the Shadow Period.
- 9.7.2 The impact of the Shadow Period on the values of properties is caused by many factors including the lack of funds for improvement/maintenance, vacancy due to early removal of occupiers, etc. The application of the *Pointe Gourde* Rule, which will require the increase or decrease in value of a property due to the scheme to be disregarded in the assessment of compensation, does not help the people affected.
- 9.7.3 The Bill effectively fixes the date of assessment of compensation to be the date of notice of resumption. This proposal will not address the impact of the Shadow Period between the unofficial announcement of the project and the date of the notice of resumption. In the absence of any better or more equitable arrangement, we will support this arrangement. We further recommend that the *Pointe Gourde Rule* should be clearly stated in the LRO or the URA Ordinance to avoid confusion.

9.8 Interest calculation on compensation amount

- 9.8.1 Both the interest rate and the accumulation of interest on a single rate basis for the compensation amount need to be reviewed.
- 9.8.2 Our view is that, the interest rate for the compensation amount is on the low side. Although the LRO has given discretion to the LT in deciding the interest rate on compensation, it further provided that regard shall be made to the lowest time deposit rate. It is observed that the LT usually allows interest rate at 1-2% above the lowest time deposit rate. The Tribunal has been

reluctant to allow interest rate at the prime rate or HIBOR rate which are the usual reference rates of borrowing money from the banks, or alternatively the investment rate of return on the relevant type of properties being resumed.

- 9.8.3 In **Shun Fung Ironworks Ltd. V Director of Buildings and Lands** [1995] 2 AC111, the Privy Council held that the interest discretion was considerably more fettered than suggested by prior LT practice. The comment made by Lord Nicholls of Birkenhead of the Privy Council on the interest rate issue is as follows:

"..... the Tribunal has a discretion regarding the rate, but is required to have regard to the lowest time deposit rate. In their Lordship's view, in requiring the Tribunal to have regard to the lowest time deposit rate the legislative purpose must be that that this should be the rate fixed by the Tribunal unless in a particular case there is good reason for departing from it. The rate specified in a low one, but the legislature must be taken to have intended that ordinarily this should be adequate recompense to a claimant for being kept out of his money...."

- 9.8.4 Based upon the current low interest rate principle and the simple interest calculation method, the longer it takes for the compensation case to be determined by the LT, the claimant will suffer more losses in terms of the opportunity cost and interest. Also, the accumulation of interest on a single rate basis does not reflect practice of the commercial banks in calculating interest by the compounded rate method.
- 9.8.5 We would recommend that a full review of the interest rate calculation under the various Ordinances authorizing resumption, including the LRO, the Roads (Works, Use and Consumption) Ordinance, the Railways Ordinance, and the Foreshore and Seabed (Reclamation) Ordinance, be undertaken.
- 9.8.6 One suggestion on the interest rate issue would be: "The LT may pay direct interest on the compensation from such date and for such period as it thinks fit and at such rate as it may fix, but not below the lowest rate payable during that period by members of the Hong Kong Association of Banks on time deposits." (see s33(b) of the Roads (Works Use, and Compensation) Ordinance (Cap 370)). Whereas for the

accumulation of interest, the compound rate method instead of the simple rate method is recommended.

9.9 Setting up an appeal body to deal with compensation disputes

9.9.1 We foresee the number of cases where owners or occupiers dispute the compensation payable by the Government, to increase very drastically in the future. Even if the owners take a more civilized course of action and take their cases to the LT, the number of cases will be so great that the LT will not be able to handle them expeditiously. LT cases require a lot of resources on the part of the Government. Referral of a large number of cases to the LT will very substantially delay the assessment of the compensation and further aggravate the sufferings of the people affected.

9.9.2 The HKIS, therefore, suggest that the Government should set up an appeal body (the "Appeal Board") to deal with all compensation disputes. The Appeal Board should consist of one or more surveyors who may call on additional expertise (like accountants) when so required. The procedures for the Appeal Board should be substantially simpler than that for the LT. If either party is not satisfied with the decision of the Appeal Board, it may appeal to the LT. This arrangement will not deprive the parties of their right to appeal to the LT.

9.10 Payment of Compensation Should be Made As Soon As Possible

9.10.1 Under the provisions of Article 105 of the Basic Law, the Government is obliged to pay the compensation without delay. Delay in payment of compensation will cause additional hardships to the owners and occupants and affect their ability to find alternative accommodation as well as making other relocation arrangements. The experience of many of our members is that, the people affected by resumption, for whatever purposes, are often forced to accept the Government's offer as they need the money to relocate. This situation is particularly common for the UR cases as many of the people affected are the less privileged.

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- 9.10.2 The government should review the payment procedures to ensure that payment of compensation could be made as soon as possible. The setting up of the Appeal Board will, hopefully, help accelerate the compensation process.

9.11 Chapter Summary

- 9.11.1 The URA will initiate a large number of resumption and a large-scale migration of people and businesses out of the old buildings. It is a major exercise. Resumption will also create compensation problems. Even with the application of the *principle of equivalence*, the inconvenience, disturbance, social and physical problems associated with up-rooting, mental stress, time involved in dealing with the resumption and finding alternative accommodation, etc. suffered by the owners and occupants affected will not be reflected in the valuation assessment.
- 9.11.2 A few years ago, at the trial of compensation cases for resumption of properties in the six streets in Ma Tau Kok, a Presiding Officer of the Lands Tribunal once remarked: [一碗水倒唔番一碗]. The meaning is, that there is always some hidden loss. He also said: [賠償只賠了金錢上的損失, 但賠償不了感情]. Compensation can only compensate for financial loss.
- 9.11.3 The HKIS sees this Report to be the beginning of the review by the Government on the issue of compensation for resumption – and not the end of the discussion. As practitioners dealing with compensation cases and valuations on a daily basis, our members will be very pleased to offer our assistance and views to the government when government carries out such review.

10.0 PLANNING PROCEDURES

10.1 The Bill proposes that the URA could implement projects either by way of a "*development scheme*" or a "*development project*". The major difference between a development scheme and a development project is whether the project has to go through the process of amendment to an outline zoning plan ("OZP"). In the case of a development scheme where a rezoning to an OZP is required, the public may object to the development scheme in accordance with the provisions of the Town Planning Ordinance. The public's right of objection for a development project will be under Section 21 (1) of the Bill.

10.2 Whilst this arrangement will facilitate projects which are currently zoned CDA, development schemes under Section 22 will properly require dual approvals by the Town Planning Board (the "TPB"). The first approval is for the request for rezoning and the second approval will be under Section 16 of the Town Planning Ordinance. A device should be established to remove the need for two approvals in order to accelerate the planning process.

10.3 Information for Implementation and Rehousing

10.3.1 In Section 22(3)(b) and (c) of the Bill, the URA is required to give, in great details, how the development scheme is to be implemented and the rehousing arrangements. Such information, is not required under Section 21 or 23 for development projects, although it is included in the application to the Secretary for Planning and Lands for resumption recommendation to the Chief Executive in Council.

10.3.2 Section 22(3)(b) requires the URA to state whether the development scheme will be implemented by the URA alone, or by the URA in association with another person. The publication of this information will, to a certain extent, restrict the URA to the published mode of implementation. We wonder whether such information is really necessary. To the public and the TPB, the most important thing is that URA will be the principal UR agent and will be in control of the project.

- 10.3.3 If we look back at the projects developed by the LDC, the LDC have developed projects both by itself as well as through joint ventures with developers. The different modes of implementation do not affect the UR process, the impact to the people affected, or the quality of the new building.

10.4 Gazetting under the Roads (Works, Use and Compensation) Ordinance

- 10.4.1 It is envisaged that many of the projects require closure and alterations to public roads. Such alterations will require gazetting under the provisions of the Roads (Works, Use and Compensation) Ordinance (the "R(WUC)O"). The R(WUC)O gives the public the right of objection and the relevant government bureaux and departments will have to deal with such objections. The whole process will take 9 months under the provisions of the R(WUC)O. Our experience is that many projects are held up because of such procedures, particularly when objections are received from the local community or the District Boards. We propose that gazetting under the R(WUC)O should take place at an early stage.

- 10.4.2 Alternatively, we propose that the government should review the procedures to see whether it is possible for gazetting of the OZP and the Scheme under the R(WUC)O be executed at the same time or as closely to each other as possible. This arrangement has now been adopted for gazetting of the OZP and reclamation under the Foreshore and Seabed (Reclamation) Ordinance.

10.5 Requirements under the Environmental Impact Assessment Ordinance (the "EIAO")

There are certain projects which are classified as "designated projects" where Environmental Permits are required under the EIAO. When the UR projects incorporate a designated project, time must be allowed for the assessment and approval of the Environmental Impact Assessment and issue of the Environmental Permit under the EIAO.

11.0 URBAN DESIGN

- 11.1 The Paper suggests preservation of buildings of architectural, cultural and historical interest. Our heritage is not only carried out by a few buildings, but very often, a larger area, carries with it memories and nostalgia. Such areas should likewise be preserved. An example of such a location is the stone steps between Duddell Street and the gas street lamps on Ice House Street.
- 11.2 As part of the urban regeneration exercises, the government should generally improve on the quality of urban design, both for the old and the new areas.
- 11.3 Landscaping in the urban area have, hitherto, been carried out by the Urban Council and the (Regional Council in the case of the New Territories). With the abolition of the Urban Council and the Regional Council, there are better opportunities for urban design for the whole of Hong Kong to be carried out in a more interesting and innovative manner.
- 11.4 For buildings which are to be preserved, the government should encourage face uplifting of the existing buildings as an attempt to bring back visual order, recapturing Hong Kong's reputation as "the Pearl of the Orient".
- 11.5 If Hong Kong is to be a world class metropolis, as envisioned by the Chief Executive in his Policy Speech, improving urban design quality is an inexpensive and effective way of creating a more interesting world class city. The HKIS strongly recommends the government to pay more attention in this respect.

12.0 FINANCIAL ARRANGEMENT

12.1 The Financing Options Proposed in the Paper

12.1.1 The Government has proposed five financing options for the URA to implement the UR projects. These proposed options are:

- Relax plot ratio control;
- GIC facilities exempted from GFA calculations;
- Loans from the government to the URA;
- Foregoing land premium; and
- Linked sites.

12.1.2 In addition, the URA is also empowered to borrow and lend money for purposes related to implementation of the UR projects. The URA is however required to exercise due care and diligence in handling its finances and to be accountable.

12.2 HKIS' Comments

The HKIS supports all the options and but will to comment as follows:

12.2.1 Relax Plot Ratio Control

- (i) The Government can either give money or other resources to the UBA to facilitate UR. In order to minimize the amount of money that is given to the URA, contribution of resources by way of plot ratio ("PR") is obviously a sound alternative. In granting of additional PR, care must be exercised to ensure that there will not be over taxing on the infrastructure and the traffic. In any case, the PR permitted should not exceed that permitted under the Building (Planning) Regulations.

- (ii) PR is a function of the site area. It is therefore equally important to ascertain how the site area should be calculated. This is particularly important in cases where there are service lanes, private streets or public streets which are included as part of the UR project. The Buildings Ordinance and the Building (Planning) Regulations do not allow streets to be included in site area. Whilst we can understand the temptation for the Government to relax the PR for certain UR projects, the Government must ensure that there is consistency in the granting of modifications to the relevant sections of the Ordinance or regulations to allow streets to be included in site area. As a public authority the Government cannot apply double standard to the URA and to the private developer and the principles of consistency, fairness, reasonableness, etc. should be adhered to. Otherwise, such well-intended action of the Government may be used as grounds for private developers to apply for judicial review of its decisions.

12.2.2 GIC Facilities exempted from GFA Calculations

No special comment.

[Please see Section 15 on Facilitating UR by the Private Sector]

12.2.3 Loans from the Government to the URA .

- (i) In the case of the LDC, the Government has only granted a loan of HK\$100 million to the LDC. This amount is used both for the purpose of setting up the LDC and for undertaking of the UR projects. The loan is of a non-recurrent nature and once repaid will no longer be available. This arrangement has proved to cause substantial inconvenience in the financial operation of the LDC. Through prudent management and a very buoyant property market, this arrangement has not caused the LDC undue hardship. The property market in the future is unlikely to be as buoyant as it was and the Government must be therefore less stringent when granting loans to the URA.

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- (ii) In lieu of granting loans to the URA, the Government could also provide the necessary guarantee to allow the URA to borrow money from banks and other financial institutions.

12.2.4 Foregoing Land Premium

- (i) The Paper is not clear as to whether the Government will waive premium in all cases. We hope this will be the case, at least during the early period of the URA. When the URA is in a financially sound situation the Government can then consider charging a premium. Even then consideration can be given to deferred payment of the premium or payment by installments.
- (ii) In cases where premium is charged, we hope the Government will not take the academic approach, particularly in the assessment of the "Before Value" and spend time in negotiating with the URA in the development potentials permitted under the existing lease conditions.

12.2.5 Linked Sites

- (i) Whilst we understand why the Government proposed linked sites, we do not really see any merit in such an arrangement. The linked site arrangement was adopted many years ago by the Government in the sale of two residential sites, one at Kennedy Road and the other at Robinson Road, for the development of Government quarters. The experience was not satisfactory and when the market fell the developer handed back both sites to the Government.
- (ii) In the case of the LDC, two linked sites were also granted to mitigate the LDC's loss in the redevelopment of the Kennedy Town and Tsuen Wan projects. As the market fell, the financial viability of the linked sites were also in doubt. Again it was only through prudent management of the LDC that the linked sites did not turn out to be an additional financial burden for the LDC.

- (iii) We understand that it is the Government's intention not to charge a premium for the linked sites and therefore the chance for the linked sites proven to be an additional financial burden to the URA will be reduced.
- (iv) As an option to the linked site arrangement, we will propose that the URA pays for part of the cost of acquisition of the existing buildings to improve the project's financial viability.
- (v) In a previous report on urban renewal by the Administration, the concept of "linked projects" was proposed as a means of encouraging the private developer to undertake UR projects. However, the definition of "viable" versus "non-viable" projects and the linking of the two would be a process that involves a lot of ambiguity and uncertainty. Also, based on recent experience, when there is a downturn in the property market, projects which have been "viable" can become "unviable" and be delayed or deferred and in turn could delay the linked projects. By tying together different (and by definition dissimilar) projects it also reduces the flexibility of both.
- (vi) With the establishment of the URA, we believe the "linked project" concept would no longer be necessary. If there are economically non-viable projects which nevertheless should be undertaken for social benefits, this should be made clear from the outset. The project can then be either undertaken by the URA or the joint venture developer be required to contribute a pre-determined amount for the acquisition of the existing buildings. Any acquisition cost in excess of the pre-determined amount will be borne by the URA.

12.3 Chapter Summary

The HKIS is in full support of the Government's financial arrangements. Although we do have some hesitations on the necessity and viability of the linked site concept. The Government must put resources in UR, such resources should be in the form of financing, non-financial incentives and more efficient administrative procedures. Such contribution will be for the general good of Hong Kong.

13.0 FREEZING SURVEY

13.1 The URA to have Power to Carry Out Freezing Survey

The Bill empowers the URA to enter and inspect any building or structure, within the boundaries of a development scheme or development project to carry out freezing survey in respect of residential properties only. The HKIS agrees that rehousing for occupants of residential properties is the most important. The freezing survey will therefore allow the survey to be carried out in good time so as to prevent people from moving in to a building within a development scheme or development project with a view of gaining early access to subsidized housing.

13.2 Time for Carrying out Freezing Survey

13.2.1 The freezing survey should really be carried out as soon as possible as people may move in to buildings within the nine Target Areas as early as now in anticipation of obtaining rehousing or home purchasing allowance in a few years time. The Government should device a mechanism to shorten as much as possible the time between the announcement of a project (even if the announcement is unofficial) and resumption vacation. Whilst we appreciate the legal difficulty in such an arrangement we will point out that any delay in carrying out the freezing survey will increase the rehousing burden.

13.2.2 Care must also be exercised to ensure that people who do not physically live at the premises do not receive rehousing or home purchasing allowance.

13.3 Freezing Survey for Non-residential Properties

13.3.1 Equally important is the relocation of small business. This subject is described in greater details in Section 6. The Government's current compensation policy is inadequate in compensating people whose business are affected or terminated because of UR. If such situations are not handled carefully, the occupants will take on to the streets and cause social disturbance. Such situations must be handled extremely careful to ensure that the process of UR is not hindered by the political restlessness

created by these residents. The Government must ensure that there is a fair policy without over payment and at the same time, avoiding major conflicts.

- 13.3.2 For this purpose, a freezing survey should also be carried out in respect of non-residential premises. Such surveys, indeed, may even have to be more thorough to ensure that things like employment records of the operators are obtained and ultimately the Government may have to bear the burden of severance payment in a form of business loss to the occupants, should the business close down because of UR.

13.4 Minimize Inconvenience to Occupants

It is acknowledged that the freezing survey may not be welcomed by the residents or occupants but is in fact a necessary evil. The staff employed to carry out the freezing survey should be well briefed to ensure that no undue inconvenience is caused to the residents and occupants.

14.0 CORPORATE PLAN AND BUSINESS PLAN

14.1 The Bill requires the URA to prepare Corporate Plans and Business Plans (the "Plans") for submission to the Financial Secretary for approval. Section 18 and 19 of the Bill stipulates the contents of the Plans and restricts the projects to those which are to be implemented under Sections 6(2)(h)(iii) and 6(2)(h)(iv) of the Bill, and Sections 5(2)(b) and 13(1) of the LDC Ordinance.

14.2 Section 5 of the Bill lays down the purposes of the URA to include, in sub-section (d)

"avoid the delay of the built environment of Hong Kong by promoting the maintenance and improvement of individual buildings as regards their structural stability, integrity of external finishes and fire safety as well as the improvement of the physical appearance and conditions of that built environment"

14.3 Sections 18 and 19 do not require the URA to include in the Plans any action proposed with regard to maintenance and improvement of existing buildings as required by Section 5(d). The HKIS wish to emphasize the importance of maintenance and improvement of existing buildings and would suggest that the URA should include proposals in this respect in the Plans. Our concern is that if such proposals are not included in the Plans, the URA will not be able to allocate any funding and staff resources for such work under Section 18(1)(ii) and (iii) for the Corporate Plan and Section 19(1)(c), (d) and (e) for the Business Plan.

15.0 FACILITATING URBAN RENEWAL BY THE PRIVATE SECTOR

15.1 The Role of the Private Sector in UR

15.1.1 The private sector has played a key role in urban renewal over the last four to five decades. Many developers are known to have carried out extensive land assembly in order to enable the older urban areas to be redeveloped. Such ventures are not without difficulties.

15.1.2 When the market is on its way up, delays do not mean the developer will face a financial penalty. In some cases, the developer may even be able to yield greater profit due to a delay as property prices may escalate sharply.

15.1.3 The present state of the property market is very different and the Government has now introduced a policy of maintaining controlled growth. The HKIS has views on the desirability of introducing such measures but this is not the forum for such matters.

15.2 Land (Compulsory Sale for Redevelopment) Ordinance

15.2.1 It is a well-known fact that assembling land is a long and tedious process. The Government is appreciative of the problem and has enacted the Land (Compulsory Sale for Redevelopment) Ordinance (the "L(CSR)O"). However, the HKIS has identified certain draw backs with the current provisions of the L(CSR)O.

15.2.2 Existing Provisions of the L(CSR)O

- (h) The L(CSR)O came into effect on June 7, 1999. As presently drafted, the L(CSR)O only applies to a lot forming the subject of a Government Lease or a section of a lot (the "Lot"). The majority owner (as explained below) can apply to the Lands Tribunal for an order to sell all the undivided shares in the Lot for the purposes of redevelopment of the Lot. The majority owner is defined as the owner or owners who own more than 90% of the undivided shares in the Lot, or in the case of two

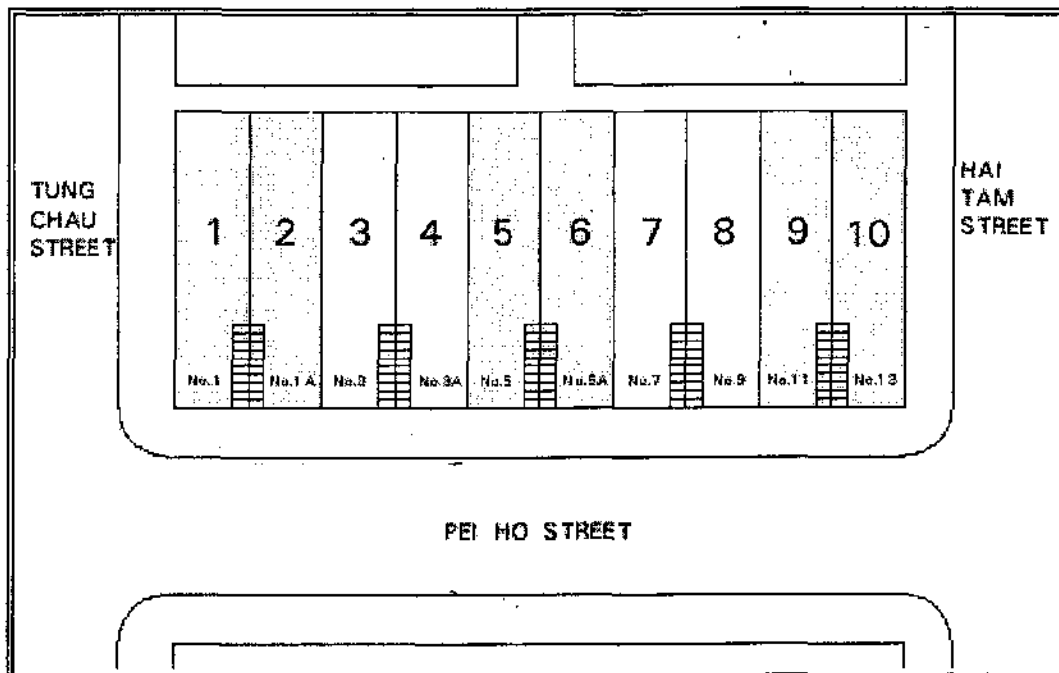
buildings standing on two Lots connected by a common staircase, the majority owner can own 90% of the undivided shares in the two Lots. This very narrow application creates a lot of difficulty and substantially restricts the application of the L(CSR)O.

- (ii) In the older parts of Hong Kong there are many buildings still standing on very small lots of less than 100 sq. m. and sharing a common staircase. Many of examples of this can be found at Shanghai Street, Reclamation Street, Wanchai etc.

15.2.3 A Hypothetical Example

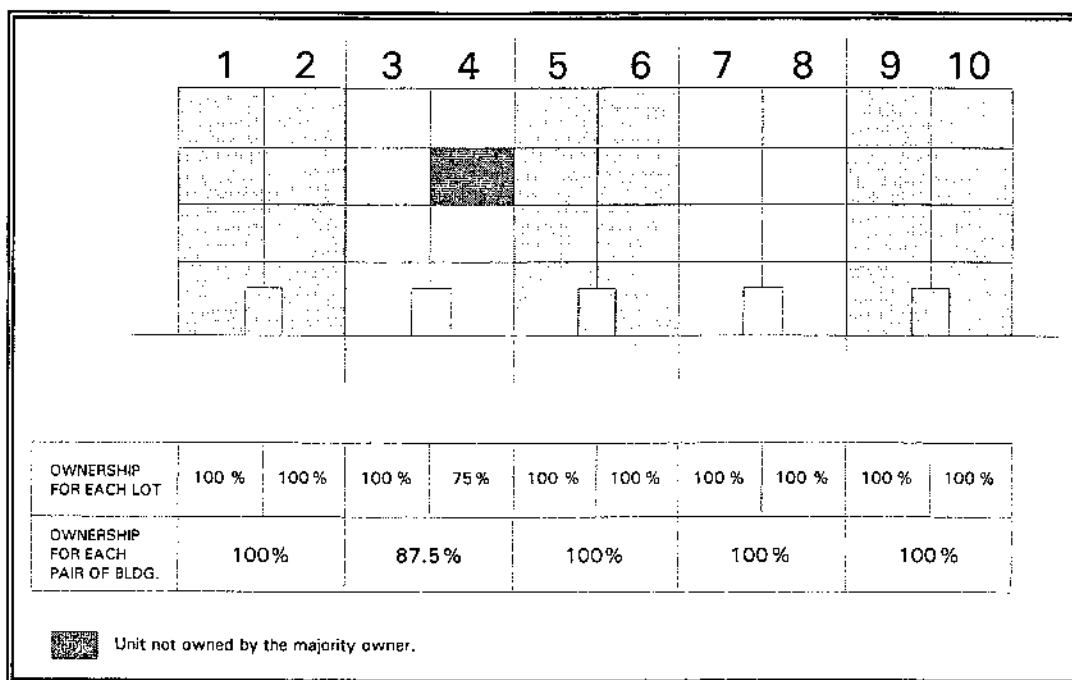
- (i) We have identified a street block at the junction of Tung Chau Street, Hai Tam Street and Pei Ho Street which consists of a row of ten buildings all 4 storey in height and sharing common stair cases. We would like to use this as a hypothetical example of the problems associated with the L(CSR)O. The plan of this street block is shown below. The numbering of these buildings are quite complicated and will have therefore refer to them as buildings no. 1 to 10:-

Hypothetical Residential Development in Sham Shui Po



- (ii) All the buildings in the example are four storeys and there are altogether 40 interests for the whole block. If the developer owns 39 of the 40 interests, the L(CSR)O will not apply. The diagram below shows the ownership pattern.

Ownership Pattern of Residential Development in Sham Shui Po



- (iii) If the developer fails to obtain one of the units, his ownership in the Lot will only be 75%. If we take a pair of Lots, the developer's interests will only be seven-eighths or 87.5%. This still falls 2.5% short of the 90% threshold stipulated in the L(CSR)O. The provision in the L(CSR)O cannot therefore apply.

15.2.4 Ownership Threshold can be Lowered to 80%

There is provision (in Section 3 (5) and (6)) of the L(CSR)O for the Chief Executive in Council to specify that the percentage of ownership of the majority owner to be lower than the 90% in respect of a Lot or a class of Lots, provided that the percentage specified is not lower than 80%. Whilst this is a reasonable provision and may resolve the problem described above, such notification has hitherto not been made by the Chief Executive in Council.

15.2.5 The HKIS Proposal

- (i) The HKIS proposes that the L(CSR)O be amended so that for cases where the majority owner owns more than 90% of the shares in the Lot or the Lots, then the LT will be obliged to give the order to sell if it is satisfied that the majority owner intends to redevelop the Lot or the Lots at the compulsory sale, or that any other party who may acquire the Lot or Lots will likely redevelop the Lot or Lots.
- (ii) In cases where the ownership is between 80% to 90%, then the LT will, in addition to the provisions described in the last paragraph, also have to be satisfied that the redevelopment will bring about planning gain and benefit to the public in terms of urban renewal of the LT is satisfied with all the above, then the LT will make a compulsory sale order.

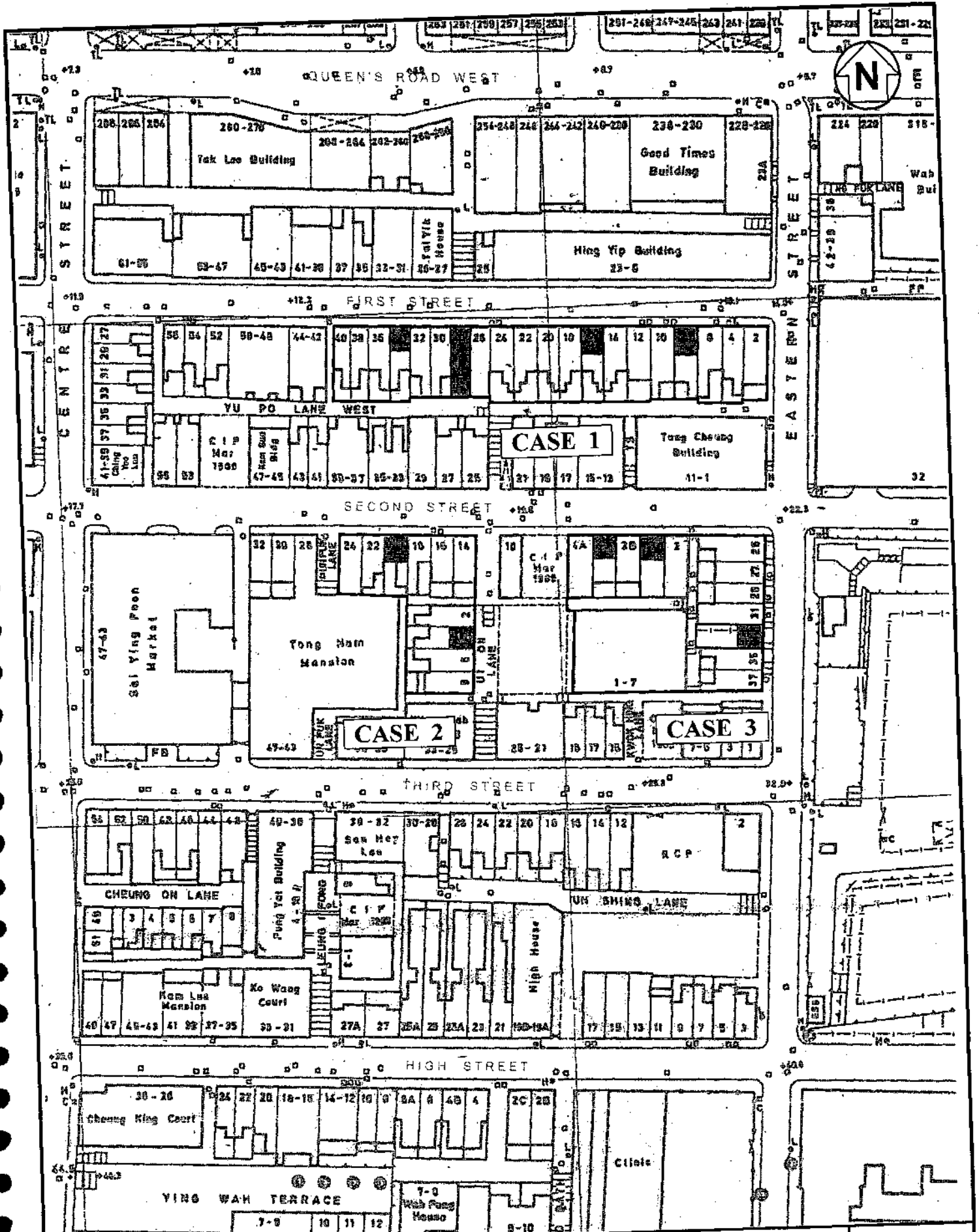
15.2.6 The Redevelopment 'Scheme'

- (i) In addition to the above suggestion, the HKIS also recommends that the concept of a 'Scheme' be introduced.
- (ii) In the example quoted above, buildings numbered 1-4 will have to be excluded from the re-development proposal. Only buildings numbered 5-10, consisting of six lots with a total site area of about 600 sq. m., could be redeveloped as one project. In spite of the fact that the developer owns all except one unit in buildings numbered 1-4, these four lots cannot be amalgamated to form part of the redevelopment scheme. The result of this is what is commonly known as a "pencil development".
- (iii) When the developer eventually acquires the outstanding unit in building number 4, there will be another even smaller "pencil development" on numbers 1-4. If the site is going to be redeveloped as two towers, the efficiency ratio for both towers will be reduced, as each will have to have staircases and a lift core. From a broader perspective, this is not desirable as resources will be used to erect common areas in buildings which are not living space.


- (iv) The HKIS proposes to replace the definition of Lot with "Scheme" (the "Scheme"). The Scheme can consist of as many buildings as the majority owner proposes but the extent of the Scheme will have to be approved by a tribunal which may or may not be the Lands Tribunal (please see Section 15.2.7 below). Whilst the majority owner is free to propose the boundary of the Scheme, he will have to demonstrate to the Tribunal the planning gain and the public benefit of his proposal.
- (iv) In the example quoted above, one would have thought that the Tribunal would see merit in approving the limit of the Scheme to cover the whole block i.e. from buildings numbered 1-10. That we believe is the original intention of the L(CSR)O.

15.2.7 Examples of Application of the Scheme

- (i) In Figure 1 on the following page, we have taken certain hypothetical cases to demonstrate the benefit of incorporating the spirit of the Scheme in the L(CSR)O.
- (ii) Case 1 shows that the majority owner is unable to acquire certain interest in the properties shaded. He will therefore not be able to carry out a comprehensive development which would otherwise be a major improvement to the area.
- (iii) In Case 2, the ownership pattern will render it impossible for the majority owner to apply to the government to extinguish the lane at the North side of No. 2 Ui On Lane. It also renders it impossible for all the lots within the black broken line to be redeveloped as one building.
- (iv) In Case 3, the ownership pattern will render it difficult for the full potential of No. 1-7 Kwong Hing Lane to be realized. Also, all the lots within the black broken line cannot be developed together.



TITLE: FIGURE 1

 Indicate portion of lots not owned by the majority owner

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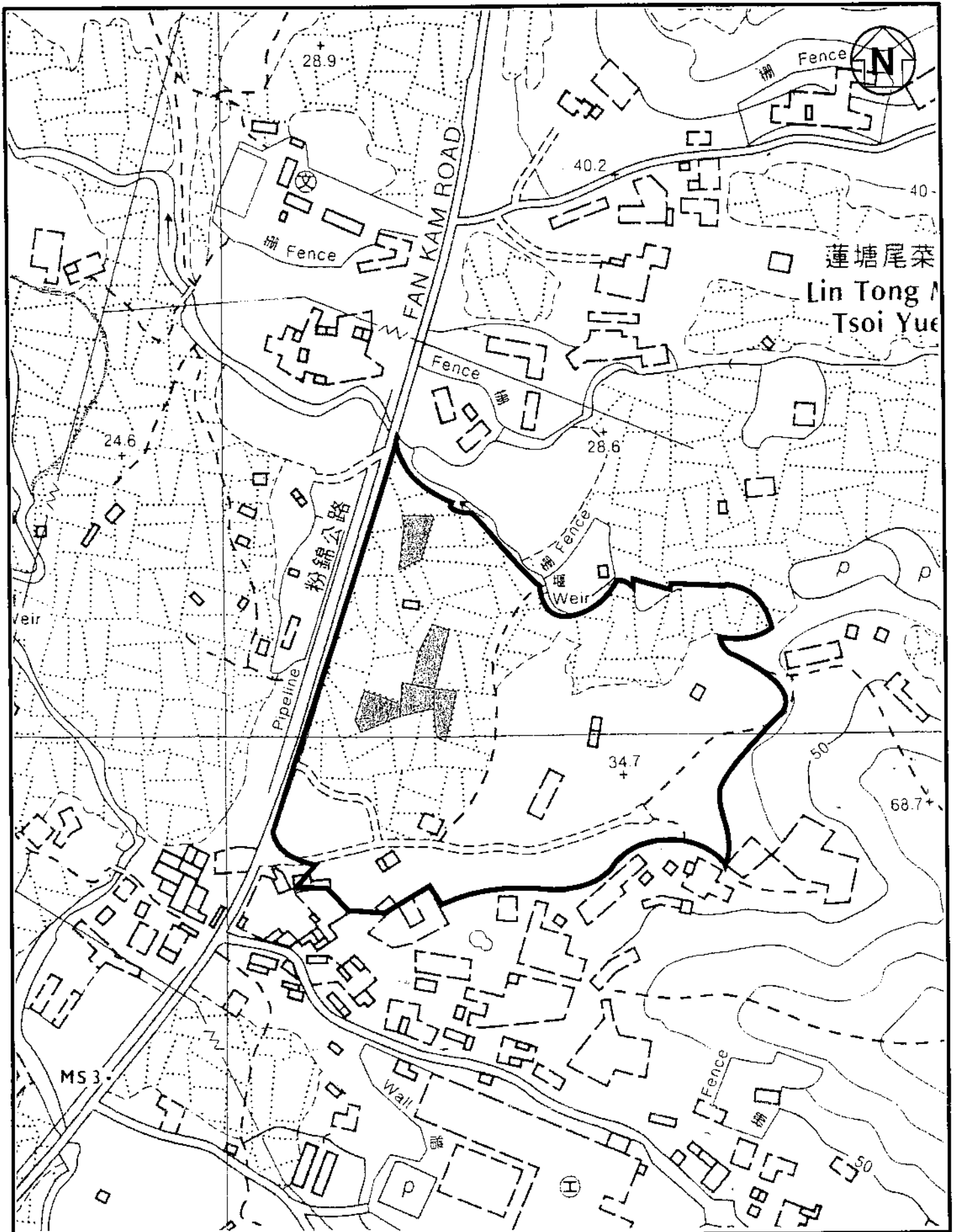
- (v) One additional advantage of the HKIS proposal is that it will also facilitate redevelopment of land in the New Territories. In figure 2 on the following page, if the developer fails to acquire a number of lots, the land grant will be very complicated. An example of this is the stilted huts standing on the pond in the Palm Springs development at Wo Sang Wai at Yuen Long. The pond in this case is actually a pool of still water which also receives the waste or even sewage from the stilted huts.
- (vi) In short, the art of setting the boundary of the Scheme will be complicated and there can be no hard and fast rules. The developer will have to demonstrate the planning gain and the benefit to the community of his proposed boundary.

15.2.8 Scheme Boundary to be Approved by Tribunal

The HKIS proposes that the Tribunal should consist of a lawyer, a surveyor and possibly a planner so that the overall benefit to the community can be assessed from the various perspectives. Alternatively, the LT or the Town Planning Board could be entrusted with such a task.

15.2.9 The Majority Owners

More thoughts will have to be given to the details of the procedures to ensure that the interests of the minority owners are well protected. In any case, it is likely that at the open sale, the purchaser (who is likely to be the developer) will likely have to pay a price reflecting the redevelopment potential of all the properties forming the Scheme, rather than the existing use values of the individual properties. The redevelopment values in such cases are usually quite substantially higher than the existing use values. The minority owners in such case may even receive prices higher than those offered by the URA or the government under the URA Bill. As far as the minority owners are concerned, there may be financial benefit although they may still be unwilling to dispose of their property even if the sale price is more attractive.



TITLE: FIGURE 2

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Lots not owned by the majority owner



15.2.10 Comparison with the URA

- (i) Whilst the HKIS understands the concept of the Scheme may cause the Government and the public concern about depriving property owners' of their right to own property, through the right of compulsory sale, the HKIS would respectfully suggest that as far as the minority owners are concerned, there is actually no difference between sale of their properties to a private developer or to the URA.

- (ii) In the case of sale under the L(CSR)O, the minority owner may even have the opportunity of enjoying a sale price reflecting the redevelopment potential of the Scheme. We therefore suggest that the Government and the Legislative Council should draw a balance between the protection of property rights and the public benefits derived from urban renewal.

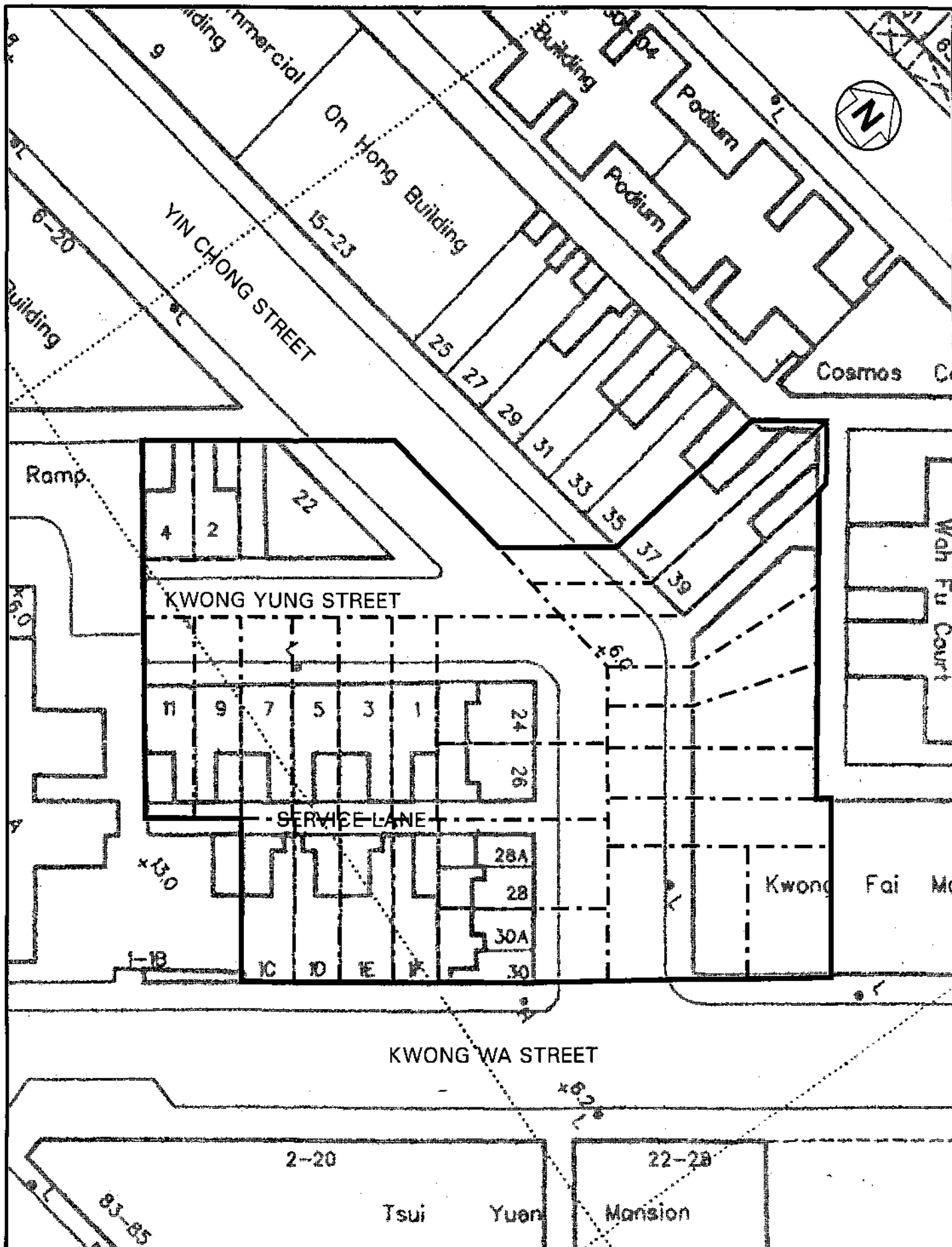
15.3 A Tribunal to Resolve Problems Caused by Obsolete Encumbrances


15.3.1 Restrictive Covenants have an Indefinite Life

Restrictive covenants have an indefinite life. Whilst they were obviously created to satisfy the requirements of the parties at the time of creation, many of them may not be applicable today, particularly in light of the modern planning concepts and intensive urbanization of Hong Kong. There are many cases where there are restrictive covenants which are outdated (e.g. obsolete rights of ways). The most common example is the old service lanes. These redundant service lanes are a constant source of nuisance as well as health and fire hazard. The fire which broke out at a fruit stall in one of the back streets on Nathan Road in Yau Ma Tei this year is a good example of the problems caused by these service lanes (please see newspaper cutting at Appendix 5). In many cases, the parties holding interests in the lanes do not have any real or practical reasons to enjoy such rights of way. A good example of this is the LDC project at Kwun Yung Street.

15.3.2 A Real Life Example

- (i) In that case, the properties acquired by the LDC (the "Property") are all sub-sections of a larger lot (the "Original Lot"). A plan showing the Original Lot and how the sub-sections were carved out is shown at Figure 3 on page 61. As can be seen from this figure, in addition to the buildings within the boundary of the Original Lot, the Original Lot also covers part of Yin Chong Street, the whole of Kwong Yung Street, as well as a service lane.
- (ii) The area of the Property is shown by the various colors on the plan at Figure 4 on page 62 and includes part of Yin Chong Street (colored yellow) and whole Kwong Yung Street (colored pink) as well as the whole of the service lane (colored purple). It is not reasonable for us to expect the LDC to develop over Yin Chong Street so the area colored yellow is excluded from site area calculation. As far as Kwong Yung Street is concerned, it does not serve any useful purpose as the buildings on either side of Kwong Yung Street have now been demolished. It will also make better planning sense to extinguish Kwong Yung Street and make it part of the site.
- (iii) The same would apply to the service lane except that it is reasonable to have the service lane diverted as shown colored green on the plan at Figure 4. As things stand now, it is legally not possible to extinguish Kwong Yung Street and the service lane as both are rights of way under the assignments for the various sub-sections of the Original Lots. Consequently, in the design of the new building, the area covered by Kwong Yung Street and the service lane will have to remain open as passageway (although it may be possible to build over both areas). Such an arrangement will impose a serious constraint in building design (for example, the ramp going up the carpark and the core of the tower cannot be located at these positions).
- (iv) The above is just one example of the many problems encountered in the UR projects, be they private or public. We therefore suggest that a Tribunal should be empowered to modify or discharge covenants which are obsolete.



TITLE: FIGURE 3	SCALE: N.T.S.	DRAWING NO:	
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15.3.3 The UK Practice

What we propose is actually not something which is has not tried before. In UK, the Lands Tribunal is empowered under Section 84(1) of the Law of Property Act 1925, as amended by Section 28 of the Law of Property Act 1969, to modify or discharge any covenants which are manifestly out of date.

15.3.4 The Tribunal

The HKIS proposes that the Tribunal should consist of a lawyer, a surveyor and possibly a planner so that the impact of such discharge or removal can be carefully assessed from the various perspectives. Alternatively, the Lands Tribunal or the Town Planning Board could be entrusted with such a task.

15.4 Excluding GIC facilities in GFA calculation

15.4.1 For projects undertaken by the URA, the government is proposing that where circumstances permit, the GIC facilities should be excluded from GFA calculation. This arrangement should apply equally for private sector projects particularly where these are imposed by the relevant government departments in Land Exchange or lease modification cases.

15.4.2 Such an arrangement should obviously only be implemented where there is no adverse traffic, infrastructure or environmental impacts.

15.4.3 The arrangement will not affect revenue to the government, as the additional commercial or residential GFA will attract additional premium to the government.

15.5 Chapter Conclusion

The private sector has played an important role in urban renewal in the past and will no doubt continue to do so in the future. The government should give the private sector the necessary assistance to carry out such activities to alleviate the burden of the URA.

16.0 PRESERVATION OF EXISTING BUILDINGS

16.1 Rejuvenation of Buildings

The focus of the Paper is on UR, however, it should also place emphasis on the 'rejuvenation' of existing buildings and facilities, a subject that has long been ignored both by the building owners and the Government.

16.2 Representation from the Professional Institutes

With regard to public accountability, representatives from the professional Institutes should be invited to attend the relevant sub-committees of the URA so as to provide their views. Their contribution will no doubt help the URA acquire a better understanding of the conditions of the buildings in question and also what the ideal approach would be from the practitioner's point of view.

16.3 Include Existing Buildings in Corporate and Business Plans

16.3.1 The Corporate Plan as mentioned in the Bill should also include a critical analysis of the building stocks both within and outside the nine Target Areas. Buildings of historic merits or architectural value should be given special attention. The effect of maintenance, preservation and conservation of these buildings should be seriously considered prior to demolition.

16.3.2 The Corporate and Business Plans of the URA should indicate clearly the development schemes and programmes. This way owners of buildings not intended for acquisition by the URA in the near future will be better informed in the planning the maintenance of their buildings.

16.3 URA to Assist Owners of the Existing Buildings

In the event that the buildings owned are considered to be 'maintainable' or where the owners have a strong desire to renovate the buildings rather than to redevelop, the URA should respect the owners' wish and facilitate the renovation. They can encourage the owners, by say, recommending a list of APs, surveyors, architects, and engineers to assist them and should always be prepared to take the role of a facilitator.

16.4 Existing Buildings to be Treated As Well

In order to keep the nine Target Areas "alive" during the UR process which may take up to 10 years to complete, redevelopment should be carried out in phases. Reasonable resources should be allocated to the maintenance of existing buildings not intended for redevelopment in the near future. Appearance of buildings in the nine Target Areas should be compatible with the new environment. The redevelopment agencies should take this factor into account and must submit a plan to illustrate how the existing and the new buildings are tied together. A contribution or special fund may need to be set up for the agencies to renovate the buildings outside the redevelopment areas but within the neighborhood so as to achieve a harmonious environment after the new buildings are erected.

16.4 Maintenance Planned According to Residual Life of Buildings

16.4.1 Old buildings within the nine Target Areas designated for maintenance should be based on the planned residual life expectancy, improved to different maintenance standards:

Residual life expectancy up to:
12 months – Minimum Repair Standard;
24 months - Preventive Maintenance Scheme Standard;
60 months or more – Renovation Standard.

16.4.2 In addition to those works mentioned in Section 5(d) of the Bill – Purposes of the Authority, the scope of the maintenance and improvement works should be expanded to cover other works such as improvement to sanitary provisions, removal of undesired signs, building nuisance abatement and UBW removal.

16.4.3 The URA should bear all costs of inspections and works for maintenance of the buildings held or to be acquired by it. External building consultants may be engaged by the URA in achieving this maintenance objective. Owners of existing buildings to be acquired should be given both financial and technical assistance in improving their buildings. Financial assistance in the form of grants, loans and tax benefits should be considered as incentives for voluntary maintenance and improvement. Technical assistance, such as maintenance directions, liaison and building consultation services, should also be provided.

16.5 Transition Plan for Amenity Facilities

The URA should, where amenity facilities such as market, clinic, child care centre, post office etc. are required to be relocated, prepare a transition plan with due consideration to cater for the needs of the people affected. If required, temporary facilities should be provided during the various stages of the UR process.

16.6 URA to set up Liason Offices

The HKIS also recommend that the URA set up liaison offices/resources centres at strategic locations within each of the nine Target Areas. Such establishments would serve as a resource centre and provide quick responses to questions raised by the people affected. Representatives from the URA, the professional bodies and the relevant government departments, should be invited to be stationed in the centres from time to time and be prepared to assist the people affected.

16.7 Transfer of Plot Ratio

- 16.7.1 Where the government or the URA has decided that certain existing buildings should be preserved, the owners of such buildings should be encouraged to rehabilitate these buildings so as to maintain the character of the area and Hong Kong's heritage. The owners of such buildings should not be penalized just because their buildings have been chosen to be preserved. They should, however, be able to transfer the development potential to adjoining buildings, possibly with an enhanced plot ratio, in order to pay for the higher maintenance cost. This issue debated quite heatedly right before the old Hong Kong Club building in Central was demolished. Had plot ratio transfer been allowed, the old Hong Kong Club building with its gothic façade could have been preserved.
- 16.7.2 Rules should be established as to how far the plot ratio of such buildings could be transferred and the necessary documentation required to allow the transfer. This is quite a complicated subject and would require further study by the government. The HKIS will be pleased to offer its views on the subject.

17.0 FACILITATING MAINTENANCE IMPROVEMENT AND ALTERATION WORKS TO EXISTING BUILDINGS

17.1 Introduction

The URA has proposed to address and help solve Hong Kong's decaying urban fabric. Over the years, much emphasis has been put on new developments but little on proper maintenance and improvements on older buildings. Over the last few years building maintenance has become an important issue as buildings are getting older and bringing them to present day standards poses a major headache to its current owners. Incentives must, therefore, be provided to the owners to encourage them to maintain the state of their buildings. Unfortunately, the government offers little incentive for those owners and often create major obstacles for maintenance work to be carried out.

17.2 The Present Approval System Unfriendly to MIA Work

The present approval system for building works is designed for new works. It is not 'user friendly' for maintenance improvement and alteration work ("MIA Work"). In fact the system is so complicated and tedious that it actually discourages people from making submissions. As a result, building owners always carry out MIA Work without submission of the plans to the Government and most of the work is carried out without proper professional supervision. We have identified the following areas under the Buildings Ordinance and the Government Lease approval which are of concern to building owners when it comes to the carrying out of MIA work.

17.3 The Buildings Ordinance

Under the Buildings Ordinance, we have identified the following areas of concern.

17.3.1 Cost

Under the provisions of the Buildings Ordinance, most MIA work involves BD submissions by an AP and a RSE. As explained below, the system involves quite substantial administration work by the AP and RSE with

the result that most owners perceive the professional fee to be too high.

17.3.2 Time

- (i) The time required for approval of plans, even MIA work plans is 60 days. Very often, the first submission is almost always rejected. With re-submission and consent application, we would be very surprised if the MIA work would obtain consent to commence work within four months.
- (ii) In reality, however, it is only after BD approval that the scope of work can be defined and it is only then a consultant could be appointed to carry out planning work and prepare and estimate the cost of the MIA work. With this estimate, the Incorporated Owners may require the owners to make a contribution to the MIA work. Only when the Incorporated Owners receive the majority of the contributions will they be in a position to award a contract to the Registered Contractor. All these factors as you will appreciate take time. The time required, is very often more than 12 months and more likely 18 months, by which time the situation would have deteriorated, and the owner's enthusiasm lost.

17.3.3 Access to records and plans

Before an AP can prepare designs for the MIA work, he will need information on the existing building. Such records take a long time to be retrieved from BD archives.

17.3.4 No Retrospective Approval

Very often for older buildings, some work may have been carried out without BD approval. The present system is that BD will not entertain building plan submissions containing UBW. This policy is actually a major discouragement for owners to submit MIA work to BD in cases where UBW have been carried out in the past. The easy alternative for the owners is to continue to carry out the MIA work without BD submission. BD will have to address this issue in a positive manner.

17.3.4 GFA and Site Coverage

As mentioned previously, a big incentive for owners to carry out MIA work is the enhancement in the value of their property. In almost all cases the GFA and/or site coverage permitted would have been fully utilized, leaving very little room for the owners to carry out improvement work to modern standards, which may require additional GFA and/or site coverage, e.g. the provision of recreational facilities and the addition of grand lobbies. Owners may wish to carry out improvement works, which will result in excessive GFA and/or site coverage. BD should adopt a sympathetic and pragmatic attitude in that as long as the work proposed is within the Common Area, as defined under the DMC, and that there is no increase in the density of the building in terms of the number of people living within the building or the number of units, or the overall amount of traffic generated, etc BD should grant approval to allow such modification work.

17.3.5 Poor Control and Enforcement

- (i) BD has never had adequate resources to deal with the problem of UBW and in my view never will. The attitude of a lot of owners with respect to BD submissions is that "others have got away with it for years so why should I bother!". Unless we have a new system that is so designed to facilitate MIA work submissions, the majority of owners will continue to take a chance and get away with it!
- (ii) We have already seen the consequences of this when recently there have been a number of accidents, some fatal as a result of building owners not carrying out building work under professional supervision. Under the present system, APs will not take up MIA work on a building, which has already got UBW unless the Owner agrees to take down the UBW, which is most unlikely. The simple alternative for the owners is to continue to carry out further MIA work without professional advice and supervision.

17.3.6 Compliance with Current Legislation

MIA work will require compliance with current legislation which is very often more stringent than that applicable at the original approval and this will result in an increase in cost and disturbance to existing users. One typical example is the provision of access and facilities for the disabled. We do not mean to be unsympathetic, but we have to draw a balance. BD should adopt a practical approach when considering whether it is really necessary for an old building to comply with current legislation. Such requirements very often deter owners from submitting plans for MIA work. We have to remember that submitting plans for MIA work to the BD is often a major hassle for owners who are not in the building industry, yet every effort should be made to encourage them to do so.

17.4 Government Lease Restrictions

17.4.1 Government Leases are usually drawn up to control the initial development. With the way things change in Hong Kong, the Lease conditions become obsolete soon after the site is developed. This is recognized by the Lands Department who keeps updating the standard Lease conditions. However, the Government Leases for the older lots will remain unchanged forever. The following deficiencies are identified:

17.4.2 Development Potential

In most cases, the development potential under the Government Lease is fully utilized. If the owners were to carry out any improvement work, which would involve increasing GFA or site coverage, it would be difficult to do so, particularly in cases where the GFA permitted under the Lease is the maximum permitted under the OZP. In such cases, as long as the improvement work falls within the Common Area under the DMC, the Government should allow the area of the improvement work to be exempt from GFA calculations.

17.4.3 Provision of Recreational Facilities

The current standard Lease conditions permit recreational facilities to be exempt from GFA calculations, but this provision is missing in the older Leases. Owners will face difficulties if they wish to provide recreational facilities under the old Leases.

17.4.4 Structures within Non-Buildings Areas

Many Government Leases contain non-building area provisions, which may even prohibit the construction of fences, walls or a kiosk for caretakers at the entrance. Such provisions are, however, essential to good property management. How many developments have fibre glass kiosks because the Lease prohibits construction of proper concrete ones.

17.4.5 Modification Premium

- (i) If a modification is granted a premium will normally be payable. Such a premium is normally charged at the full market rate and will run to millions or tens of millions of dollars. In some cases, an empirical premium is charged, but it can also range from \$300,000 to a few million dollars. This will discourage the owners from carrying out such improvement work or more likely, carry out the work without Government submission. Again, provided that the improvement work falls within the Common Area under the DMC and is not for the exclusive enjoyment of an individual owner, I believe that a Lease modification at nil premium should be granted.
- (ii) If work is carried out prior to Lease modification, it can then only be dealt with on a "buy back" basis. This is often unacceptable to the owners.

17.4.6 Time

In certain cases where the owner is prepared to apply for a Lease modification, the time frame for conducting modification works is often in excess of 12 months. This delay will discourage owners from carrying out the work, or from submitting the MIA work to the Government departments for approval.

17.5 Planning Approval Outline Zoning Plan

17.5.1 Section 16 Approval

- (i) For projects where Section 16 application has to be made to the Town Planning Board ("TPB"), the approval given by the TPB is in respect of the scheme submitted. Any changes to the scheme will require a fresh application to the TPB.
- (ii) Whilst such an arrangement is deemed desirable when the building is begin developed such a requirement will create unnecessary hurdles in respect of timing costs for the owners of the building. For example, if a certain part of the building is originally planned as a cinema and say 10 years after completion of the building cinema use is no longer financially viable and the owner wants to sell the property to another party for use as an entertainment center or a chapel, the owner will have to obtain planning approval to change the use before the new owner is prepared to acquire the property.
- (iii) The issue will be further complicated where lease modification is required if the cinema use is stipulated in the government lease conditions. The lease modification cannot be processed until the fresh Section 16 application is approved by the TPB. Assuming that the planning application will take 3 months from preparation to approval and the lease modification will take another 9 months, (which is highly optimistic!), the whole process will take at least a year. How can the purchaser of the property wait for a year? At the end of the year, the original owner may consider the premium charged by the government to be too high and may either wish to appeal the premium or drop the case altogether.

- (iv) In such case, the purchaser may have to wait even longer or find an alternative location. Such a situation is far from being satisfactory.

17.5.2 The Problem will Build Up

As the number of areas zoned Comprehensive Development Area ("CDA") increase such situations will occur more and more frequently in the future. We suggest that the government should not wait to solve these problems until complaints build up.

17.6 Improvements To BD Approval System

17.6.1 The present system for gaining the necessary approval to MIA is slow and cumbersome; often resulting in a bureaucratic approach which may discourage owners from carrying out the MIA work with professional advice and supervision.

17.6.2 The BD should be more flexible in its approach to MIA works and I believe that the situation could be easily improved by observing the following: -

(i) Certification by AP

For MIA work, the issuance of the Certificate of Compliance with the Buildings Ordinance by an AP could replace the approval by BD. Before issuing the Certificate the AP could consult various government departments and seek their comments and advice in a similar manner as that of BD. This will reduce the workload of BD and put the owner in a better position to be able to control the time involved for the MIA work.

(ii) Flexibility on Technical Breaches

BD should adopt a more flexible approach in respect of minor technical breaches for work within the Common Area which does not benefit a particular owner. This is particularly important in terms of permissible plot ratio and site coverage.

(iii) Easy access to records

BD should facilitate access to record plans and calculations, as such information is important to MIA work.

(iv) Retrospective Approval

BD should allow retrospective approvals if an AP and, where necessary an RSE, certifies the work. This will bring a lot of the UBW or "underground" work within BD's control. The occupants of a building are not aware of whether the MIA work is approved or not. They are still using the building and are exposed to an unknown risk.

17.7 Improvements to the Government Lease Approval System

17.7.1 With regard to the government lease approval system, we suggest that the Government adopt a more flexible and pragmatic approach. When considering payment of a premium to a developer, a few million dollars is next to nothing but for individual owners of a completed building, even HK\$20,000 is a large amount. I think BD should look at these issues from an individual owners perspective. More specifically, I suggest the following changes be made: -

17.7.2 Work Resulting in Excessive GFA and/or Site Coverage

Where work involves a Common Area, as defined under the DMC, and is not for the exclusive enjoyment of an individual owner and does not increase the density of the development, BD should take a lenient approach and allow such modifications so that the owners are able to create a better living environment.

17.7.3 Modification Premium

Similarly, the modification premium should be nominal or at most the standard empirical figure. The amount of premium from such modifications is negligible compared with the premium government receives from land sales and modifications involving development or re-development. Such concessionary premium modifications should only be granted for the lifetime of the existing building.

17.7.4 Documentation

Very often due to multiple ownership, it is difficult to get all the owners together to execute the modification document. If such modifications are only for the lifetime of the building they can be completed by way of "no objection letters" which may not even require execution by the owners.

17.7.5 Procedures

The current procedures should be re-appraised so that a separate procedure, tailor made for rejuvenation of buildings, can be devised so as to reduce the time and resources required for such modifications.

17.8 Planning Approval

The approval given by the TPB for Section 16 applications should allow a range of users as those shown under column 1 of the Notes to OZP. The TPB has recently taken a more practical approach by allowing certain uses within a "user class" to be approved by the District Planning Officer or the Director of Planning through delegated authority. This is an improvement but in our view has still not gone far enough. We do not see why all the users in the "user class" cannot be approved at the outset. If this proposal is adopted, it will avoid the necessity to make further Section 16 applications for changes in the use within each user class in an existing building.

17.9 Chapter Conclusion

- 17.9.1 UR is not just about pulling down buildings and redevelopment, it also involves maintaining existing buildings. Perhaps it is now time for the Government to take a fresh look at the procedures and legislation concerning the rejuvenation of buildings.
- 17.9.2 The HKIS wishes to promote the concept of "rejuvenation of buildings". However, before we can effectively do so, it is essential for the government to reassess the Government and legal framework in order to actively encourage building owners to carry out MIA work and improve the quality of buildings and the living environment.

18.0 TAKE OVER OF THE LDC

18.1 Arrangement for LDC Staff

The URA will take over the LDC like any takeover, the exercise has caused uncertainty and frustration for the staff of the LDC. The HKIS propose that the URA should offer new contracts for all the existing staff of the LDC. For those whose experience and expertise are not required by the URA, they should be offered a reasonable redundancy package or a new contract for at least 2½ years during which the staff can leave by giving one to three month's notice depending on the terms of their existing contracts. A gratuity should be payable at the end of the contract.

18.2 The LDC Board

The existing board of the LDC and the new board of the Provisional URA should work closely to ensure that the decisions of the LDC will not jeopardize the future operation of the URA. The LDC should kick-start the programmes of the URA as far as possible. A certain number of the existing members of the LDC board should be invited to sit in the Provisional URA board to provide the necessary continuity and to ensure that the experience at board level is not lost.

18.3 UR Projects should not be held up

There is a period of about 12 to 14 months between now and the official formation of the URA, the Government should not freeze new UR projects until the URA is formed. The Government should use every opportunity to accelerate the UR process during this period.

18.4 Forego Premium for LDC Projects

As the Government has indicated that land premium may be waived for certain URA projects, the Government should decide whether such an arrangement will be applicable to the currently proposed LDC projects. Many of the projects currently identified by the LDC are not financially attractive to developers and the LDC has difficulty finding joint venture partners for these projects. To waive premium for such projects will facilitate and accelerate the UR process.

18.5 Re-housing Arrangement for LDC Projects

The re-housing arrangement during the transition period should also be carefully worked out to make sure the LDC's current joint venture partners do not get additional benefits because of the new re-housing arrangement.

19.0 The URA Board (the "Board")

19.1 The Government's Proposal

It is proposed that the Board shall have an executive Chairman. The HKIS is of the view that as urban renewal is a very complicated programme involving many different areas of experience and expertise (such as planning, financial, marketing, social, land, building maintenance, housing, etc), it may be difficult to find such experience and expertise in one person.

19.2 The HKIS' Proposal

The HKIS recommends that the "Airport Authority structure" of having a non-executive Chairman and a Chief Executive Officer be adopted. This arrangement is also adopted by the HKHS, the HKHA and the LDC and have proved to be successful. The system also provides the necessary checks and balance and avoid too much power being focussed on one person. We have no doubt that the Chief Executive Officer to be appointed by the LDC will be very efficient and of a high caliber but still consider that "two minds are better than one". The arrangement proposed by the HKIS will enable the URA to be benefited by a larger reservoir of experience and expertise. This system was also adopted when the MTRC was first established.

20.0 CONCLUSION

- 20.1 The HKIS wish to show their full support of this break through approach to UR. We are confident that the approach as outlined in the Paper will be the road map for UR and the building of Hong Kong into a modern, well planned, environmentally friendly city. The approach will also improve the living and working conditions of the residents and workers in the dilapidated old buildings. It is an ambitious plan. Hong Kong has had a track record of accomplishing many ambitious plans in the past and the HKIS is confident that this will be another successful business plan.
- 20.2 Many members of the HKIS have spent hours deliberating on the various issues relating to the Paper, the Bill and the URS. It has not been possible for us to put down all the views expressed or the arguments pertaining to each of these issues. The HKIS will be happy to have further discussions with the Government on the subject of UR.

THE HONG KONG INSTITUTE OF SURVEYORS
December 30, 1999

APPENDIX 1:

Current Urban Renewal Committee Members

Mr. Francis Ng	President
Mr. Gordon Ng	Secretary General
Mr. David C Lee	Chairman
Mr. C K Lau	
Mr. Edwin Tsang	
Mr. C L Tsang	
Mr. Tony Wan	
Mr. Francis T Lau	
Mr. David Faulkner	
Mr. Philip Tse	
Mr. Alan Sin	
Mr. Ng Jor Choi	
Ms. Y M Lee	
Mr. Peter Wong	
Mr. Oliver Chan	

APPENDIX 2:

Adhoc Committee Members on LDC Projects

Mr. Charles Chan Chairman

Mr. K K Chiu

Mr. CK Chan

Mr. Eric Yeung

Dr. Li Ling Hin

Mr. Ng Hang Yiu

Mr. Alain Lau

Mr Johnny Ho

The Hong Kong Institute of Surveyors
Open Forum on "Urban Renewal Authority Bill"
7 December 1999
Opinion from Members

- | <u>Item</u> | <u>Comments</u> |
|-------------|---|
| 1. | <p><u>Objectives</u></p> <ul style="list-style-type: none">• Whenever a scheme/project is identified, the owners of those existing buildings would be unwilling to pay maintain cost as it may not be compensatable under law.
(<i>response from chairman</i> : Gov't's intention is not to pull down all the bldgs. Some of them have to maintained properly. There are approximately 3,900 bldgs required rehabilitation but not redevelopment.)• URA should not take part in the redevelopment. It should play the role in resumption and clearance and sell the clear site through auction or tender.
(<i>response from chairman</i> : It should be put in item 11.) |
| 2. | <p><u>General comments</u></p> <ul style="list-style-type: none">• No comment. |
| 3. | <p><u>Shortcomings of the existing system</u></p> <ul style="list-style-type: none">• Item 3.3, 3.5 and 3.6 should be elaborated with reasoning.
(<i>response from chairman</i> : in order to make the statement short and precise, the reasons have not been mentioned.) |
| 4. | <p><u>Urban renewal agents</u></p> <ul style="list-style-type: none">• How to encourage private developers to undergo UR? eg exemption of GIC from GFA calculation...
(<i>response from chairman</i> : it should be put in item 10.) |
| 5. | <p><u>Rehousing agents</u></p> <ul style="list-style-type: none">• No comment. |
| 6. | <p><u>Compensation valuation for acquisition of properties</u></p> <ul style="list-style-type: none">• 6.1-6.4 are mentioned in the existing ordinances.• 6.5 is disputable.• 6.6 - Interest rate set in those resumption ordinance is too low and unreasonable. No one is willing to put his money in bank at lowest interest rate.• Only small portion of bldgs. require redevelopment (ie 2,200 nos.). Generous compensation should be allowed. |

<u>Item</u>	<u>Comments</u>
8.	<p><u>Planning Procedures</u></p> <ul style="list-style-type: none"> • No comment.
9.	<p><u>Improve urban design at special locations of interest</u></p> <ul style="list-style-type: none"> • Gov't should resume those properties with special interests immediately instead of requesting the owners to preserve them. In fact, the owner may face difficulties in maintaining them as special techniques are normally required. The burden should be undertaken by the Gov't. (<i>response from chairman</i> : it should be put in item 13.)
10.	<p><u>Financial arrangement</u></p> <ul style="list-style-type: none"> • The benefit of foregoing premium will go to URA only. • The density of urban area is quite high. Relaxation of PR may not be appropriate. (<i>response from chairman</i> : the high 'population' density of some area is usually due to unauthorised bldg. works which enlarge the living space as well as population.) • Relaxation of PR should apply to those large site proposed for comprehensive development. • Pl. see the comment in item 4.
11.	<p><u>Disposal of land by the URA</u></p> <ul style="list-style-type: none"> • Pl. see the comment in item 1.
12.	<p><u>Facilitating UR by the private sector</u></p> <ul style="list-style-type: none"> • Notwithstanding the argument contained in the discussion paper, property right should be respected.
13.	<p><u>Preservation of existing buildings</u></p> <ul style="list-style-type: none"> • Pl. see comment in item 9.
14.	<p><u>Preventive maintenance scheme</u></p> <ul style="list-style-type: none"> • Input from BSD is expected.
15.	<p><u>Facilitate maintenance, improvement and alternation work to existing buildings</u></p> <ul style="list-style-type: none"> • Insurance scheme should be introduced to safeguard the Authorised Persons, Structural Engineer, etc.

APPENDIX 3:

<u>Item</u>	<u>Comments</u>
16.	<u>Take over the LDC</u> <ul style="list-style-type: none">• No comment
17.	<u>The URA board</u> <ul style="list-style-type: none">• No comment.
18.	<u>Other Comments</u> <ul style="list-style-type: none">• The Institute should emphasise our support and encouragement on rejuvenation of old bldgs, ie preservation and maintenance.

End

h:david/ura/app3

社會要聞

收地衝突

歡迎讀者提供本版意見，請電 2565 4288 或傳真 2811 1926

天氣預報

今日風潮：上午1時45分
下午6時42分

今日風潮：上午10時24分
下午10時05分

和緩至清勁東北風
天晴，乾燥
氣溫：55-75%

和緩至清勁東北風
大致天晴，乾燥
氣溫：55-75%

上水石湖村民拒遷 頑抗300防暴警 收地條件差 官民衝突恐續來

受改善河道工程影響，而被收地「迫遷」的上水石湖新村，位於梧桐河畔，其實在過去多年每次大雨，或深圳水庫排洪，均會受水浸影響，今次官民衝突的原因，正是河道治理工程，引起的收地問題引致。

根據紀錄，現時的石湖新村共有建築物四百八十六幢，任有一百二十一戶共三百一十名村民，其中有十三間屬工廠或工場。

房署事務經理（新聞）潘寶琛表示，去年六月開始，房署開始正式發出清拆令，當中合資格入住公屋的，共有三十二戶九十七人；而合資格入住中轉屋的，有五十二戶共一百二十五人；另有四戶合資格入住中轉屋，但拒絕入住，並與另外三十三戶不合資格入住公屋或中轉屋的村民，當中包括：

激動村民 多未獲配屋登記

潘又稱，根據紀錄，在八二年房署已將石湖新村作調查及登記建築物，到八四至八五年間，更進一步登記人口，故此不會對之後所建屋宇及遷入人口，作賠償。

新的協議清拆計劃，分兩期進行，第一期於上月二日展開，過程順利，沒有遇到任何反抗，但仍有九戶，八個商戶及一個住戶，共二十五人揚言誓死保衛家園，合理賠償，結果導致昨日第一期清拆行動時，出現強抗。

房署：85年後入住 不獲安置



一名村民，正揮動木棍襲擊防暴警察。

政府清拆行動與村民衝突過程

時間	經過
09:00	150名房署人員、80名警員聯同消防等多個部門人員，到達石湖新村，村民築起人牆阻止。
10:00	近40名村民設下三道防線，要求與房署人員談判。
10:40	談判破裂，房署要求全副防暴裝備的警員協助入村，村民放火，投擲燃燒彈及磚塊反抗，8名警員受傷。
12:00	警方兩度施放催淚彈，並使用胡椒噴霧，在消防水炮協助下，成功突破兩道防線，拘捕11人，村民要求再談判。
13:00	談判再度破裂，村民騷動，在第三道防線放火，焚燒雜物反抗，消防再度開動水炮撲滅火種。
14:00	警方防暴人員增至300人，成功入村控制局面，再拘捕三名村民。
15:00	房署開始清拆部分村屋，警方防暴人員逐戶驅趕村民離開住所。
15:45	村代表施祖榮，於屋中割斷石油氣喉，惹來警方與消防一度緊張，破門制止。
17:00	全面控制石湖新村，進行清拆。

【本報記者綜合報導】上水昨日爆發自香港回歸以來最嚴重的官民衝突，數十名不滿收地賠償的上水石湖新村居民，以燃燒彈、開山刀等，襲擊在場警員，警方其後以胡椒噴霧及催淚彈，驅散村民，擾攘八個多小時後，終可展開遷拆行動。

不過，本港多個政黨認為，隨着港府收緊安置政策及市區重建，類似的大型衝突，將陸續有來。

警放催淚彈 成功入村

數十名不滿搬遷補償的村民，昨晨在當局如期入村清拆時，準備長刀、木棍、水喉通及燃燒彈等武器，與警務人員爆發激烈衝突，場面混亂，並且縱火，消防員亦介入救火，警方數度增援至三百人，雙方在村口的橋頭，進行三個多小時的戰鬥。

不過，在警方入村後仍遇上激烈抵抗，有村民反鎖屋內恐嚇引爆石油氣，警方在消防員開動兩條喉戒備下破門入屋將他制服。此宗警民衝突持續八小時，及至黃昏才完全被警方控制。事件中，有十四人被捕，八名警務人員受傷。

14人被捕 8警受傷

石湖新村是新界北拓展處為上梧桐河道工程改善河道工程盆地，以紓緩新界北區水患，去年六月通知收地，原定本年九月底清拆，由於仍有若干戶拒絕遷出，工程一拖再拖。

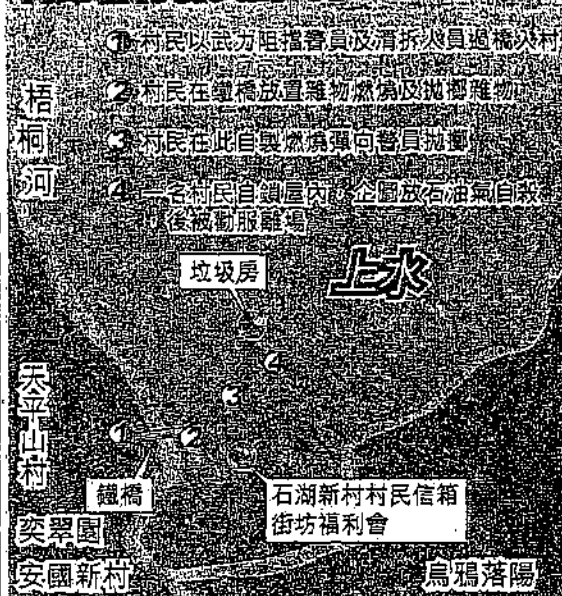
昨晨九時，在當局如期到場清拆前，數十村民集結在村口鐵橋對開空地，部分手持自製武器，與協助房署人員入村拆屋的警員對峙。

警員過橋 遭燃燒彈

上午十時四十分，警方應房署官員要求，派出防暴警察協助入村拆屋時爆發衝突，集結在村口的村民情緒激動，手持自製武器襲擊警員，全副防暴裝備警員則手持盾牌阻止，有人更搬出石油氣，企圖在警員面前點火引爆，場面混亂。

擾攘一番後，警方衝破第一道防線上入村的鐵橋，憤怒的村民繼續反抗，以水喉鐵及利刀企圖襲擊警員，阻止「過橋」，亦有村民在入村橋口縱火及向防暴警員投擲燃燒彈。防暴警員雖然使用胡椒噴霧器，惟未能驅趕村民。在「屢攻不

石湖新村警民對峙位置



村民在入村通道投擲雜物，阻止警員進入。



一名村民被制服帶離現場



警員突破村民防線，檢走一個石油氣罐

終告「失守」，退入村內。
防暴警察在下午十二時許衝破村民第二道防線「過橋」，由於村民改在屋頂擲石，警員第三次施放催淚彈驅走村民。之後，負責拆屋的房署人員開始及村拆屋，仍遇上零星抵抗。

警方：只用最低限度武力

下午二時，一名經營傢俬的東主見「大勢已去」，終答應談判及撤出，惟要求官員簽下文件證明寬限多十日才肯離開。惟一名被視為「死硬派」的施姓村民，在與官員談判破裂後，反鎖石屋內揚言引爆石油氣，再度掀起緊張，消防員開動兩條水喉不斷向石屋淋水，最後在警員破門入屋時舉手投降，之後被捕。整個事件持續了八小時，在下午接近五時才被警方完全控制。事件中有八名警務人員受傷，包括兩名警長及六名警員，其中三人是被村民投以燃燒彈燒傷；被捕的十一男三女，涉嫌在清拆行動中阻差辦公，及在公眾地方行為不檢。

林偉強：收地缺諮詢惡果

新界鄉議局署理主席林偉強認為，政府進行大型基建計劃時，缺乏諮詢居民，因此收地時往往令居民反感，而且賠償價格低，重新安置又未能符合居民的要求，對他們是不公平，他希望透過今次事件，能夠讓政府完善收地程序與條件。

新報
11.99

大雨必浸 石湖村成重災區 治梧桐河 收地無可厚非

是次引起警民嚴重衝突的起因，源於拓展一項河道改善工程。因為上水石湖新村一帶水浸非常嚴重，每逢暴雨或颶風，必成災區，故須趕及二〇〇二年大雨前，為梧桐河進行擴闊工程，而其中一段，必須經過石湖新村。

耗五億 擴闊清理河道

拓展署新界北工程師李培生表示，整項工程耗資五億元，工程包括將一段長四點五公里的梧桐河擴闊、挖深，並將河道清理，由於當中被石湖新村所阻礙，所以必須將部分村屋拆。

估計工程完成後，梧桐河將擴闊至四十米，有助疏導雨水；而位於現有河流的荒廢河曲，部分將改建為種植的濕地。其實，受影響的設施還包括五條行人橋、四條行車木橋、三條承托水務署水管的橋樑及一條充氣水壩等。

被喻為水浸超級黑點的上水石湖新村，九月份颶風「約克」襲港時，成為重災區，水浸及胸，村內更一度停電，村民在危急下，需要消防員協助疏散。

■本報記者 王明瑜

「第十營」戰術 曾對付船民

防暴慣用

據悉，警方昨日採取名為「Camp Ten」的「第十營」戰術，以繼續阻擋居民襲擊，互相緊扣，形成防線。據一名資深警員稱，這戰術曾在過往的越南船民營暴亂中採用。該名警員稱，一名居民以開山刀劈向警員時，其實警員可以以保護自身安全，拔槍制止。警員只顧抵禦，可見已極度克制。

被開山刀襲擊 其實可開槍

村民為抵禦清拆人員及警員入村，情緒十分激動，並設置三度防線，首先以手持開山刀、水喉鐵通、削尖木棍及石油氣罐向警員襲擊，警保橋頭；第二，在橋面倒上煤油，使車輛沒法駛進及在一屋頂向警員拋擲石塊和雜物；第三，在清拆屋宇通道上擺放雜物，包括傢俬、電器等雜物等燃燒阻擋警員，此時更有村民自製燃燒彈向警員拋擲及企圖引爆家中石油氣自殺。

據一名資深警員表示，昨日警方行動已十分克制和忍讓，只以盾牌掩護及發放少量的催淚彈和胡椒噴霧，其目的在於驅散阻擋的村民，並沒有傷人意圖；他又稱，警方在處理警民衝突時，盾牌、催淚彈和胡椒噴霧等是防暴警員會記以基本裝備，他們都會根據在場指揮官命令採取不同的行動，基本會按四個步驟執行，一是以盾牌阻擋；二是用棍；三是施放催淚彈；四是使用槍械。另外，警方是次採用的戰術名為「第十營」，是借鑑昔日警方在十號越南船民營採用的防暴方法。

警方：行動已十分克制

警方發言人昨日表示，警方出動約八十名防暴警員到場以盾牌掩護，並發放三發催淚彈、五枚拋式催淚彈及胡椒噴霧，只是採用最低限度武力，以維持現場秩序。

■本報記者 廖傑堯

政府刊憲 90日即可收地

會多次協助調停類似收地衝突的元朗區議員黃偉強指出，根據經驗，政府過去要求收回新界原居民的土土地時，若居民擺出強硬態度，當局與居民坐下傾談條件的意願愈大，條件也較為「鬆手」。他呼籲「一人愈惡，踏得愈多」。他指出，政府這種欺善怕惡態度，

議員指政府欺善怕惡 種禍根

一名區議員昨日接見受重影響的居民時，居民半帶激動地對他說：「我們是否要學石湖新村居民的做法，去爭取較佳的安置賠償？」

代表上水古洞村居民利益的民建聯立法會議員劉江華憂慮，類似石湖新村的警民衝突可發生。

質疑警方濫用暴力

期間黃成智一面叫村民保持冷靜，另一面則要求上水分區指揮官高偉強司取消強行「清場」行動，並表示鄭家富議員正聯絡規劃環境地政局局長蕭炳任，商討有關問題，希望有關部門能「通融」一個多小時等待答覆，但有關方面只允許給予五分鐘時間。

限期一到，過百名防暴警員便手持盾牌、警棍一步一步的過橋，村民見狀立即強烈反抗，場面隨即混亂一片。黃成智努力嘗試勸止村民，及要求警方停止行動的同時，第一個被防暴警員用胡椒

「人愈惡，賠得愈多」

此，居民有足夠的籌碼，跟政府討價還價，直接影響所得的賠償。

應盡量溝通解決問題

其實，若石湖新村反抗的居民和商戶所言屬實，他們的要求不高。他們已搬遷到出租公屋或中轉房屋，但新居暫時未能入住，只希望房署多給幾天時間通融，不料房署已急不及待展開行動。拓展署的回應是：「由於治理梧桐河工程的合約已批出，一定要昨日收地。」

黃偉強說，若出現官民對峙局面，理應立即「收手」，盡量以調停溝通的方式解決問題，避免進一步激起居民的反抗情緒。他說，過往當局極少「強行進攻」。

■本報記者 林文宗

議員黃成智 「和事佬」變罪犯

在石湖新村警民衝突中被拘捕的區域市政局議員黃成智，做夢也想不到一心以「和事佬」身份到場，緩和警民之間緊張氣氛，而成為事件中主角，首當其衝被防暴警員用胡椒噴霧射眼及粗暴拘捕，再控以阻差辦公罪名扣留調查。

黃成智是民主黨土地規劃發言人，專責處理鄉郊事務，故早在半年前，已介入石湖新村受影響村民賠償事宜。黃成智昨日聯同立法會議員鄭家富的助理岑永根，在上午九時到場，以區域市政局議員身份，在場充當警方與村民的「中間人」，希望緩和緊張氣氛，及以融洽方法解決事件。

水噴射，雙眼隨即感到一陣灼熱失去視力，繼而感到被四五名警員前後合力「抱起」帶走，控以阻差辦公罪。

黃成智做夢也想不到一心以議員身份，到場「排解糾紛」，竟然由「和事佬」變罪犯，對自己遭遇除憤憤不平外，更質疑警方有濫權之嫌，並表示保留追究權利。

黃成智今年亦代表民主黨，參加了北區區議會選舉，在「天平東」選區與楊秀英、翁美雲對壘。

■本報記者



黃成智投訴警方濫用權力

部門互相推諉 油麻地攤檔火1死8傷

後巷僭建無王管 危機四伏

【本報記者綜合報導】油麻地一幢大廈的後巷僭建物，昨日發生火警，導致一死八傷。事發的僭建物起碼存在十五年以上，但多個政府部門一直撒手不理。慘劇亦顯示出，現時有關全港多幢大廈後巷僭建物的投訴，在各部門之間，解決無門，成為潛在危機的伏線。

火警現場為油麻地彌敦道展望大廈後巷的水果檔，檔主「炳叔」在該處搭建檔攤擺賣，已有二十多年。據街坊稱，「炳叔」為人頗為暴躁，經常將雜物堆放在後巷，大廈的管理處雖然在多年來不斷投訴，均不得要領。

存在逾15年 投訴無人理

在昨晨三時五十分，炳叔水果店突然冒出濃煙，正在休息的炳叔一時情急，以暖水壺企圖滅火，但怎料引發爆炸。炳叔首當其衝，被大火燒傷，幸而一名姓霍的男子，即時將炳叔救離現場。

由於現場佈滿雜物及紙皮，大火一發不可收拾，加上現場為大廈後巷，濃煙在剎那間向上冒升，將整幢展望大廈籠罩，八十歲居於五樓的劉運初，在吸入濃煙後感到不適暈倒，由同住的孫兒，將她擡起落樓；可惜，劉婆婆在送院後證實不治。

八旬婦吸濃煙不治

這場造成一死八傷的火警，在五十分鐘內撲滅，但其中一名傷者情況危殆，其餘傷者均是吸入過量濃煙，引起不適。消防處相信，大火是由電線漏電，燒着雜物引起，消防處發言人稱，將成立專責小組，調查今次火警原因。

今次油麻地展望大廈後巷發生的僭建物火警，正好再次敲響港府「官僚架構」的警鐘；本港仍有不少類似的舊區問題，除了業權複雜外，又涉及多個部門管轄範圍，部門之間各自劃清界線，使界線空隙上的投訴，往往難以即時獲得解決，却成為潛在危機的伏線。

管理公司 多次投訴未受理

展望大廈的物業管理公司林美嬌表示，他們在事發前曾向多個部門投訴，包括屋宇署、環境保護署、市政總署及消防處等，但各部門却以不同的理由拒絕接受或暫不處理。據悉，在八五年展望大廈的業主立案法團已向政府提出改善工作，但卻無人處理；至最近屋宇署宣布有關改善僭建物的「目標大廈」名單中，也榜上無名。

另外，在年多前已參與展望大廈後巷問題的臨時市政局議員黃國桐說，各政府部門對歷史遺留的問題，一直採取不積極態度處理，導致問題拖延沒法解決，而更有部門以人手不足作為「擋箭牌」實屬不當；屋宇署若接獲投訴，應該對有潛在危機的地點先行處理，即使沒法調配人手，也應對大廈發出警告或配合其他部門，將一些後巷雜物清理，紓緩可能發生的危機。

火後始發清拆令

屋宇署發言人表示，該署下午派員到現場視察後，認為火勢已波及四分三後巷僭建物，他們會發出清拆令，將餘下部分拆除。

發言人又稱，該署在九月底接獲有關大廈後巷僭建物投訴，但仍在處理階段。發言人強調，本港現有八十萬個地點有僭建物問題，需要陸續處理。

油麻地後巷火警 敲響僭建物危機警鐘



現場冒出濃煙，大批消防員奮力撲救。

一名八旬老婦被送院後，證實不治。

發生火警的油麻地展望大廈後巷生果檔（覃宗林攝）

清拆全港僭建物 需160年

本港不少大廈的後巷，都存在不同年代建成的僭建物。當中，更有不少是當區的標記，不少的經濟活動，均在後巷進行，後巷僭建物的權至，更與當地的街坊，建立起深厚的友誼。不過，這些僭建物，却隨時可能成為城市潛在的危機。

在銅鑼灣怡和街後巷，其中一檔「車仔麵」，無論在區內區外，都甚聲名。該檔「車仔麵」，更可說是帶旺同區商舖，不少當區的街坊，更與該店結下多年的友誼。

舊區僭建物 成都市現象

其實，在中上環一帶，不少後巷的檔口，均是

由僭建物搭建而成，例如上環的火井，在旺角奶路臣街的德記等，均在當區存在多年，口耳相傳，成為都市現象。不過，這些後巷僭建檔口，始終存在着一定的危險。

「釘契」也無阻嚇作用

負責本港物業結構安全的屋宇署，面對人手及資源不足是不爭的事實。為徹底解決全港八十萬個僭建物，該署已訂出大方向，決意將清理僭建物的責任交回業主，並分別以「利誘」及「重罰」兩大招數，希望業主正視本身物業的結構安全問題。

目前，若屋宇署管理字號僭建物，但業主却不支付有關款項，屋宇署會將樓宇「釘契」。不過，若物業只供業主自住，不作買賣之用，「釘契」也變得沒有任何作用。

署內設特別隊 對付僭建

雖然屋宇署面對一個大難題，但署方未有計劃要求中央政府大幅增加人手，希望以提高效率，制定新政策，一解開這個死結。據悉，署內管理層會在署內成立一個特別隊伍，專門處理僭建物的問題。

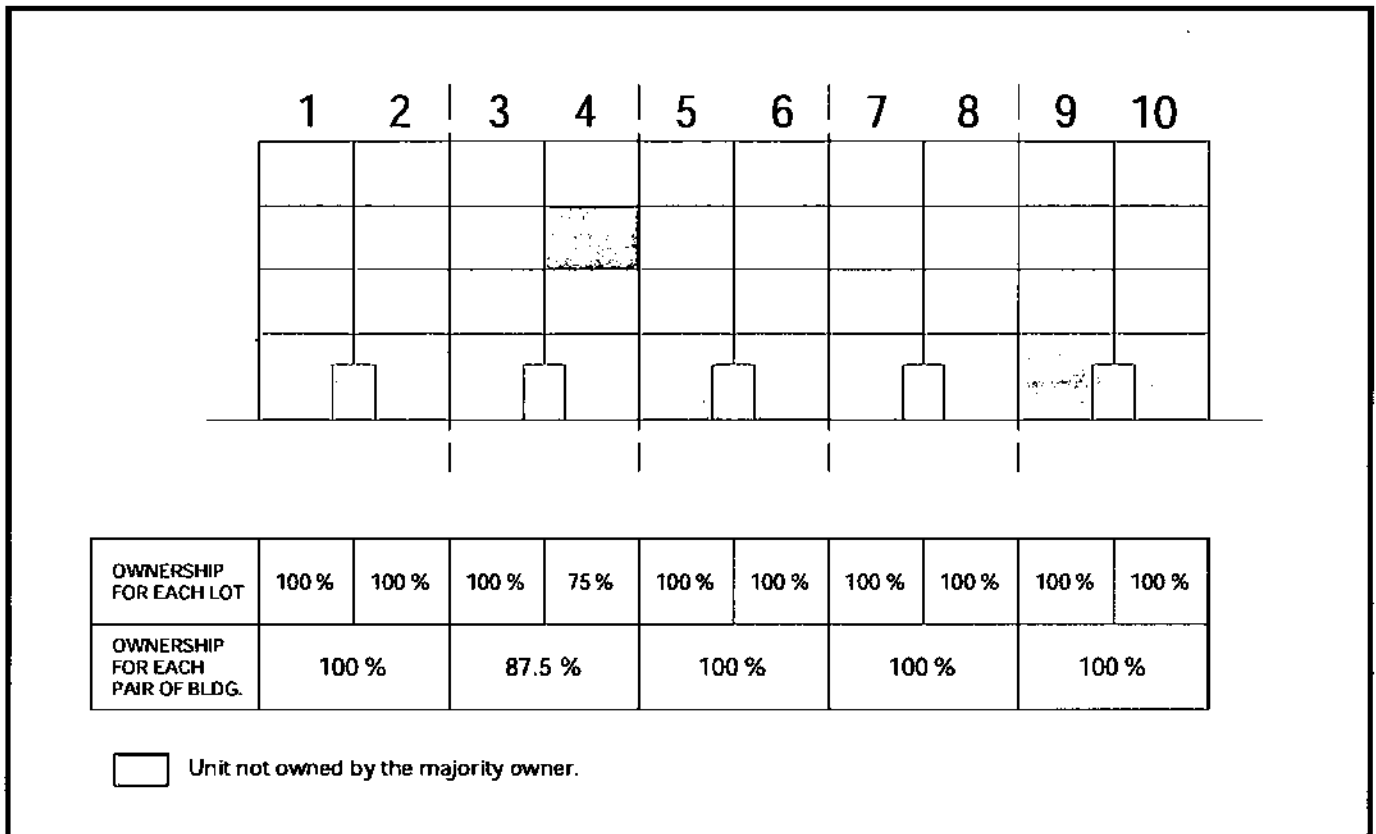
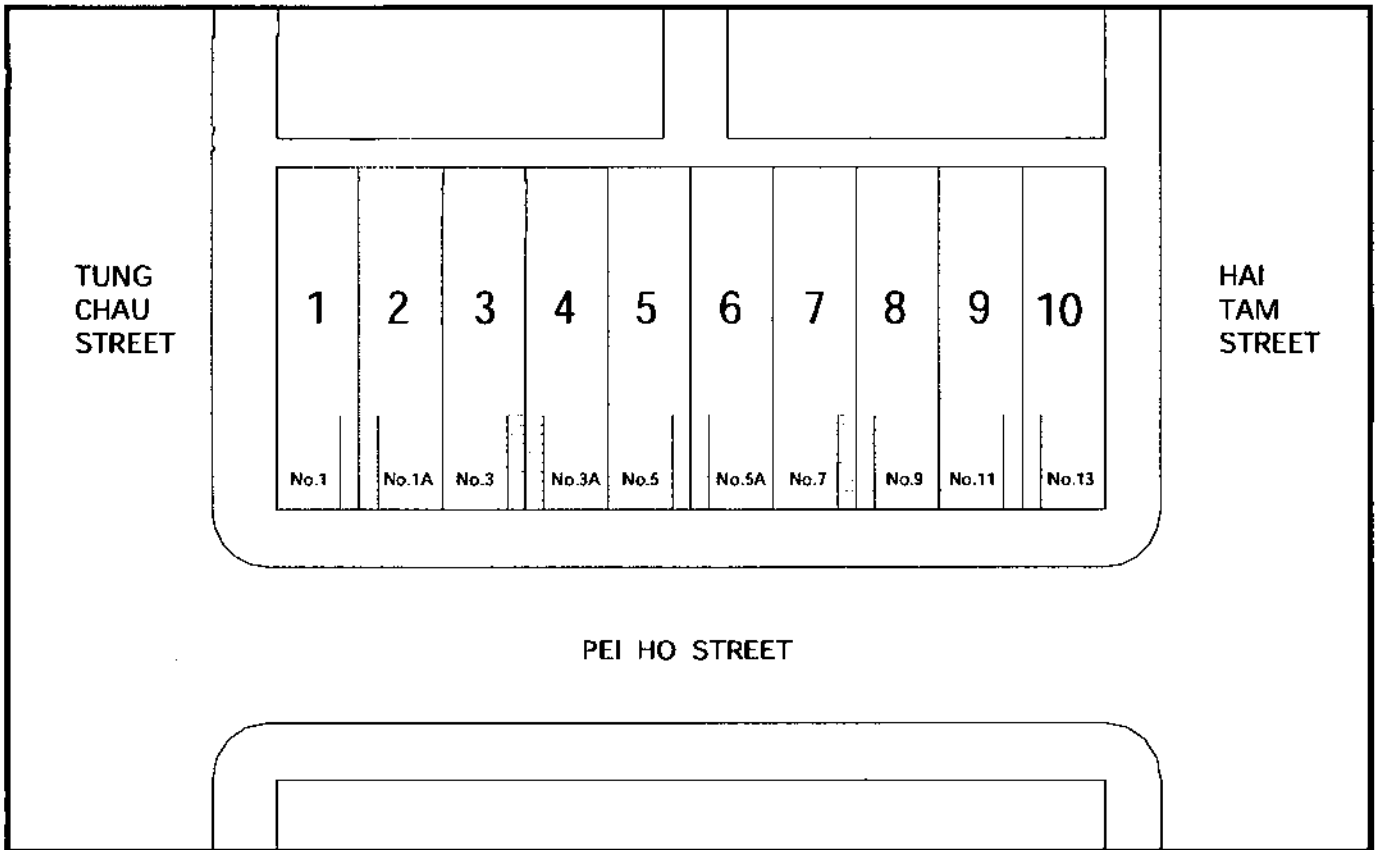


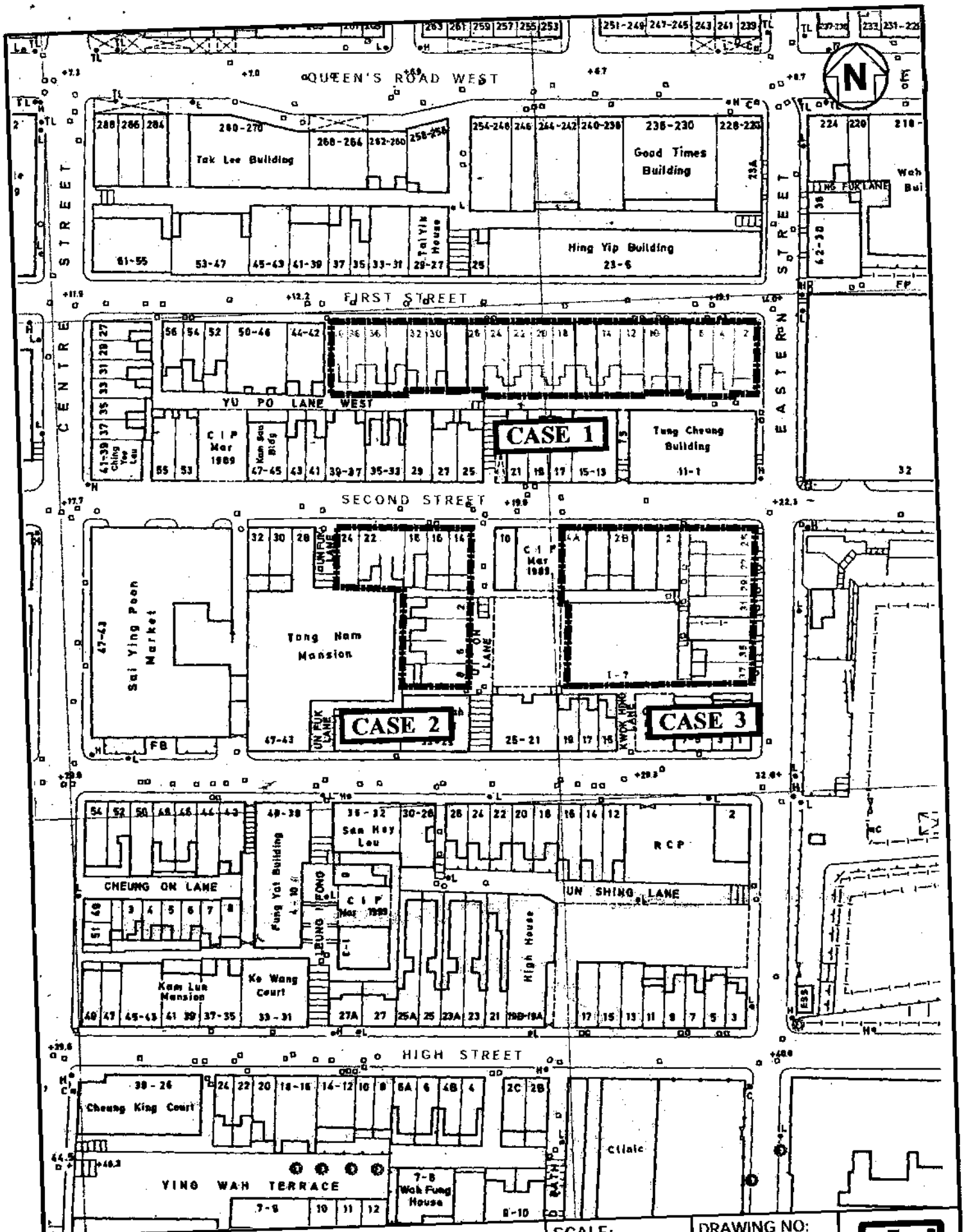
人手不足

除了重罰之外，屋宇署也會利用「利誘」方式，先劃出部分逾三十年樓齡、有潛在危險的舊樓，然後由該署人員「免費」替有關業主進行初步檢查。但若初步檢查發現樓宇有問題，業主必須自掏腰包作進一步的檢查，甚至進行維修工程。

屋宇署曾經計算，就算再沒有新增的僭建物，以現時的人手及資源，該署仍需要逾一百六十年，才能清拆所有現存的僭建物。故此，新上任的屋宇署長梁展文，必須不斷「度新燒」，才能徹底解決僭建物的問題。

本報記者 林文宗





TITLE: **FIGURE 1**

Indicate portion of lots not owned by the majority owner

SCALE:

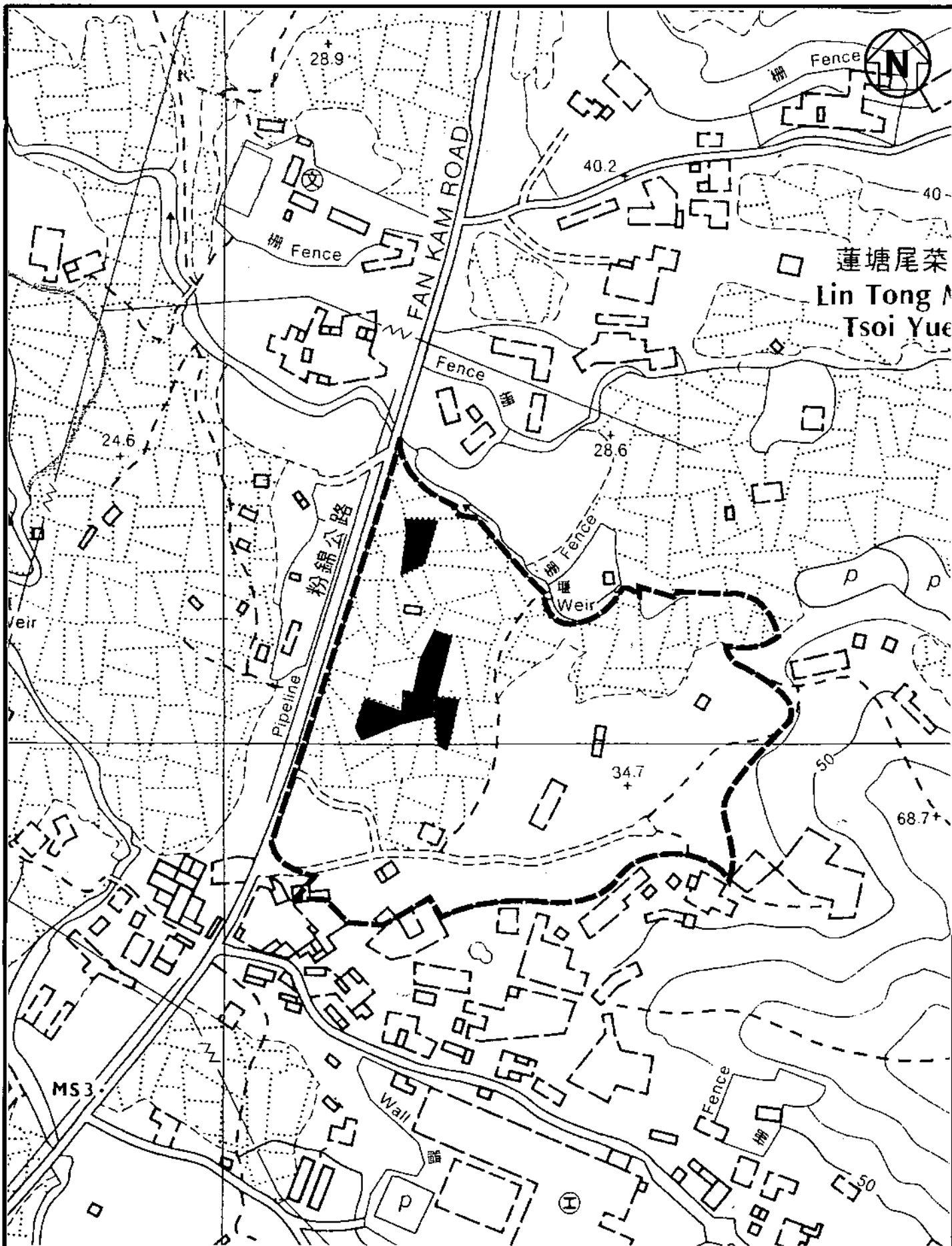
N.T.S.

DATE:

JAN 2000

DRAWING NO:





蓮塘尾菜
Lin Tong M
Tsoi Yue

TITLE: FIGURE 2

 Lots not owned by the majority owner

SCALE:
N.T.S.

DATE:
JAN 2000

DRAWING NO:



