



THE HONG KONG INSTITUTE OF  
**SURVEYORS**

香港測量師學會

12 May 2023

By Email ([cb1@legco.gov.hk](mailto:cb1@legco.gov.hk)) & Post

Clerk to Panel on Development  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Attn: Ms Connie Ho

Dear Sir,

**Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Bill 2022  
("the Bill")**

On behalf of The Hong Kong Institute of Surveyors ("HKIS"), we would like to submit our views and suggestions on the Bill for the consideration by the Government.

**1 HKIS major concerns**

1.1 The HKIS in general welcomes the Government's proposal to introduce the Bill to expedite the land development process with the amendment of the following 5 ordinances:

1.1.1 Lands Resumption Ordinance (Cap. 124)

1.1.2 Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127)

1.1.3 Land Acquisition (Possessory Title) Ordinance (Cap. 130)

1.1.4 Roads (Works, Use and Compensation) Ordinance (Cap. 370)

1.1.5 Railways Ordinance (Cap. 519)

1.2 The HKIS would like the Government to take this opportunity to improve the resumption and compensation arrangement so as to improve the efficiency of the resumption process and fairness to the affected persons under the above ordinances.

1.2.1 The interest rate for unpaid compensation needs to be fair taking into account the circumstances around the land resumption process and timing consideration.

1.2.2 The administration procedures of the land resumption can be vastly improved if a fair and transparent administration system to be implemented.

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## **2 Interest rate considerations for unpaid compensation**

- 2.1 The current determination arrangement of applicable interest rate by the Lands Tribunal under relevant Ordinances is to be maintained.
- 2.2 The current interest rate offered by the Government to affected persons for unpaid compensation under the ex-gratia compensation system at the lowest rate offered from time to time by the three note-issuing banks in Hong Kong on their 24 hours' call deposit is just too low. If the initiative of the Government is to increase the interest rate to make reference to HIBOR for ex-gratia payment offers, then this should be welcome by the affected persons.
- 2.3 The Government should speed up the payment of compensation as affected persons have been adversely affected by the significant delay in payment of compensation.
- 2.4 Leaving the decision of an appropriate interest rate to be determined by the Lands Tribunal is an important last resort to safeguard the interest of the affected persons.

## **3 Long processing time for compensation**

- 3.1 The very important factors for delay in payment are the lengthy process and onerous requirements of title deed verifications.
- 3.2 The payment of ex-gratia compensation has taken far too long (in many cases, more than a year upon acceptance of ex-gratia compensation payment).
- 3.3 There is a need to specify the "trace limit for the number of years" of title deed verification (like 15 years or even less), given that the property interest has already been reverted to the Government. What the Government really needs is the confirmation of the legal and beneficial owners and if there are other beneficiaries. There is no value in requiring a perfect/good title record.
- 3.4 The title deed verifications process could be kick-started within the three months' gazette period of land resumption. This would help to expedite the payment of compensation to the affected parties.

## **4 What is the use of Government "Professional Valuation" in the ex-gratia offer?**

- 4.1 The Government is required to conduct "Professional Valuation" under its policy for building land under ex-gratia compensation. But how this "Professional Valuation" procedure can really help the affected persons when just a valuation figure is provided in the ex-gratia offer.
- 4.2 There is no valuation report or valuation parameters stated in the ex-gratia compensation offer. How can the affected persons and/or their professional advisors like property valuers know that the "Professional Valuation" is done in a fair and reasonable manner. The Government holds the view that its "Professional Valuation" report was internal information and cannot be released to the affected persons.



4.3 In the absence of such “Professional Valuation” report or the relevant valuation assumptions / parameters (like town planning zoning, lease conditions, sales comparables considered), the affected persons and their professional advisors would be left in the dark. A lot of valuation due diligence work including site area, floor area of existing structures and interpretation of lease conditions would be needed, and this means very substantial costs to the society and make the agreement of compensation amount taking much longer time.

4.4 The HKIS has taken note of much more transparent and efficient process adopted in the:

- (I) Acquisitions of properties for urban renewal purpose made by the Urban Renewal Authority (“URA”); and
- (II) Valuation reports requirement under the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545).

In both situations, the affected persons will be given “transparency” of “Professional Valuation” by having the valuation reports and/or the valuation parameters adopted by the URA and the majority owners in these compulsory sale applications. The valuation reports should be used to facilitate the parties to come to a transaction, instead of just helping the Government to make an offer to affected persons.

## **5 Compensation assessment should be reasonable**

Please find below the situations which the affected persons have not been treated fairly by the Government:

### **5.1 Availability of vehicular access to a resumed lot had been disregarded**

5.1.1 There have been occasions that the Government has not paid proper regard to established rights of vehicular access in the assessment of compensation.

5.1.2 In some cases, portion of the resumed lot was resumed for road widening purposes pursuant to an earlier resumption some time ago. However, after completion of the road widening works, there is a strip of Government land between the remaining portion of the affected lot (i.e. the to be resumed lot) and the widened road so that the Lands Department considers that the boundary of the to be resumed lot is not directly abutting to the widened road and hence does not have vehicular access.

### **5.2 Ex-gratia compensation for building land departed from the announced policy**

5.2.1 When the land grant or Government lease of the resumed building lot contains site coverage restriction, the Government assesses ex-gratia compensation by applying ex-gratia rate for building land to the area under the permitted site coverage of the resumed lot only and the remaining portion was not entitled to any ex-gratia payment.

5.2.2 In the court case of Deluxe Ascent Limited v Director of Lands HCAL 2442/2018 [2021] HKCFI 811, Judge Chow was of the view that the Government’s practice of applying ex-gratia rate solely to area under permitted site coverage of resumed lot has departed from the policy on payment of ex-gratia compensation.



### 5.3 Accurate site area for assessing compensation

- 5.3.1 It is not uncommon that there are area discrepancies among registered areas in different records and surveyed area of lots especially those Old Schedule Lots mostly in the New Territories inherited from the historical records.
- 5.3.2 It is important to ensure that the area adopted for compensation assessment by the Government is accurate and be communicated to the affected lot owners. An accurate and fair assessment of the compensation amount is an essential element in the resumption process; this will help to minimise argument or even litigation between the Government and the affected owners. The HKIS suggests:
- (I) The Government should disclose the basis and source of the site area figure and land boundary information to the affected owner upon providing the ex-gratia compensation offer. Currently, affected owners could not easily ascertain the basis of area figure from the offer letter, especially for the site area under "Area Affected" (i.e. not the "Registered Area of Lot").
  - (II) Relevant publications by the Government on the resumption process should clearly state that affected owners could consult professional land surveyor for site area issues and seek such professional help for confirmation of site area with the Government. Such reasonable expenses incurred with the appointment of professional land surveyor is reimbursable under the relevant resumption ordinances.

We sincerely hope that our comments will be further explored by the Government. Please contact the HKIS Secretariat at 2526 3679 if you require more information or would like us to elaborate on the above.

Thank you for your attention.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Paul Wong', written in a cursive style.

Sr Paul Wong  
President  
The Hong Kong Institute of Surveyors

cc Sr the Hon Tony Tse, Member of the Legislative Council for Architectural, Surveying, Planning and Landscape (Email: [info@tonytsewaichuen.com](mailto:info@tonytsewaichuen.com))  
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