

Urban Renewal Authority: Negotiation for Property Acquisition and Partnership with Property Owners¹

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The Legislative Council is currently vetting the Urban Renewal Authority (URA) Bill. According to the present programme, the Legislators are to debate and pass the Bill in its June meetings before the summer recess of the Council. Once the Bill becomes an Ordinance, the existing Land Development Corporation (LDC), established in 1987, would be transformed and upgraded into a more powerful and resourceful organization, the URA. This 'new' authority is empowered to take up the implementation of urban land restructuring of Hong Kong in the coming future.

There are a lot of contentious issues concerning the URA that are worthy of discussions. Some key issues include the lack of transparency and public accountability of its future urban renewal strategy, the apparent contradiction in its operating principles (e.g. to be both profit making and welfare conscious) and the grave concerns about the legitimacy of its land resumption action. Although the ultimate objective of urban renewal in improving the existing obsolete urban fabric is noble, it must be implemented through an appropriate means. In this connection, this paper examines one of the most disputable means under the URA Bill, which is the use of 'compulsory purchase' of private properties in site assembly.

According to the Bill, the URA can directly apply to the government in using land resumption power to acquire the private properties within the urban renewal scheme area. There is no need for the URA to first negotiate with the property owners prior to this process. The objective is to shorten the time spent in site assembly and expedite the urban renewal process. Under this mechanism, therefore, the owners of the old properties lose their rights to negotiate the price for sale.

Put briefly, there are three reasons to support this proposal. First, LDC is required under the existing Ordinance to first negotiate with the property owners in acquiring their properties. This process is extremely time-consuming, resulting in an unsatisfactory progress of the urban renewal programme. Second, negotiations with the property owners tend to increase the overall interest costs of LDC in redeveloping the site. Third, the lack of maintenance and repair has hastened the structural deterioration of many old buildings. Thus, for the purpose of the public interest, the government proposes to speed up the pace of urban renewal and bring forward the completion time from 30 years to 20 years. The arguments behind these reasons are debatable.

To begin with, it is entirely legitimate for the government to resume private land in order to support the development of the society. However, Hong Kong is a free market economy that respects private property rights. One critical component in the private property rights is the owner's exclusive right to transfer and sell the property. When the government decides to resume private property, this action must not only be justified with full and legitimate reasons, but it must only be used as the means of the last resort. Seeing in this light, it is questionable whether the 'compulsory purchase' mechanism under the URA Bill is indeed legitimate and justifiable under the purpose of the public interest.

The compulsory purchase mechanism takes away the owners' right to possibly negotiate an acceptable price for the sale of their properties to URA. This constitutes a major blow to the current property rights system. We can draw an analogy from our legal system. The court is required to go through all the legal proceedings, including a fair hearing, before the defendant is charged guilty even in a situation where there has apparently been sufficient amount of evidence to prove the charge in the first instance. It would have been a major damage to our legal system if the government had decided to speed up such a process by eliminating the hearing of the defendant's case.

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Further, the government is probably over-reacting if land titles are resumed whenever the building becomes structurally unsafe. In those circumstances, the government should initiate its conventional procedures in tackling the 'dangerous buildings'. This mechanism does not involve the resumption of property ownership. To mitigate the risk faced by the third parties, such as potential dangers in falling concrete and illegal structures of old buildings, the appropriate policy should rely on strengthening law enforcement action against the responsible owners.

The mechanism of 'compulsory purchase' by URA is subject to vehement opposition from the property owners. This is because the owners understand fully that the land is to be resumed not for the construction of public infrastructure projects but for the subsequent joint venture development between URA and private developers. By profiteering in some urban renewal projects, the URA hopes to achieve self-financing in the long run. As such, the property owners wish to share the profits from these joint venture projects.

The government is obliged to optimize the use of public money and reduce its financial burden in urban renewal. However, it is also important for the government to protect the integrity of the property rights system and maintain a fair way of negotiation for private property transactions. To strike a balance between these two conflicting objectives, I consider it appropriate to include a statutory time period, say 2 years maximum, in the current URA Bill, to facilitate an amicable and voluntary settlement in property transactions between URA and the affected property owners. Only when favourable settlement cannot be reached within this statutory time limit would the URA initiate the compulsory purchase mechanism under the Land Resumption Ordinance.

This proposal can help to rally the public support for urban renewal and ameliorate social discontent in relation to the forced sale of their properties. Obviously, it may slow down the pace of urban renewal. However, there is no solid reason why the urban renewal strategy has to be completed within an artificial deadline of 20 years. Similar to the new airport project, comprehensive restructuring of urban land is a mammoth task. It is highly desirable to relax this tight programme with a view to reducing the possibility of social conflicts.

Overall speaking, the URA model, including the 'compulsory purchase' mechanism, represents a top-down, bull-dozer approach in urban renewal. This approach is operationally efficient. However, the major problem is that it seeks to put the interests of the URA and the property owners in direct opposition. Under the current mode of compensation, it is difficult to resolve this contradiction.

The best strategy is to create a partnership by aligning the interests of both the URA and property owners together. This can partly be achieved by promoting administrative decentralization, open information and public participation at the local level. Consideration should also be given to listing the URA in the stock exchange. There are several advantages in this proposal. First, public listing of statutory corporation, like the Mass Transit Railway Corporation, is now a precedent case for similar arrangement for the URA. Second, listing of URA can lessen the government financial burden in urban renewal. Since URA is a corporation with real property assets and the financial performance of its future projects is somewhat 'guaranteed' by the government through land premium reduction and plot ratio relaxation, it should be able to attract private funding from investors. Implementation of the Mandatory Provident Fund (MPF) Scheme by 2001 will pool together large sum of idle money looking for investment outlets. URA can be a reasonable long-term investment opportunity for some MPF investors. Third and most important, it enables a variety of possible means of compensation to the affected property owners. Financial papers such as shares and share options of URA can be offered to the owners. If they are optimistic about the future of URA projects, they can choose these financial papers instead of cash compensation. Of course, the stock market will determine the ultimate returns of these financial instruments.

Undoubtedly, this proposal contains considerable technical problems, which require further study. However, inner city problems are complicated in nature. It is hard to believe that 'compulsory purchase' can resolve all these problems in a politically sensible manner.

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