

**Fifth Meeting of
the Business Facilitation Advisory Committee**

***Agenda Item 3 : Regulatory issues related to the change of
usage of vacant industrial premises***

Purpose

This paper invites Members to discuss the regulatory issues related to the change of usage of vacant industrial premises.

Background

2. Various quarters of the community have called for the Government to relax restrictions on the usage of vacant industrial premises. Last year, a group of local trade associations commissioned the Hong Kong Polytechnic University to conduct a study on “Value-added strategy for vacant industrial buildings”.

3. The study pointed out that the manufacturing industry in Hong Kong has been declining and about 1.27 million m² of floor space in old industrial buildings was left vacant in 2005, forgoing \$7.5 billion of rental income a year. Outdated Government rules and regulations have severely restricted proposals for the alternative usage of vacant industrial premises. The current procedures for a change of usage¹ are considered long, complicated and expensive. Redevelopment of old industrial buildings is hindered by multiple ownerships.

4. The study made the following major recommendations for the consideration of the Government -

- (a) to further relax the definitions of "Industrial Use" and "Factory" in the relevant legislation and policies to expand the scope of permitted uses of industrial premises;

¹ An application may involve the seeking of a planning permission, lease modification/short-term waiver and building plan approval.

- (b) to enhance coordination among relevant departments to provide one-stop service in processing applications for change of usage;
- (c) to facilitate the conversion of vacant industrial buildings to other uses such as discount factory showrooms, budget guesthouses, retail shops, etc; and
- (d) to charge a government rent at not more than 3% of the rateable value of the site in lieu of premium for certain change of usage.

5. On 31 January 2007, Hon Mrs Selina Chow moved a related motion in the Legislative Council, urging the Government to assist in the transformation of traditional factory buildings to suit the present economic and commercial development.

The Administration's Response

6. The Government has taken measures to update our regulatory system to achieve an optimum use of existing industrial buildings. However, the redevelopment and transformation of old industrial areas as well as the improvement of the vacancy rate of industrial buildings are subject to various factors such as market demand, multiple ownership, building structure, building services and fire safety considerations. The Government will continue to monitor and review the market demand for industrial sites to cater for the economic development of Hong Kong, and discuss with the industry the way to further expedite the transformation through market forces.

Definitions of "industrial use" and "factory" and the use of "industrial" zone

7. It has been the Government's longstanding policy to assist in the transformation of old industrial buildings by means of planning. The Town Planning Board (TPB) has introduced a number of measures over the past years to enhance the flexibility in the use of industrial premises and land. These measures include –

- (a) the definition of “Industrial Use”² has been expanded to allow for industrial-related use;
- (b) permitted uses in “Industrial” zone have been extended to include uses such as “Office Related to Industrial Use”, “IT and Telecommunications Industries” and “Research, Design and Development Centre” related to industry; and
- (c) the TPB has also introduced the “Other Specified Uses (Business)” (“OU(B)”) zone, specifying that non-polluting industrial, general office and commercial uses are permitted in this zone. Since 2001, 248 hectares of land and land originally zoned as “Industrial” have been rezoned to other land uses, including “OU(B)”, “Residential (Group E)”, “Comprehensive Development Area” and “Commercial”.

Transformation of industrial buildings for other purposes

8. The transformation of industrial buildings takes time and has to tie in with the supporting infrastructure and market demand. The Government’s policy is to encourage all owners of the same old industrial building to apply jointly to the TPB for change of use of their building in whole. They can submit application for rezoning the land under section 12A of the Town Planning Ordinance.

9. To facilitate gradual transformation of old factory buildings and as a transitional and temporary arrangement, individual owners may apply for partial conversion of their industrial buildings for commercial use. In general, in the non-industrial portion on the lower floors of existing industrial or industrial-office (I-O) buildings in the “Industrial” zone and “OU(B)” zone, “Shop and Services” are uses always permitted, and planning permission from the TPB will not be required if a buffer floor is provided in such a building to separate such proposed uses from the industrial uses on the upper floors and no industrial uses are located within the non-industrial portion. However, where a buffer floor is not provided, planning permission from the TPB will be required, and planning

² “Industrial Use” means the use of any place, premises or structure for the manufacture, alteration, cleansing, repairing, ornamenting, finishing, adaptation for sale, breaking up, or demolishing or transformation of goods and materials; for the storage, loading, unloading or handling of goods and cargo; or for the training, research, design and development, quality control and packaging in relation to the above processes.

application for “Shop and Services” is restricted to those located on the ground floor of an existing industrial or I-O building.

Fire safety considerations

10. In processing applications for change of usage of industrial buildings, the TPB must pay due regard to public safety and other relevant factors such as the traffic and environmental impact. In view of public safety concern, applications for change of use on the ground floor of existing industrial and I-O buildings for “Shop and Services” must satisfy the fire safety requirements of the Fire Services Department, i.e. the aggregate commercial floor areas for buildings with and without sprinkler systems must not exceed 460m² and 230m² respectively. However, the 230m²/460m² criteria do not apply to cases involving conversion of the low zone of an existing industrial or I-O building for commercial uses if the commercial portion is completely separated from the industrial or I-O portion on the upper floors by a buffer floor of non-hazardous occupancy such as a car-parking floor. In all cases, separate means of escape should be available for the commercial portion. Should there be any alteration and addition works that would affect the structure of the building as a result of the change in use, prior approval and consent from the Building Authority will be required before commencement of the works.

Enhancing coordination among relevant departments and streamlining approving procedures

11. The relevant departments will continue their efforts to streamline and expedite the processing and approval of applications for changing the use of land or factory buildings, on the premise that the building and public safety requirements are met. The Government will enhance coordination among departments and review the approving criteria from time to time, in order to reduce unnecessary procedures, enhance transparency of the application process and shorten the time required.

12. Regarding the procedures for change of land use, planning applications are processed in accordance with section 16 of the Town Planning Ordinance and considered by the TPB within two months. Comments and requirements of various departments are considered in the process of handling planning applications.

Lease modification or temporary waiver

13. The land leases may be modified at a premium or temporary waivers may be issued at a waiver fee to enable the change of use of the industrial units into other permissible economic uses. In this regard, the Lands Department (LandsD) has issued a Practice Note No. 2/2003, which introduced a simplified procedure for the grant of temporary waivers with fees charged at standard rates for applicable cases. Owners could choose to pay waiver fee on an annual basis or on a lump sum basis for the lifetime of the concerned premises. LandsD generally needs three to five months to grant a temporary waiver

Way Forward

14. Members are invited to comment on the issue and suggest the way forward.

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