

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

Agenda Item 4 : Report on the Work of the Task Forces

Purpose

This paper reports on the work of the four business facilitation task forces since the last Business Facilitation Advisory Committee (BFAC) meeting on 6 March 2007.

Pre-construction Task Force (PCTF)

Review of the processing of lease modification and land exchange applications

2. The Lands Department (LandsD) is working out the implementation plan to take forward the recommendations of the review of the processing of lease modification and land exchange applications. One of the key elements is the estimation and requisition of additional resources required. The PCTF is aware that the manpower of the LandsD is overstretched in coping with the increasing workload brought about by the growth in land administration duties. The LandsD's bid for additional resources has the full support of the PCTF.

3. The LandsD has moved swiftly to implement all the four quick-wins recommended in the study report. The then Secretary for Housing, Planning and Lands and the then Secretary for the Environment, Transport and Works have jointly issued a letter internally, urging government departments to give priority and respond duly within the required timeframe to the LandsD's circulation of land transaction proposals. Departments were also asked to collaborate in resolving differences in requirements among departments expeditiously.

4. Furthermore, the LandsD, in consultation with the PCTF, has issued an application checklist to provide a clear guide on the information and documents to be furnished for a complete application. Case monitoring and management functions are enhanced within the LandsD. If a case is not ready for discussion at the District Lands Conference (DLC) within four months from the date of a validated application, the applicant will be informed of the reasons in writing.

5. Subject to availability of resources, the LandsD will give priority to launch a Pilot Scheme in two District Lands Offices (DLOs) in order to test run using dedicated teams to process lease modification and land exchange cases and centralising the premium assessment work from the two DLOs at the LandsD HQs. It is also putting on trial for six months from July the establishment of cross-district DLCs so as to increase the frequency of DLC meetings in some NT districts.

Benchmarking exercise on lease modification

6. At the last meeting, the Chairman asked the Secretariat to compare the relative performance of the lease modification process in Hong Kong and Singapore. The IBM Consultant, based on their knowledge of Singapore, has produced a brief comparison at *Annex I*. Their observations, together with the findings of the Secretariat, are summarised in the following paragraphs.

The control of land use

7. In Hong Kong, almost all land is government-owned. The LandsD has to manage over 110,000 hectares of leasehold land. In the absence of appropriate statutory powers, the Government relies heavily on lease conditions to effectively manage the land use. The alternative would be to enact new legislations for control purposes.

8. In Singapore, only 58% of the land is state-owned, of which two-thirds are used by government ministries and state organizations. Thus only 20% of the land, less than 14,000 hectares, is managed by the Singapore Land Authority (SLA). Because of the significantly smaller size of government-owned land for non-government use, the regulation of land use is all done through statutory controls.

The lease modification process

9. In Hong Kong, the LandsD provides a “one-stop” service for seeking agreement/comments by making referrals to departments concerned before approving the lease modification. Relatively, the turnaround time will be longer as many stakeholders will be involved.

10. In Singapore, the lease modification process is known as “Lifting of Title Restrictions” administered by the SLA. The Urban Redevelopment Authority (URA)’s approval provides for the backbone of

such a process to take place.

11. An applicant has to obtain prior clearance from relevant licensing and approving authorities, such as, the Fire Safety and Shelter Department, Land Transport Authority, Agri-Food and Veterinary Agency, Pollution Control Department, Ministry of Health, where appropriate, before seeking the URA's approval for change of use. Approval from the Housing Development Board (HDB) will also be required if the property is tenanted or sold by the HDB.

12. It takes four to eight weeks to obtain the URA's written approval for any material change of use of any building or land. For minor change of use, lodgement of change of use to the URA would be adequate.

13. With the URA's approval, the applicant will submit an application to the SLA for lifting of title restrictions. It will take 3.5 to 6 months to complete application, valuation, offer and acceptance of premium and modification of "State Title".

The premium assessment

14. In Hong Kong, the premium for lease modification is assessed on a case-by-case basis, taking into account the current market value.

15. In Singapore, there is a published table of development charge rates. The standard rates are pre-defined according to geographical location and 10 categories of use. Factors other than site location and land use will not affect the premium rate. Use of land other than the 10 categories of use is subject to valuation.

Conclusion

16. The benchmarking exercise showed that much of the difference in performance between Hong Kong and Singapore is explained by the land policy, legal framework, procedure and valuation method adopted by the two Governments.

17. Hong Kong should continue to look for opportunities to reduce overlapping jurisdictions on planning, land and building control functions and to enhance the transparency and efficiency of the premium assessment process.

Premium assessment – the Real Estate Developers Association of Hong Kong (REDA)’s suggestions

18. The REDA wrote to the BFAC Chairman in May on a number of suggestions to streamline and enhance the transparency of the premium assessment process. In response, the PCTF will set up a working group with representatives from the LandsD, PCTF, REDA and The Hong Kong Institute of Surveyors to study the proposals and explore improvement opportunities.

19. The PCTF will monitor the progress of the various action items.

Town Planning Task Force (TPTF)

20. The trade encountered difficulties in handling environmental and transport issues in planning applications. There were no specific guidelines regarding the noise compliance level for sites smaller than two hectares. Neither was the supply and demand forecast of car-parking space available to facilitate the planning of car-parking provision in a development proposal.

21. After discussion at the TPTF meeting, the Environmental Protection Department agreed to consider drawing up the respective noise compliance level. The Transport Department agreed to publish the demand and supply forecast of car-parking spaces by district.

22. In April, the Convenor wrote a letter to inform the five professional bodies, i.e. Hong Kong Institute of Planners, The Hong Kong Institute of Architects, The Hong Kong Institute of Landscape Architects, The Hong Kong Institute of Surveyors and The Hong Kong Institution of Engineers, of the improvement measures being considered by the Government.

23. The five professional bodies were also informed of the improvement measures implemented by the Planning Department (PlanD) as detailed in ***Annex II***, the streamlined process of the Appeal Board Panel (Town Planning), and the availability of pre-submission enquiry services (already in place for years).

24. The TPTF will monitor the progress of development.

Retail Task Force (RTF)

Regulatory review of the beauty products/cosmetics/medicine categories

25. The RTF continued to monitor the development of improvement proposals and their implementation. The trade urges that vitamins, minerals and other health supplements be treated differently or excluded from pharmaceutical products that require registration. The Department of Health (DH) has noted the trade's concern and is considering the trade's views in the context of producing a set of self-explanatory guidelines for determining if a beauty/health product will need registration. The DH is finalizing the guidelines and will release them soon. The DH has also planned to issue guidelines on re-registration requirements for pharmaceutical products in the third quarter of this year.

26. The RTF has also suggested the DH to conduct a comprehensive review of the whole drug registration process with a view to speeding up the registration time and removing unnecessary regulatory controls in a holistic manner. It is expected that the DH will take a view on the suggestion and revert to the RTF soon. The RTF is working on an in-house proposal for relaxing the advertising of pharmaceutical products. It will consult the trade before finalizing the proposal.

Allergen and nutrition labelling

27. The former Health, Welfare and Food Bureau has decided that it will enforce the allergen labelling requirements under the provisions of the legislation when it comes into effect in July. The results of recent tests on food items reflected that the trade was not conversant with the new labelling requirements. The RTF therefore wrote to the Bureau again in May, suggesting that more briefings be given to the trade on the new requirements. Retail traders were then invited to two briefings organized by the Centre for Food Safety in late May and early June.

28. The RTF had earlier put forward some suggestions on the proposed nutrition labelling scheme to the Administration with a view to minimizing its impact on the supply of food items and the SMEs. The RTF will continue to monitor the development of the scheme.

Mandatory Energy Efficiency Labelling Scheme

29. The trade generally finds the self-testing system that does not require product registration agreeable and the Administration has submitted

the Bill on the Scheme to the Legislative Council for scrutiny. The RTF appreciates that the SMEs have limited resources and that they might receive less favourable trading terms and have difficulty in gaining access to testing reports provided by overseas manufacturers. Accordingly, the RTF has made a written submission to the Bills Committee, suggesting that once a test report has been submitted for a particular appliance, other importers of the same model will not have to submit test reports of the same model under the proposed Scheme.

Concerns of the proprietary Chinese medicine (pCm) trade

30. In response to the concerns of the trade, the DH explained the distinction between pCm and health food as well as the flexibility built in for registration of pCm under different arrangements according to the history of sale, the composition and the claim of the pCm. The DH further elaborated its support provided to the pCm trade in the registration process. On the progress of processing applications for registration, the DH planned to complete all 14,000 applications for transitional registration by the end of this year. The RTF is collecting further views of the trade for follow up with the DH.

Food Business Task Force (FBTF)

Review of outside seating accommodation (OSA) for restaurants

31. The FBTF reviewed the progress for implementing the study recommendations at its meeting in May. New arrangement for streamlining the process for issue of land documents for OSA has been put in place. Departments concerned are now working on a more efficient way to conduct public consultation, finalizing the drafting of the application guide and simplifying the rules for referring OSA applications to the PlanD for processing. The Licensing Authority would review section 125 of the Public Health and Municipal Services Ordinance for feasibility in providing a statutory appeal mechanism for OSA applications. The FBTF will continue to monitor the progress for implementing the review recommendations.

Review on liquor licensing

32. The Efficiency Unit (EU) study team presented the review findings and recommendations and the implementation progress to the FBTF in May. The departments concerned have implemented a number of

short-term recommendations. Some notable ones include setting up an application tracking system, parallel processing of new applications alongside revocation of old licences, delegation of authority to the Licensing Offices for approval of non-contested cases, setting up Business Liaison Groups to improve communication between the trade and departments concerned, etc. A sample check of applications by the study team revealed that the implementation of the short-term measures did help to expedite the processing time.

33. The EU study team will continue to work closely with the bureau/departments concerned to take forward the remaining recommendations. For example, action is being taken to compile an enhanced licensing guide with revised application forms and performance pledges will be introduced for the major licensing processes. A proposal for the development of an IT system to automate the processing of liquor licences has been prepared for the consideration of the Liquor Licensing Board. The legal implication of the introduction of a notification system for temporary absence is being examined. As a long-term measure, the policy bureau has undertaken to conduct a legislative review at an appropriate time. The legislative review will cover the feasibility of issuing a liquor licence to a corporation or otherwise allowing multiple authorized persons to supervise the liquor licensed premises, extension of the licence duration, the possibility of introducing a classification for the licences based on the business nature of the premises, and obviating the need for a newspaper advertisement. The FBTF will monitor the progress of implementation of the recommendations.

Concerns expressed by the catering industry on the review of the Design Manual: Barrier Free Access 1997

34. Under the existing legislation, newly constructed or substantially altered private buildings are required to provide access and facilities for people with disabilities (PWDs). The obligatory and recommended design requirements for provision of the access and facilities are set out in the Design Manual: Barrier Free Access 1997 (DM97). Having reviewed DM97, the Administration had issued a draft revised Design Manual for public consultation which was completed last year. The Administration is finalizing the revised Design Manual, and plans to introduce the necessary legislative proposal to the Legislative Council by the end of 2007 or early 2008.

35. The catering trade supports in principle the provision of a barrier-free physical environment for PWDs though it considers that some

of the requirements governing the provision of barrier-free access and facilities for PWDs under the draft revised Design Manual proposed by the Administration are over-stringent. The trade hopes that the Administration will give due regard to the physical constraints in individual food premises and provide flexibility to the catering industry when implementing the Design Manual. For example, the installation of ramps leading to a higher floor level is considered difficult, if not impossible, in small restaurants because of the limited floor area. The trade requests that more trade consultation be conducted before finalizing the revised Design Manual. The FBTF will collect further information and more concrete proposals from the trade before taking up the matter with the Administration.

Review on food factory licence and the transfer of food-related licences

36. The trade expressed concern that since the implementation of the new licensing policy from 18 April 2006, many food factory operators such as those manufacturing soybean products and noodles had difficulties in transferring their food factory licences, albeit for the transfer of ownership to the next generation. Many of these food factories were set up many years ago and the businesses are not profitable enough to enable the operators to bring their old factories up to the present-day more stringent licensing requirements. To address the trade's concerns, the FBTF agreed to commission the EU to conduct a regulatory review on the food factory licence and transfer of all food-related licences. The objectives of the study are to review the regulatory regime of food factory and to identify improvement opportunities to help remove unnecessary regulatory controls on food factory licence and to streamline the transfer processes of food licences. The EU will soon commence the study which is expected to be completed in five months. The FBTF will monitor the progress of the review.

IBM Response to BFAC on International Benchmarking

Background

During the course of the consultancy study – “Review of the processing of lease modification and land exchange applications” commissioned by the Economic Analysis and Business Facilitation Unit – IBM performed research on equivalent processes in other jurisdictions that have similarities to Hong Kong.

2. The objective of the research was to understand the comparable processes and the experience of other jurisdictions, and identify any lessons to be learnt. Three jurisdictions were studied: the Crown Estate of the United Kingdom (UK); Australian Capital Territory (ACT), Australia; and Singapore. The findings have been documented in the Final Report of the consultancy study.

Considerations of In-depth Benchmarking on Singapore’s Processes

3. During the course of this research, desktop research on the Singapore land administration system was conducted. In particular, the Change of Land Use process of Singapore Land Authority (SLA), which was the most similar counterpart to Hong Kong Lands Department’s lease modification process (in particular the premium assessment procedures), was studied. Its application procedures, processing fee, and calculation of Differential Premium were examined.

4. We did not have access to the internal procedures of SLA’s Change of Land Use, as this information is not in the public domain. Therefore, the information available was mainly based on the high-level introduction (and some other supporting documents) provided on the SLA’s website.

5. We sought to acquire more in-depth information regarding the internal processes from the SLA, such as performance data. However, such information was not forthcoming from the SLA and this prevented detailed performance analysis.

6. Nonetheless, based on the accessible information on the Change of Land Use process, some observations regarding the feasibility of conducting an in-depth benchmarking between Hong Kong's and Singapore's land administration processes can be made.

7. First, the context in which land administration is conducted in Singapore is different from that in which the Lands Department of Hong Kong operates (this reinforced our observation on the uniqueness of Hong Kong's land administration). In Hong Kong, almost all land is government-owned. Land is managed by the Lands Department on behalf of the HKSAR Government. On the other hand, in Singapore, only 58% of the land is state-owned. Of this, two-thirds of the government owned land is used by various government ministries and other State organisations. Thus only 20% of the land in Singapore (which is less than 14,000 hectares) is actually managed by SLA. This is significantly smaller in scale compared with the total area of land that Lands Department has to manage (over 110,000 hectares).

8. Second, the much smaller proportion of land owned by government but used for non-government purposes in Singapore means that government has had to develop other forms of regulation, such as planning controls, regulations and licensing, to control the 42% of land which is not owned by government and where controls cannot be exercised through the Change of Land Use process. Thus the Singapore system is in reality more like other jurisdictions where government does not own most of the land, and statutory controls rather than land ownership are used to regulate land use.

9. Third, and linked to the second point, the Change of Land Use process in Singapore is largely concerned with premium assessment. This is a logical consequence of the second point above. Given that most land used for non-government purposes is not owned by the government, the government can rely upon the statutory controls and processes that exist to control such land use in relation to the government owned land it leases for other purposes. In fact, the Urban Redevelopment Authority (URA) of Singapore exerts control in the use of land across Singapore, which is by large independent from the SLA's Change of Land Use process. This in itself makes the Change of Land Use process much simpler than Hong

Kong's lease modification and land exchange process. A very large part of the time taken by the Hong Kong process is concerned with consulting other government departments about a whole range of planning and public policy issues and then developing lease terms which incorporate these controls and limitations. In the Singapore Change of Land use process, these elements can be left to the broader statutory controls used to regulate the majority of non-government owned land used for non-government purposes.

10. Fourth, even in the case of the land premium assessment, where one might expect the processes in Hong Kong and Singapore to be similar, Singapore adopts a simpler and more transparent process than that in Hong Kong. Generally speaking, the premium amount under Singapore's Change of Land Use process only considers two factors: site location and land use. The "Differential Premium" table (which is available for download from SLA website) defines a total of 118 geographical sectors (site locations) across Singapore and 10 categories of land use. Based on the available information, it seems that factors other than site location and land use are not considered when determining the premium. Thus two pieces of land in the same geographical sectors and of the same category of land use will have the same premium per unit of area regardless of other factors. It is open to discussion as to whether Hong Kong could adopt a simpler and more transparent premium assessment process as applied in Singapore. It is clear, however, that such a change would have much wider implications for Hong Kong's land market and for government revenues.

11. These factors highlight that the Change of Land Use process in Singapore is much less complicated than the lease modification process in Hong Kong. In reality, although the majority of land in Singapore is government owned, the majority of land used for non-government processes is not owned by government and there is no counterpart in Singapore for the lease modification and land exchange process in Hong Kong.

12. The scale of the differences suggests that there would be limited value in conducting substantial benchmarking research on the Singapore land administration process. Given the simplicity of the process, it is to be expected that the processing time for Change of Land use in Singapore will

be much shorter than that for lease modification and land exchange in Hong Kong. Yet this will be “comparing apples and oranges”, and the detailed practical lessons that would be learnt for Hong Kong would be limited.

13. While we were conducting research on the land administration of the other two jurisdictions (UK and ACT), the general impression was that the processes were sufficiently different, and the performance information available was both sufficiently different and patchy, to make direct benchmarking difficult. As is often the case with such comparative studies, the main lessons emerging are about the options for doing things differently. The main lesson to emerge was that Hong Kong is unique in deciding to enforce a broad range of planning and public policy issues through its role as landlord (and thus the lease modification and land exchange process) rather than through separate statutory controls. This decision places a huge burden upon the lease modification process and upon Lands Department.

Salient Findings from the Research

14. Although there were practical constraints in conducting a direct benchmarking exercise on process performance, we were able to identify a number of key observations which provided us some insights for formulating our recommendations. The following highlights some of the key observations from the research:

- Our review confirms that Hong Kong’s land policy and legal framework is very different from that which exists in other jurisdictions.
- In most other jurisdictions we assessed, there is a clearer separation between the landlord and tenant roles of government and the other regulatory and policy issues affecting land use.
- Other jurisdictions make more extensive use of pre-application discussions to identify issues and agree how they will be addressed.
- There is a right of appeal (e.g. within the ACT process) which introduces a judicial element into the administrative processes.

- There is better integration of town planning and land/property development procedures, hence avoiding some of the duplication that has been identified in the Hong Kong system with overlapping jurisdictions on planning, land and building control functions.

15. Ultimately, a radical shortening of the lease modification process would require a radical re-think – unbundling all these other considerations from the more straightforward landlord and tenant relationship. IBM has recommended that the Hong Kong SAR Government reviews such a change but for the moment this has not been accepted.

16. In the meantime, IBM recommended a series of steps to improve the management of the lease modification and land exchange processes in Lands Department and across government so that the processes are managed and pursued in a more focused way. We believe that further international comparison and benchmarking at this level may have some value in pursuing lessons from particular jurisdictions – for example, the pre-application procedures in the UK and the similar land processes in the ACT.

Improvement Measures Already Implemented by the Planning Department (PlanD)

Planning Applications

- (i) **Public Comments** – Since May 2006, comments on planning applications have been made available for inspection by the applicant and the public at the end of the first week of consultation instead of at the end of the 3-week period. The number of comments received will be published at the Town Planning Board's (TPB) web-site as well. Comments uploaded to the TPB web-site will be updated on a weekly basis.

- (ii) **Departmental Comments** – PlanD will process Government departmental comments in the context of the TPB Guidelines PG No. 27 and PG No. 18A which acknowledge the conceptual level of details at the stage of planning applications. If the comments raised by departments are not insurmountable problems, they should not be taken as matters that must be resolved at the planning stage in order to reduce the never ending requirements for supplementary information.

Regarding the recent requirements for exceptional details for hotel developments, a set of TPB Guidelines is under preparation to provide guidance to prospective applicants and the general public.

- (iii) **Deferment** – TPB may still consider requests for more than one deferment on a case-by-case basis if strong justification is provided for deviation from the TPB Guidelines which only allow for one deferment.

- (iv) **Discharging Planning Conditions** – A better use could be made of the existing arrangement for holding District Planning Conference (DipCon) by PlanD to resolve issues amongst departments relating to the implementation of individual planning projects and proposals. DipCon meetings are chaired by the Assistant Director (AD) of the respective district headquarters. In case of major issues, it will be chaired by Deputy Director of the District Branch. Depending on the nature of the issues involved, the case could be escalated to higher level within departments/bureaux or submitted to TPB for consideration.

A Practice Note (No. 1/2006) was issued by PlanD in May 2006, promulgating the arrangement. All DipCon meetings will be held once a month. Submission to DipCon can be made in the form of a short note to the relevant AD with a copy to the District Planning Officer three weeks before the scheduled meeting.

- (v) **Minor Amendments to Approved Schemes** - PlanD has streamlined the approval process of amendment to approved development proposal through categorization of amendments into Cat A and Cat B under the Town Planning (Amendment) Ordinance. A practice note was issued in December 2005.

- (vi) **Planning Review** – Since May 2006, PlanD’s stand, no matter it is the same or different from their views expressed at S.16 stage, will be stated clearly in the TPB paper.

Plan Making Process

- (i) **Submission of Draft Plan to CE in Council** – Should there be cases that further amendments to the draft plan are inevitable and cannot wait until the representations are cleared by CE in Council, PlanD will inform the concerned parties of the reasons for the delay. This has been implemented since April 2006.