

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

***Agenda Item 3(a) : Report on the work of the
Pre-construction Task Force***

Purpose

This paper reports on the work of the Pre-construction Task Force (PCTF) since the last Business Facilitation Advisory Committee (BFAC) meeting on 1 November 2007.

Work progress of the PCTF

2. In 2007, the PCTF's main area of work was to streamline the lease modification and land exchange processes of the Lands Department (LandsD). The current processes are broken down into two phases –

Phase 1 - Upon receipt of applications for lease modification or land exchange, the District Lands Office (DLO) will prepare the draft modified lease conditions or conditions of exchange after consulting other relevant government departments. Subject to the agreement of the District Lands Conference, DLO will issue a Provisional Basic Terms Offer (PBTO) for the applicant to consider acceptance.

Phase 2 - Upon acceptance of PBTO, DLO will proceed to complete premium valuation and recommend a premium to be audited by LandsD Headquarters and deliberated by the Valuation Conference/Committee (VC) chaired by the directorates of LandsD. VC's decision on the premium amount, together with the development conditions, will form part of the Binding Basic Terms Offer (BBTO), which will be issued to the applicant for acceptance.

Review of the processing of lease modification and land exchange applications (the Consultancy)

3. The Consultancy was commissioned by the Economic Analysis and Business Facilitation Unit with a view to streamlining the processes in

Phase 1, i.e. from receipt of applications to the issue of PBTO. It was completed in February 2007. The recommendations were supported by the PCTF and BFAC. The Administration had proceeded to implement a number of quick-wins. The PCTF monitored the implementation of the quick-wins and noted the following achievements/progress –

- (a) As a pilot run, a dedicated team will be set up in DLO (Hong Kong West & South), which has the highest number of lease modification/land exchange cases, with a view to expediting the processing of such cases. The results of the pilot run will be monitored by the PCTF;
- (b) Case monitoring has been stepped up and most of the departments were able to respond to LandsD's circulation of land transaction proposals within the expected timeframe; and
- (c) The Transport Department (TD) will continue to strive to give timely response to LandsD's referrals, and interim replies will be given if more time is required for consideration of complicated issues. TD has also assured their stance to allow flexibility in approving car park provision in development proposals, as per the standard lease condition.

4. Besides, in line with the practice of other relevant departments involved in the processes, TD has been requested to set up a consultation forum to exchange views on traffic matters with the trade and professional bodies. While TD is willing to discuss with applicants on case-specific issues, hold ad hoc meetings to deal with particular non-case-specific issues and attend the PCTF, if and when necessary, it has reservation to set up a regular consultation forum.

5. In order to further shorten the processing time, the Government was requested to consider the following medium to long-term solutions recommended by the Consultant –

- (a) confine the lease conditions to landlord and tenant issues;
- (b) examine potential to standardise lease conditions;
- (c) fully implement the concept of dedicated teams to handle lease modifications and land exchanges in all districts;
- (d) centralise premium valuation process; and
- (e) consider setting up an on-line application tracking system.

The Working Group on Review of Premium Valuation Process

6. In May 2007, the Real Estate Developers Association of Hong Kong (REDA) raised with the BFAC the problems causing delays in Phase 2, i.e. from the acceptance of PBTO to the issue of BBTO. They considered that many projects did not proceed either because of disagreement over premium or delays in the valuation process. REDA considered that the Government should also take into account the consequential loss of economic development and job opportunities forgone as a result of the lengthy valuation process. A Working Group on Review of Premium Valuation Process (Working Group) was then set up under the PCTF to review the process.

7. To expedite the valuation process, to achieve an agreeable premium and to reduce the number of appeal cases, the Working Group has made the following recommendations which had the full support of the PCTF –

- (a) LandsD to advise applicants of the tentative date when VC will deliberate the premium value to facilitate case monitoring and project management;
- (b) Applicants to be allowed to give a 15-minute presentation at VC in order to highlight fundamental issues which are critical to the premium value;
- (c) To speed up the valuation process, DLO should only prepare a skeleton valuation for the LandsD Headquarters to prepare the full valuation for VC's deliberation, i.e. centralisation of valuation;
- (d) After VC's decision on the premium, LandsD to inform the applicant of the premium figure and the basis of valuation within three days. Where necessary, the applicant can give a counter-offer of premium value within five days for VC's consideration. This arrangement will facilitate early settlement of premium and reduce the number of appeal cases;
- (e) LandsD should establish a formal channel to exchange views with the trade on valuation parameters;
- (f) LandsD should regularly review the valuation parameters to catch up with the market pace and consult the trade before changing important valuation parameters, e.g. the development profit; and

- (g) LandsD should re-consider the Expert Determination Mechanism (EDM) proposed by REDA. Under the proposed EDM, a third party will be appointed to determine a premium after considering the separate valuations by LandsD and the applicant. EDM will help break the deadlock when both parties could not agree on the premium value after many rounds of premium appeal.

8. LandsD participated in the Working Group's discussion and their formal response to Recommendations (a) to (g) are summarised below –

Recommendation (a) :

At present, applicants are informed of the estimated date when he would expect to receive BBTO. LandsD will advise the applicant of any change of that date.

Recommendation (b) :

LandsD proposes further communication with the trade to assure the trade that their views will continue to be fully presented to the VC.

Recommendation (c) :

LandsD will launch a pilot on centralisation of premium assessments for cases from a selected DLO and review the pilot scheme as to the effectiveness and other implications in about a year's time.

Recommendation (d) :

LandsD is consulting relevant parties about the implications of the proposed revised procedures, and proposes that the subject be fully deliberated in the formal channel to be set up in response to Recommendation (e).

Recommendation (e) & (f) :

LandsD agrees that a formal channel should be set up for exchange of views on valuation parameters, and will contact the Hong Kong Institute of Surveyors with a view to taking forward the matter.

Recommendation (g) :

The feasibility of EDM had previously been deliberated thoroughly. Nevertheless, LandsD is prepared to consider suggestions/

comments raised by REDA and other interested parties, and seek legal advice, where necessary.

9. Regarding the EDM, the then Housing, Planning and Lands Bureau had raised, in 2005, a number of issues, inter alia, on impartiality, confidentiality and implications on public revenue that had to be addressed before the EDM could be further explored. However, the PCTF considered that the EDM proposal warranted re-consideration as the latest proposal contained new elements from REDA, including implementation details, e.g. composition of the expert committee, appointment of committee, binding effect, procedures and time limits, etc.

Way forward

10. Members are invited to note the work progress of the PCTF and discuss the Working Group's recommendations.

Economic Analysis and Business Facilitation Unit,
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