

Is the Land (Compulsory Sale for Redevelopment) Ordinance Constitutionally Sound?

by
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Mr. Yeung was called to the Bar in 1997. Prior to that he was admitted as a solicitor in England and Wales and in Hong Kong and practised as a solicitor in the litigation department of an international firm. He was a contributor to Halsbury's Laws of Hong Kong Volume 18(1) Maritime Law (Butterworths) and has authored a book on the law of unjust enrichment in Hong Kong.

The Land (Compulsory Sale for Redevelopment) Ordinance, Cap. 545 allows the majority owner of the undivided shares in a lot to obtain a court order for the sale of all the undivided shares in a public auction. The minority owners of the lot are required to dispose of their interests in the lot to the successful bidder. The justification for such interference with property rights is urban renewal. The Ordinance covers buildings in respect of which redevelopment is justified due to their old age or very poor state of repair.

In practice the majority owners are developers who very often are the sole bidders. Competition in the auctions is very rare. Minority owners have argued that the Ordinance infringes Article 105 of the Basic Law.

This talk considers if the Ordinance strikes a fair balance under the proportionality test and will deal with two questions concerning justiciability, which have been raised in the cases.

References will also be made to the Land (Compulsory Sale for Redevelopment) Ordinance (Amendment) Bill 2023.

Cases to be looked at will include:

- Bond Star Development Ltd v Capital Well Ltd [2004] 2 HKLRD 855
- Capital Well Ltd v Bond Star Development Ltd (2005) 8 HKCFAR 578
- Day Bright Development Limited & Others v Choi Pak Ling & Others [2014] 4 HKC 364
- First Kind & Anor v Liu Keng Chor [2016] 3 HKLRD 39
- Intelligent House Ltd v Chan Tung Shing & Others [2008] 4 HKC 428
- Able Luck Development Limited v Limited v Biel Crystal Manufactory Limited LCSD 18000/2018 (22 April 2022)
- Pacific Base Holdings Ltd and Others v Lee Hop Biu and Others CACV 426/2020 (31 May 2020)
- Luck Most Limited & Others v Good Movement Limited LDCS 11000/2020 (24 February 2023)

Scan to Calendar



Code: **EVT000000426**

Level: **Intermediate**

Date: **14 June 2024 (Friday) (Amended)**

Language: **English**

Time: **14:30 - 16:00**
(Reception starts at 14:00)

Accreditation(s): **LSHK 1.5 CPD Points**

Venue: *Option of:*
(1) **Online** via Zoom; or
(2) **Kornerstone Institute**
15/F, Hip Shing Hong Centre
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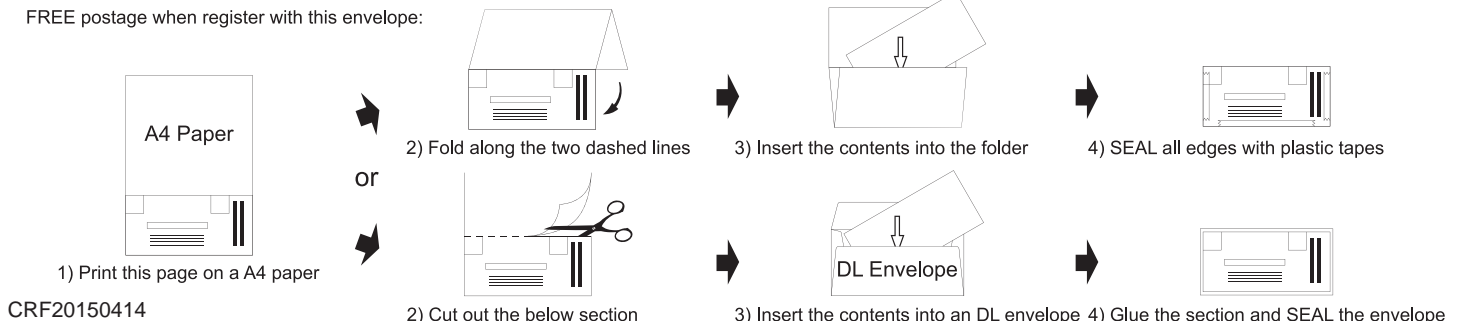
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