

Imposition of BC in Lease Modification / Land Exchange Cases

In respect of lease modification or land exchange cases involving lots to be used for residential and non-residential purposes, the circumstances under which Immediate BC¹ or Deferred BC² will be imposed³ and the circumstances under which no BC will be imposed are generally set out below: -

(a) Imposition of an Immediate BC

- (i) The lot is vacant at the time of completion of the lease modification or the land exchange; or
- (ii) The lot is subject to an unfulfilled BC; or
- (iii) The lot is to be used for residential purpose, except for situations as mentioned in paragraphs (c)(ii) or (c)(iii) below; or
- (iv) The lot is to be used for non-residential purposes, and the gross floor area (“GFA”) of the existing building(s) on the lot is less than 30% of the total GFA permitted under the lease after completion of the lease modification or the land exchange; or
- (v) Other situations that warrant the imposition of an immediate BC as LandsD considers appropriate, e.g. cases where the lot is zoned “Comprehensive Development Area” and planning permission has been obtained such that upon redevelopment there are public facilities required to be provided within the lot which will also be required to be constructed and brought into operation within a specified period.

¹ The BC will take effect upon execution of the lease modification or land exchange.

² The BC will take effect on the date when consent to commence works for demolition of the existing building(s) is issued by the BA. For the avoidance of doubt, where a deferred BC was contemplated during the processing of lease modification and land exchange applications, yet the existing building has already been demolished pending finalization and execution of the legal documents in respect of the lease modification and land exchange, under such circumstances the BC will take effect at the time of execution of the documentation.

³ Wherever a BC is imposed, the “restriction on alienation prior to compliance” and “one assignment of the whole lot prior to compliance” will also be imposed.

(b) Imposition of a Deferred BC

The lot is to be used for non-residential purposes, and the GFA of the existing building(s) on the lot is not less than 30% of the total GFA permitted under the lease after completion of the lease modification or the land exchange, except for the situation as mentioned in paragraph (c)(i) below.

(c) No BC to be Imposed

- (i) The lot is to be used for non-residential purposes, and the GFA of the existing building(s) on the lot is not less than 60% of the total GFA permitted under the lease after completion of the lease modification or the land exchange, and the said existing building(s) can be used for the purposes permitted under the modified lease attaining not less than 60% of the total GFA permitted under the modified lease without substantive adaptation or conversion works; or
- (ii) The lot is to be used for residential purpose, but is within a Residential Density Zone⁴ 3 or 4 and the number of residential units to be produced is less than 50 as estimated by LandsD; or
- (iii) The lease modification or land exchange is minor or technical in nature which does not involve a redevelopment of the lot, e.g. cases where adjustment of lot boundary is required but such does not give rise to any increase in development intensity.

LandsD shall have the sole and absolute discretion to decide whether a particular case falls within any of the above situations. For cases which do not entirely fit with any of the above situations, LandsD shall at its sole and absolute discretion determine whether a BC should be imposed and the period thereof if it is decided to impose one. For the avoidance of doubt, nothing herein shall in any way fetter or affect or prejudice the rights of the Government, the Director of Lands and their officers under the relevant lease or their rights as the lessor or landlord, and all such rights are hereby reserved.

⁴ Reference may be made to Chapter 2 (Residential Densities) of the Hong Kong Planning Standards and Guidelines.