

CONTROLLING OFFICER'S REPLY

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(Question Serial No. 3249)

Head: (91) Lands Department
Subhead (No. & title): (-) Not Specified
Programme: (1) Land Administration
Controlling Officer: Director of Lands (Ms Bernadette LINN)
Director of Bureau: Secretary for Development

Question:

In his 2014 Policy Address, the Chief Executive announced the introduction of the Pilot Scheme to facilitate early agreement on land premium payable for lease modification/land exchange applications, with the objective of expediting land supply for housing and other uses. The Pilot Scheme was proposed to be reviewed in 2016, after a trial period of two years. However, the Lands Department (Lands D) decided in November 2016 to defer the review of the Pilot Scheme by two years. In this connection, will the Administration inform this Committee:

- a) the justifications for Lands D's decision to defer the review of the Pilot Scheme;
- b) details of each arbitration case for lease modification/land exchange application under the Pilot Scheme since its introduction, with the result of each arbitration case and the reason(s) for each unsuccessful case;
- c) Lands D's response to criticisms against the Pilot Scheme such as the overly narrow scope of the arbitration, the absence of any discussion on how the land premium payable is determined, and the Administration's reluctance to set an upper cap on the land premium payable, making the risk of using arbitration become unforeseeable as the arbitration result is binding; and
- d) Lands D's plan to facilitate the use of the Pilot Scheme, in light of the overall lackluster response to the Pilot Scheme since its introduction?

Asked by: Hon SHEK Lai-him, Abraham (Member Question No. 11)

Reply:

- a) and b) Up to the end of February 2017, the Lands Department (Lands D) had extended a total of 19 invitations to lot owners to settle premium discussions through arbitration under the Pilot Scheme in respect of their lease modification/land exchange applications.

Among the 19 invitations, one case with a net increase of about 30 flats had proceeded to arbitration and was concluded in December 2015. In another case, while agreeing in principle to arbitration, the applicant eventually decided to accept the land premium proposed by Lands D before proceeding to arbitration. The applicants of the remaining 17 invitations have chosen to continue premium negotiations with Lands D.

Separately, Lands D declined one application for arbitration which did not meet the policy objective of increasing land supply. Subsequently that case was settled through premium negotiation.

As a relatively new initiative, time is needed for the Pilot Scheme to gather momentum. Given the limited number of cases handled, the Government has decided to extend the Pilot Scheme for two years in order to accumulate more experience. We will conduct a general review of the Pilot Scheme after more experience has been gained.

- c) The purpose of the Pilot Scheme is to facilitate early agreement on land premium payable for lease modification/land exchange applications, with the objective of expediting land supply for housing and other uses. Hence, the scope of the Pilot Scheme is confined to the amount of premium. The trigger point under the Pilot Scheme is for a case to have failed agreement after at least two appeals during which there would have been substantial exchanges of views on the premium assessment. In addition, substantive discussions will be conducted with the issues in dispute crystallized and set out in a List of Disputes which will be put to determination by the arbitrators during the arbitration process.

The arbitration mechanism is a consensual dispute resolution process to allow an independent and impartial third party to adjudicate the premium payable based on arbitration terms and conditions agreeable to both parties. It will not be appropriate to set any cap or minimum on the land premium payable. To ensure that arbitration will yield additional supply of floor space, it is necessary that the arbitration result is final and binding.

- d) The Government will continue to select suitable lease modification and land exchange cases which fulfill the general criteria under the Pilot Scheme and invite relevant applicants to use arbitration to determine the amount of land premium payable. Private land owners can also make requests for arbitration on suitable lease modification/land exchange applications under processing. Meanwhile, the Government has received comments from some stakeholders on implementation details including the detailed terms of the draft template of the Arbitration Agreement. The Government will fine-tune administrative arrangements along the way and welcome any suggestion for further improvement of the Pilot Scheme.

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