

LOWERING THE THRESHOLD OF COMPULSORY SALE FOR REDEVELOPMENT TO ACCELERATE URBAN RENEWAL

AUGUST 2022

OVERVIEW



To help address the problem of aging buildings in Hong Kong, urban renewal is being promoted through the private market to meet the development needs of Hong Kong. In 1999, the Government enacted the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) ("the Ordinance"), with a view to speeding up urban renewal more effectively and making it more viable for private owners to redevelop their properties.

To further expedite the redevelopment of old buildings, the Government gazetted the "Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice" in January 2010. The Notice then came into effect on 1 April 2010, lowering the threshold for application to the Lands Tribunal for compulsory sale on three classes of lots, from not less than 90% of ownership, to not less than 80% of ownership. The three classes of lots are:



a lot with each of the units on the lot representing more than 10% of all the undivided shares in the lot;



a lot where each of the buildings erected on the lot has been issued with an occupation permit of at least 50 years before the relevant date; and

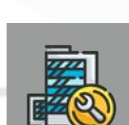
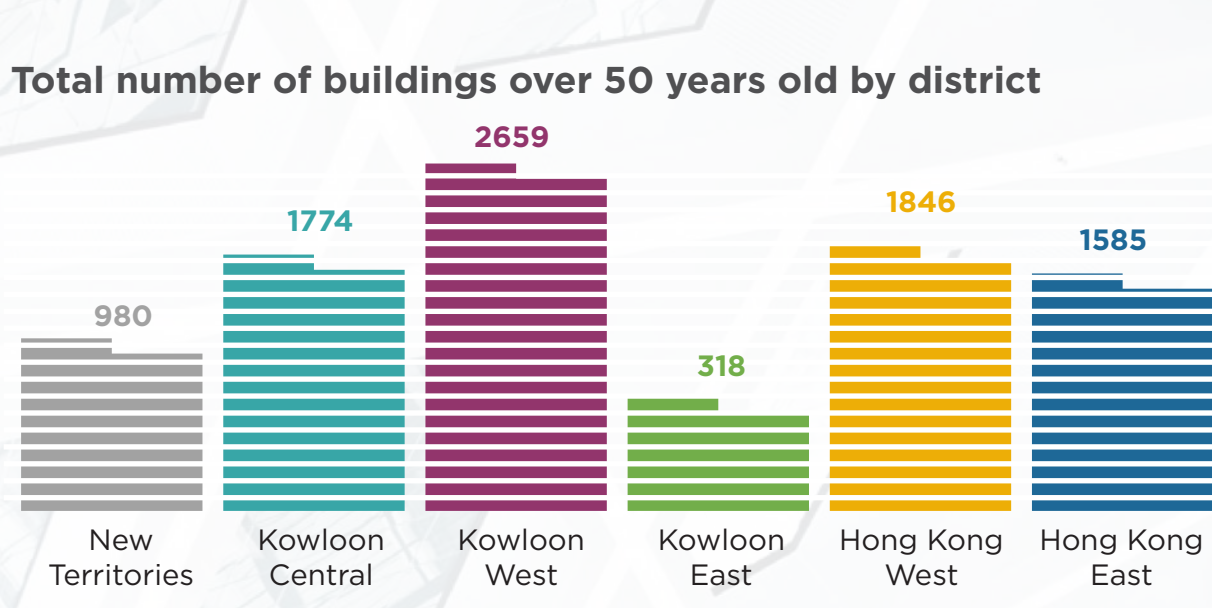


a lot that is not located within an industrial zone and where each building erected on the lot is an industrial building issued with an occupation permit of at least 30 years before the relevant date.

REASONS FOR REDEVELOPMENT OF AGING BUILDINGS

Most buildings in Hong Kong are now predominantly concrete structures with a design life of 50 years. Urban aging will lead to a series of building safety and public health problems, while the increasing maintenance costs of the buildings will also become a heavy burden for individual owners.

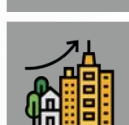
Total number of buildings over 50 years old by district



Currently about 9,000 buildings are aged 50 years or above

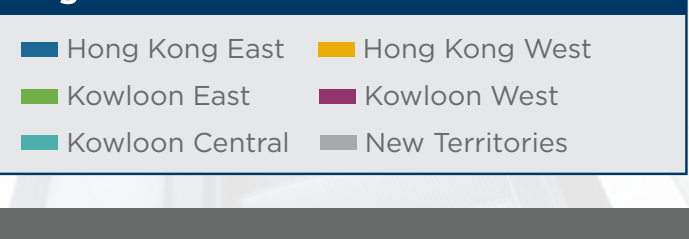
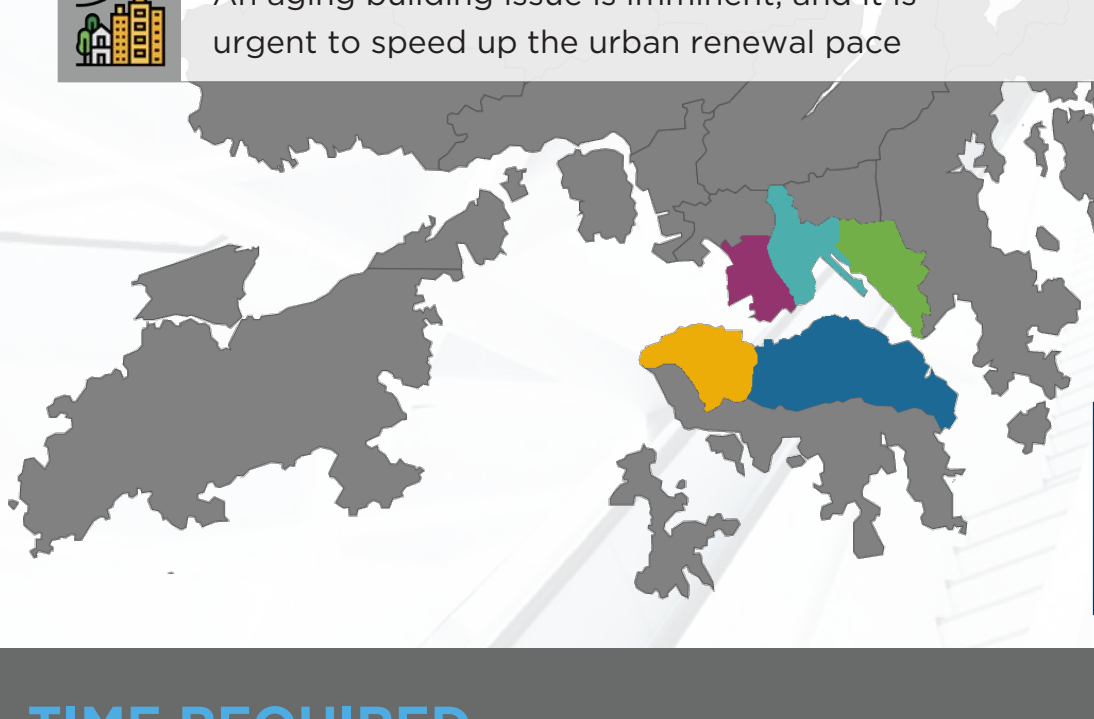


Most existing buildings are mainly made of concrete, which has an expected lifespan of about 50 years



An aging building issue is imminent, and it is urgent to speed up the urban renewal pace

In the report "Towards a Planning Vision and Strategy Transcending 2030" published in October 2021, the Planning Department highlighted that there were more than 198,000 residential units aged 50 years or above, as at 2018. Thirty years on from then there will be more than 854,000 residential units for buildings aged 50 years or above.



TIME REQUIRED FOR THE COMPULSORY SALE PROCESS

The processing duration of the compulsory sale depends on the complexity of the case, the schedules of the Lands Tribunal, the legal teams of both parties, and the expert witnesses, as these will all affect the timing of scheduled hearings. Generally speaking, the greater the number of respondent owners, the longer the processing time. For cases filed from 2020 to 2021, it took an average of 22 months from filing an application to the Lands Tribunal to obtaining a compulsory sale order.



APPORTIONMENT OF RESERVE PRICE IN COMPULSORY SALE CASE

When an order for sale is issued, the Lands Tribunal shall set an auction reserve price. The net auction proceeds, after deducting auction expenses and professional legal fees will be apportioned to each owner based on the ratio of their unit's "Existing Use Value" (a value to be determined by the Lands Tribunal in case of a dispute).

The apportionment is calculated as follows:

Apportionment to owner* =

$$\frac{\text{Existing Use Value of owner's unit}}{\text{Existing Use Value of the entire property on the lot}} \times$$

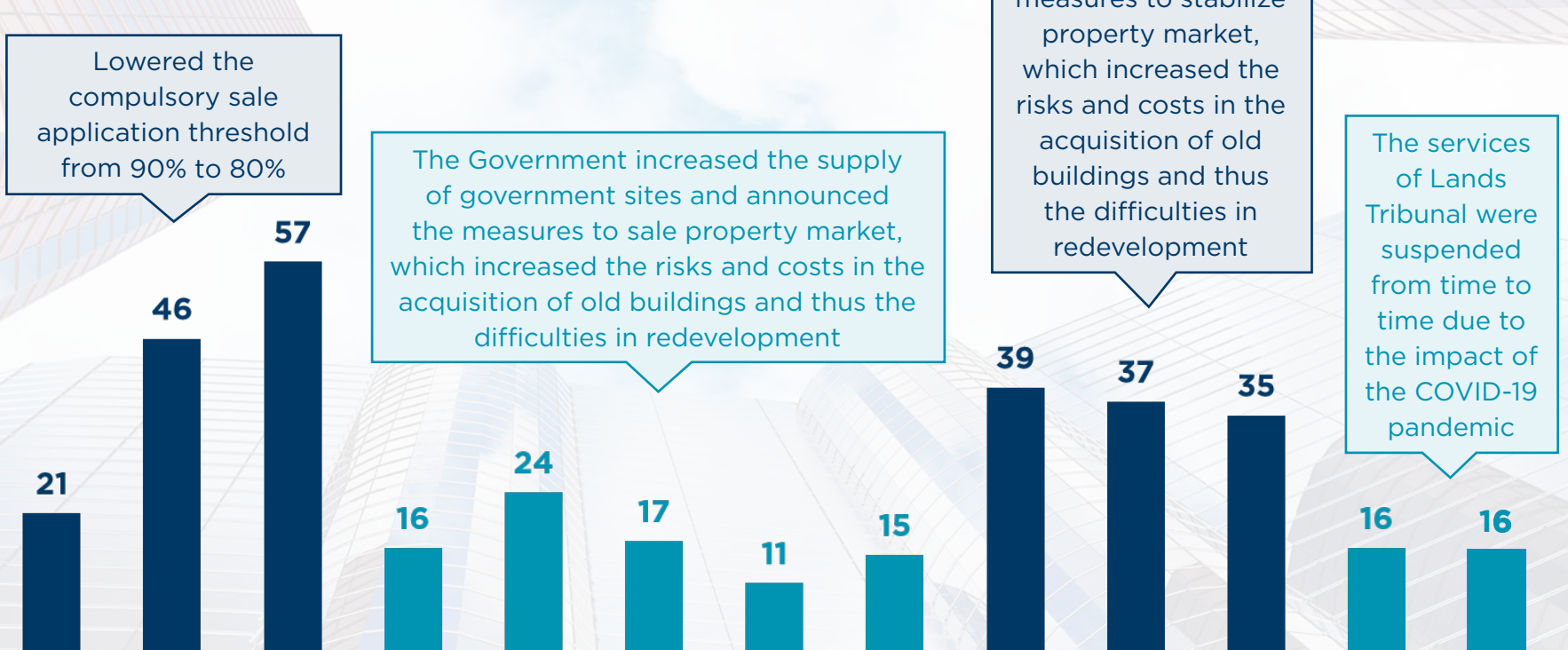
(Sale Proceeds - Expenses of Public Auction and Professional Legal Fees)

* Owners need to settle their obligations to the Government (such as rates and government rent) as well as the discharge of encumbrances (such as bank mortgages)



Number of Applications for Compulsory Sale Over the Past 10 Years

Statistics on Applications For Compulsory Sale Order from 2010 to 2022



POLICY REVIEW

Lowering the Threshold for Compulsory Sale

The Government had proposed in the 2021 Policy Address to lower the threshold for compulsory sale subject to Cap. 545, in order to speed up the redevelopment of old buildings.

"... explore ways to lower the compulsory sale thresholds under the Land (Compulsory Sale for Redevelopment) Ordinance and expedite the redevelopment of aged buildings. During the process, the Development Bureau will give due consideration to factors such as the minority owners' interests and the building conditions, as well as gauging the views of stakeholders."

In April 2022, the Development Bureau pointed out the need to leverage the private market to speed up urban renewal in face of rapidly aging buildings. In this regard, the Development Bureau has studied to lower the threshold for compulsory sale under the Ordinance and improve the operation mechanisms. The Bureau also strived to put forward proposals in the third quarter of 2022.



Implications of the Policies

The housing shortage and aging buildings are two pressing social issues in Hong Kong. Given the acute land shortage in Hong Kong, the redevelopment of aged buildings is subject to many constraints, seriously hampering the city's urban renewal progress. If the Hong Kong Government can lower the threshold for compulsory sale, the redevelopment potential of older properties could be unleashed. In turn, this would help to replenish short-to-medium term land resources for new housing.

Moreover, many of the city's oldest buildings are generally poorly managed and maintained, posing serious threats to public health and safety. We believe that lowering the threshold for compulsory sale could accelerate the pace of replacing buildings in disrepair, and thereby better safeguard public interest.



CONCLUSION

If the Government does lower the compulsory sale thresholds, we expect the number of applications to increase significantly. Our Valuation and Advisory Services Team offers customized and independent professional advice for compulsory sale for redevelopment cases in relation to Cap. 545. When appointed as an expert witness, we provide impartial and reasonable evaluation for the property's existing use value and redevelopment value, while protecting your best interests in any dispute.



Andrew Chan

Managing Director,
Head of Valuation & Advisory Services,
Greater China

andrew.kf.chan@cushwake.com



KB Wong

Executive Director,
Head of Valuation & Advisory Services,
Hong Kong

kb.wong@cushwake.com



Henry Cheng

Senior Director,
Valuation & Advisory Services,
Hong Kong

henry.hy.cheng@cushwake.com

Disclaimer: This report has been produced by Cushman & Wakefield for use by those with an interest in commercial property solely for information purposes. It is not intended to be a complete description of the markets or developments to which it refers. The report uses information obtained from public sources which Cushman & Wakefield believe to be reliable, but we have not verified such information and cannot guarantee that it is accurate and complete. No warranty or representation, express or implied, is made as to the accuracy or completeness of any of the information contained herein and Cushman & Wakefield shall not be liable to any reader of this report or any third party in any way whatsoever. Cushman & Wakefield shall not be held responsible for and shall be released and held harmless from any decision made together with any risks associated with such decision in reliance upon any expression of opinion in the report. Our prior written consent is required before this report can be reproduced in whole or in part.