

**Business Facilitation Advisory Committee  
Pre-construction Task Force**

***Review of the processing of lease modification  
and land exchange applications***

**Purpose**

This paper reports the recommendations of the *Review of the Processing of Lease Modification and Land Exchange Applications* by the IBM China/HK Limited.

**Background**

2. To enhance the processing of lease modifications and land exchanges by the Lands Department (LandsD), the EABFU has commissioned the IBM Global Business Services (the Consultant) to conduct the review. The Consultant has reported the initial findings to the PCTF at its meeting on 11 September 2006. Prior to the development of the improvement measures, the Consultant has met with external and internal stakeholders at **Annex 1**. The review now comes to its final stage with a draft final report issued.

**Key recommendations**

3. The Executive Summary prepared by the Consultant at **Annex 2** summarises the findings and recommendations. For ease of reference, major ones are highlighted below :

- (a) Review the nature and objectives of including conditions addressing issues of government departments other than LandsD into the lease (2 of para 1.10).
- (b) Set up dedicated teams for processing lease modification and land exchange applications (4 of para 1.10).
- (c) Set up dedicated teams for valuation process (21 of para 1.10).

- (d) Establish mechanisms for pre-submission consultation to identify key issues with applicants and departments and agree how best to handle them (35 of para 1.10).
- (e) Impose a time limit for valid applications to be submitted to District Land Conference (DLC) even with issues to be resolved. (24 of para 1.10).
- (f) Strengthen DLC's role as the forum for resolving issues. (26 of para 1.10).
- (g) Establish a rigorous case management and tracking approach to manage the process (11 of para 10).
- (h) Consider on-line case tracking system accessible to applicants (17 of para 1.10).

### **Next Step**

5. Members are invited to comment on the draft final report and its recommendations.

Business Facilitation Advisory Committee Secretariat  
November 2006

## **List of external stakeholders consulted**

Real Estate Developers Association of Hong Kong

Urban Renewal Authority

MTRC

MVA Hong Kong Limited

New World Development Ltd.

The Pre-Construction Task Force

The Hong Kong Institute of Architects

The Hong Kong Institute of Landscape Architects

The Hong Kong Institute of Planners

The Hong Kong Institute of Surveyors

The Association of Architectural Practices

17 Surveying Firm Task Force

Buildings Department

Civil Engineering and Development Department

Drainage Services Department

Fire Services Department

Highways Department

Home Affairs Department

Housing, Planning and Lands Bureau

Planning Department

Transport Department

Water Services Department

## **List of Internal Stakeholders Consulted**

Mr. Tom Berry, Deputy Director/Legal, LACO  
Mr. John Corrigall, Deputy Director/General, LAO  
Mr. Herbert Leung, Deputy Director/Specialist, LAO  
Mr. Jimmy Merritt, Assistant Director/Kowloon, LAO  
Mr. Francis Ng, Assistant Director/New Territories, LAO  
Mr. Graham Ross, Assistant Director/Hong Kong, LAO  
Mr. Tony Moyung, Chief Estate Surveyor/Valuation Section, LAO  
Ms Doris Chow, District Lands Officer/Sai Kung, LAO  
Mr Simon Wang, District Lands Officer/Hong Kong West & South  
Mr. King-kau Sin, Chief Lands Surveyor/Headquarters, SMO  
Mr. Ronald Chan, Senior Land Surveyor/Tsuen Wan & Kwai Tsing, SMO  
Miss Ruth Lee, Senior Estate Surveyor/Land Supply & Redevelopment Section, LAO  
Miss Joanne Lou, Senior Estate Surveyor/Land Supply & Redevelopment Section, LAO

Association of Government Cartographic Staff  
Association of Government Land & Engineering Surveying Officers  
Association of Government Local Land Surveyors  
Association of Government Survey Officers (Estate)  
Association of Government Technical & Survey Officer  
Land Executives Association  
Land Inspectors Association  
Lands Department Estate Surveyors Association



# **Economic Analysis and Business Facilitation Unit:**

Review of the processing of lease modification  
and land exchange applications

**Draft Final Report**

**27 November 2006**

## Section 1: Executive Summary

### Our work

- 1.1 This draft Final Report provides our findings and contains our recommendations as a result of the consultancy review of the processing of lease modification and land exchange applications of the Lands Department, commissioned by the Economic Analysis and Business Facilitation Unit (EABFU).
- 1.2 The key objective of this consultancy has been to make recommendations for speeding up the processing of lease modification and land exchange applications which are administered by the Lands Department. This has required a review of existing arrangements, identifying bottlenecks and causes of delay under the present system and the scope for making improvements. In the light of this analysis we have formulated options for streamlining and/or speeding up the processing and we have developed a range of recommendations for making change in the short, medium and longer term.

### Key findings

- 1.3 Our key findings can be summarised as:
  - 1.3.1 The system of lands administration as administered in Hong Kong is unique amongst advanced developed economies of the world.
  - 1.3.2 The revenue raised from the premiums paid for land exchanges and lease exchanges is a significant source of income for the Hong Kong government.
  - 1.3.3 There are potential conflicts in the role of the Lands Department as a “landlord” and as a government department in seeking to achieve land use, development control and public policy objectives on behalf of other departments.
  - 1.3.4 Over the years the differing roles have become blurred and confused with the result that there are now overlapping areas of administration as between Lands Department and some other departments (most notably Planning Department).
  - 1.3.5 These overlapping areas of administration result in duplication of effort with development projects being subject to repetitive circulations between relevant government departments at different stages.
  - 1.3.6 In its processing of lease modifications and land exchanges the Lands Department has been relied upon to reflect the public policy aims and development control requirements of many departments and seeks to resolve any conflicts or inconsistencies as they arise on each individual case. This has created significant complexity in the lease modification and land exchange application process and placed a significant burden on

Lands Department as it seeks to expedite applications where many other departments are also involved.

- 1.3.7 Lands Department has a series of performance pledges and internal targets about the time it will take to complete various steps. Lands Department's four pledges relating to lease modifications are three weeks to reply to an application, 22 weeks from valid application to Provisional Basic Terms Offer/ rejection; 12 weeks for issue of legal document after binding basic terms acceptance and 12 weeks for completion of technical modification. It meets these pledges and targets, or comes close to meeting them, in most cases. The average time taken to complete applications over the last three years is 296 days if the counting is limited to the steps where the action rests with Lands Department.
- 1.3.8 However, these pledges and the reporting of performance, exclude many 'non-counting days' when action rests with other departments or the applicant. Based on the last three years, the average time taken to complete the processing of applications can be very long: on average 733 calendar days (for non-technical cases), with a great deal of variation and some cases taking much longer. On average 'non-counting days' account for 59% of the time taken for such applications.
- 1.3.9 There is real concern amongst the property sector and amongst the relevant professions that this scale of delay in approving lease modifications and land exchanges significantly hampers the efficient operation of the market and indeed Hong Kong's attractiveness as a place for investment.
- 1.3.10 Lands Department currently sees itself as only able to take responsibility for those elements of the lease modification and land exchange process which fall within its direct control (in effect the 'counting days') but not for the events outside its control (non-counting events where the applicant or another department is in the lead). We believe this means there is a fundamental mismatch in expectations because the applicants are concerned about the total elapsed time taken for their applications, whilst the main agency in government for this process, Lands Department, sees itself as only able to be accountable for only that part of the process in its direct control.
- 1.3.11 We believe this mismatch is all the more serious because the staff within Lands Department who are responsible for this work are not dedicated to it as their sole duty, but have to balance this duty alongside many other priorities, some of which can be seen as more urgent and pressing. In effect there is no government agency taking overall responsibility for the process, and those who are closest to having an overall coordinating role have to fit in the work on a part-time basis alongside many other matters.
- 1.3.12 The staff resource devoted to the processing of land exchanges and lease modifications is estimated to be around 107 full-time equivalents out of the

2,470 Lands Department staff (staff directly handling Lands Department business but excluding general grades and supporting staff) complement i.e. only 4 %. Of the 107 Full-Time Equivalents (FTEs), 71 of the FTEs are within the LAO and take the main responsibility for processing, whilst support is provided by LACO (with 14 FTEs) and SMO (with 22 FTEs) .

- 1.3.13 There is a consistent view from Lands Department staff and many managers that the level of resources available for lease modifications and land exchanges is not adequate and that this is a major cause of the long time now being taken to process cases. Lands Department has indicated that a previous study showed that there were 127 FTEs engaged in this work in 1995. This suggests there has been a reduction of staff resources spent on land transactions since then whilst, on the other hand, Lands Department is now subject to performance pledges in this and many other areas of its work.

### **Main conclusions**

- 1.4 Our main conclusions flowing from these findings are:
- 1.4.1 The overall elapsed time it takes to complete lease modifications and land exchanges is very long and many stakeholders believe this represents a barrier to the efficient operation of the market in Hong Kong.
- 1.4.2 We believe there is considerable scope for reducing the amount of time taken to process land exchange and lease modifications if the relevant departments and bureaux were prepared to adopt a range of short, medium and long-term changes to the system.
- 1.4.3 The most fundamental change would be for the Lands Department to confine its lease terms and conditions to purely landlord and tenant matters leaving other departments to seek to achieve their policy aims through their specific policies and powers derived from their own Ordinances: such a change would cut down considerably on the amount of consultation that Lands Department currently carries out with other departments and in seeking to resolve differences amongst those departments.
- 1.4.4 Such an approach would represent a significant change in the way the Hong Kong Government has traditionally carried out its land administration; it would take time to prepare and introduce.
- 1.4.5 The next element of significant change we propose is to set up dedicated teams with an integrated management structure, and improved case management and tracking, to handle lease modifications and land exchanges. We would also want to see a shift in the ethos in this team so that it takes a responsibility for driving and speeding the whole process for lease modification and land exchanges, including when the primary action rests with other departments. Of course, even if this is achieved, performance measurement will need to distinguish clearly where the time is being taken and where delays are occurring.

## Recommendations

- 1.5 Our recommendations involve a variety of areas.
- 1.5.1 Confining Lands Department's role in applications for lease modifications and lands exchanges to landlord and tenant issues.
  - 1.5.2 Creating an integrated, focused team within Lands Department, reducing the potential for conflicting priorities on staff time, by setting up dedicated teams for processing lease modifications and land exchange applications up to lease execution, coupled with enhanced case management and monitoring of the progress of applications by management.
  - 1.5.3 Streamlining the land premium valuation work by limiting the role of the dedicated teams to developing valuation notes and conducting the actual valuation at Lands Department headquarters. We have presented two options for meeting the requirements for checks and balances – either maintaining the current separate audit at headquarters prior to submission to the Valuation Conference, or preferably doing away with this step and relying upon the Valuation Conference – which we believe is the practical arrangement today.
  - 1.5.4 Empowering Lands Department, through the support of both Housing Planning and Lands Bureau (HPLB) and Environment Transport and Works Bureau (ETWB) to improve co-ordination and responsiveness when Lands Department circulates applications for comment.
  - 1.5.5 A range of other measures designed to improve the quality of applications through pre-application consultation and further guidance on the content required for applications, and speed or simplify the process
  - 1.5.6 We have recommended significant changes in the way that resources are managed and directed. We have sought to estimate the level of resources required to implement these recommendations, given the limited information currently available. Because of the way this work is managed as part of multiple tasks in the same team of personnel it has been hard to assess the adequacy of the current level of resources and the overall level of case working resources which would be required to support the successful implementation of our recommendations. Given the other issues at play we do not believe that the right answer is simply to add more resources. However, we have recommended the addition of posts to take account of the need for a new structure and to implement some of our detailed recommendations. We have also suggested consideration be given to increasing the level of case working resources, at least initially, to allow increasing turn round times to be tackled. We recommend that Lands Department studies the resource requirements in more detail once it has decided exactly how to implement our detailed recommendations. In the mid term, once our recommended integrated approach is in place, together with much improved management information, it will be possible

for Lands Department to assess much more robustly the optimum level of resources required and adjust resources in tandem with caseloads in future.

- 1.6 Of all the recommendations, it is the one contained in 1.5.2. above that we believe has best potential for speeding processing time in the short-term, provided the dedicated teams are adequately resourced. DLO professional staff currently handle a range of functions of which the processing of modifications/ land exchanges is just one. Consequently there are conflicting demands on their time, which adversely impacts on the actual time spent on modifications/exchanges. Perhaps more importantly, creating such a team would provide an integrated, dedicated management structure and team focussed on improving performance in this area. As Lands Department has emphasised, it will be important to ensure that the impact on other work is understood and managed

**Benefits – reductions in processing times**

- 1.7 We consider that our recommendations have the potential to substantially reduce the processing time from valid application to completion. In our view it is as important to target a reduction in the overall elapsed time taken for applications alongside focusing on the Lands Department performance pledges which cover a proportion of the time. Of course the extent to which Lands Department can deliver a reduction in other elements of the process will depend on support from HPLB and ETWB and other bureaux, and support and cooperation from other departments, and indeed applicants.
- 1.8 Given the nature of the management changes we recommend, and the need to review resource levels, it is difficult to calculate exact targets for improvement based on quantified data. The full potential for reducing processing times will only become clear once all of our recommendations are in place and the integrated management team for the new dedicated team is able to assess performance, the opportunities for further improvement, using much improved management information.
- 1.9 Nevertheless, we believe that setting quantified targets for improvement has an important part to play in making it clear that the government, and Lands Department in particular, is committed to delivering real improvements in the processing times for lease modifications and lease exchanges. This a necessary response to the significant level of concern amongst the industry and relevant professions about the current processing times. Our view is that it ought to be possible to deliver a reduction of 25% in the counting days element of the overall time taken – that is reducing the 300 or so counting days by say 75 days or so. In addition equipping Lands Department to coordinate inter-departmental consultation more effectively, and to provide effective guidance and support to

applicants, offers the opportunity to reduce the non-counting elements which account for nearly 60% of the total elapsed time.

### **Detailed recommendations**

- 1.10 We set out below a list of our detailed recommendations and the broad timeline over which they should be pursued. In doing so we have categorized the recommendations into short (within 1 year), medium (within 2 years), and long term (within 3 years, with some steps proceeding thereafter). As an overarching recommendation, Lands Department should consider and implement our recommendations as an integrated change program driven from the senior levels of the Department with a clear commitment to delivering substantial reductions in the time taken to process lease modifications and land exchanges. This recommendation is repeated in the list below so that it can be used as a checklist for full implementation.

#### **Addressing the conflict between Lands Department's role as both land administrator and as landlord:**

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| <b>Short term</b>  | 1 Relevant bureaux and departments to consider the arguments and recommendations set out in this report and decide whether to proceed to limit the lease modification and land exchange processes to landlord and tenant issues (consider visit to the Australian Capital Territory) (8.12)      |
| <b>Medium term</b> | 2 Review the nature and objectives of the other policy and regulatory issues currently built into the lease conditions to ensure that other mechanisms for approval and enforcement exist, and that these processes operate in a timely fashion so that the overall process is shortened. (8.15) |
| <b>Long term</b>   | 3 Implement the agreed changes over a planned timetable to limit the lease modification and land exchange process to landlord and tenant issues. (8.12)  |

### **Setting up dedicated teams for processing lease modifications and land exchange application**

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| <b>Short term</b>  | <ul style="list-style-type: none"> <li>4 Lands Department to consider options set out in report for the structuring of dedicated teams and decide on the most appropriate operational arrangements (8.27)</li> <li>5 Lands Department to further examine the resource requirements and seek agreement to the required increases in resources (8.34 – 8.36)</li> <li>6 Consider and run a pilot for dedicated teams handling land exchanges and lease modifications in one urban area DLO and in one DLO in the New Territories which have the busiest case-loads, if it is decided that full implementation cannot be pursued in the short term. (8.27)</li> <li>7 If Lands Department decides not to proceed with the establishment of full dedicated teams or a pilot, consider the creation of a dedicated team at the centre to monitor and chase the progress of lease modifications and land exchange applications – working with the staff in DLOs who would still be performing a range of duties. (8.28)</li> <li>8 Establish ‘relationship managers’ for each of the main departments to drive a programme of improved coordination around the work on individual cases. (8.24.6)</li> <li>9 Establish ‘relationship managers’ for applicants with a significant and steady flow of lease modifications and land exchanges (8.24.9)</li> </ul> |
| <b>Medium term</b> | <ul style="list-style-type: none"> <li>10 Fully implement the dedicated teams to handle land exchanges and lease modifications from application to execution of lease documents (taking account of the lessons from the pilot if it is decided to run one). (8.23)</li> </ul>  |

### **Enhancing monitoring of the progress of applications by management:**

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| <b>Short term</b> | <ul style="list-style-type: none"> <li>11 Establish a more detailed and rigorous case management and tracking approach so that the management of the new dedicated teams will have significantly improved ability to manage the practical operation of the land exchange and lease modifications processes (8.29)</li> <li>12 Change the regular review meetings to a one to one (SES:ES) or two to one (DLO:SES:ES) basis. (8.30)</li> <li>13 Make full use of the current CMS to support enhanced case management and monitoring (8.32)</li> <li>14 Define the full case monitoring and tracking requirements in detail and assess whether the current CMS system can meet them now if more effectively used, or requires enhancement or replacement. (8.38)</li> <li>15 If enhancement or replacement is required, assess the work and costs</li> </ul> |
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**Enhancing monitoring of the progress of applications by management:**  
involved in enhancing or replacing the system. (8.37)

Medium term

- 16 Assess the level of interest and support amongst applicants for permitting applicants access to the on-line case tracking by means of creation of a web-based system. (8.38)
- 17 Consider and plan implementation of a web-based system to permit applicants access to the on-line case tracking (provided that the idea is supported by the applicants). (8.30)

**Setting up dedicated teams for valuation process**

Short Term

- 18 Agree to streamline the valuation process to overcome the apparent current duplication between the initial valuation in the DLO and the work of the central Valuation Section. (8.43)
- 19 Consult the Independent Commission Against Corruption (ICAC) and the Financial Services and Treasury Bureau (FSTB) on our recommended option that the Valuation Conference be treated as the check and balance for process and probity of valuations (which is in effect the position now) (8.45)

Medium term

- 20 Lands Department to further examine the resource requirements and seek agreement to the required increases in resources (8.48)
- 21 Implement the new valuation process with the following elements (8.46)
  - New dedicated teams (see above) to produce the background element of the Valuation Notes (i.e. not the valuation).
  - An enhanced Valuation Section, to carry out the actual valuation
  - Valuation Conference to validate the valuation and ensure process and probity
- 22 If ICAC or FSTBY are not able to agree on the adequacy of the proposed safeguards and checks and balances, set up a dedicated Valuation Section team to deliver the valuations and a separate Valuation Audit Team (with additional resource requirements and a reduction in the benefits). (8.45)

### Enhancing intra-government co-ordination

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| <b>Short term</b>  | <p>23 Issue a joint letter by Housing Planning and Lands Bureau (HPLB) and other relevant bureaux including Environment Transport and Works Bureau (ETWB) (or other central authorities) to all affected departments emphasising the need to give priority to lease modifications and land exchanges and to participate actively in the implementation of the recommendations. (8.53.1)</p> <p>24 Impose a time limit after which a valid application must go to DLC, irrespective of whether all of the potential departmental concerns have been resolved. Actual time limit requires further consideration by Lands Department but we would suggest considering four months.(8.57.1)</p> <p>25 Strengthen the management capabilities and skills of lands estate surveyors in terms of both the core land transactions processes and customer service – to support staff in exercising their discretion and expediting progress in appropriate cases. (8.57.2)</p> <p>26 Update/strengthen/re-affirm the role of the DLC as the form for resolving issues. (8.57.3). As part of this provide specialist training for chairpersons in the running and control of meetings including dispute resolution. (8.57.4)</p>   |
| <b>Medium term</b> | <p>27 Renegotiate and reconfirm the target time within which departments will respond to circulated applications. Reduce initial response target from four to three weeks, but also establish target times for the resolution of all departmental issues so that cases can be resolved. (8.53.2)</p> <p>28 The enhanced (or potential enhanced system for) tracking of cases recommended above to include tracking the dates when cases are circulated to departments and the dates when they respond. (8.53.3)</p> <p>29 Analyse the data to show the relative performance of departments in responding to Lands Department, and circulate the results to all the departments which are regularly involved in the lease modification and land exchange process to provide feedback on performance against the pledges. (8.53.4, 8.53.5)</p> <p>30 Escalate through the heads of departments and if necessary the policy bureau if another department consistently fails to meet the agreed targets. (8.53.6)</p> <p>31 If the tightening of targets and monitoring of departmental responses does not succeed, consider impose a cut-off for responses and contributions in the same way as Planning Department (whilst taking account of the different circumstances). (8.54 and 8.55)</p> <p>32 Seek to identify scenarios where inter-departmental differences regularly occur and agree a policy line among departments, rather than tackling all such cases on a case by case basis. (8.59).</p> |

### Enhancing intra-government co-ordination

- Long term**
- 33 Once the targets, tracking and analysis process have settled in, consider publicizing the targets and performance of departments in responding to circulation and resolving issues – either through full publication or through sharing them with key stakeholder groups outside government. (8.53.7)

### Other recommendations

- Short term**
- 34 As an overarching recommendation, Lands Department should consider and implement our recommendations as an integrated change program driven from the senior levels of the department with a clear commitment to delivering substantial reductions in the time taken to process lease modifications and land exchanges (9.5).
- 35 Consider establishing mechanisms for pre-submission consultation between the applicants and key departments to identify the key issues and agree how best to handle them, after further consultation with applicants. (8.64.1)
- 36 Lands Department to provide a framework or checklist for applicants to follow in providing information in support of applications (8.64.2)
- 37 Lands Department to provide guidance to applicants to emphasize that the onus for ensuring the accuracy and completeness of applications rests with them, and that failure to provide full information (or changes in applications) cause delay, so that Lands Department can proceed more quickly to circulation rather than checking every facet. (8.64.3)
- Medium term**
- 38 Lands Department to examine the potential to further standardize the terms and conditions imposed in lease modifications and land exchanges (8.68.1)
- 39 Codify precedents on terms and conditions and make them readily available to staff preparing terms and conditions for new lease modifications and land exchanges (8.68.2)
- 40 Consider the scope for simplifying lease modifications and land exchanges by replacing the detailed statement of requirements with references to the relevant statutes where the requirements are based on legislation. (8.68.3)

## Addressing the organisational skill and cultural issues

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| <b>Short term</b>  | <p>41 Examine and agree how to address the skill and cultural issues which we identify in this report as essential to the success of the recommendations and the delivery of the planned benefits, with the aim of providing staff with the support and confidence to exercise discretion and to expedite progress where appropriate (8.32.2)</p> <p>42 Conduct surveys and focus groups with staff to understand the issues which staff experience and perceive in progressing lease modification and land exchange cases. (8.32.2)</p> <p>43 Conduct further surveys and focus groups with applicants to understand their priorities and concerns. (8.32.2)</p>  |
| <b>Medium term</b> | <p>44 Examine the scope for more guidance and readier access to precedents to provide more reassurance to staff exercising discretion. (8.32.2)</p> <p>45 Strengthen the skill sets of staff through more intensive staff training specifically focusing on lease modification/ land exchange matters, and on customer service training. (8.32.1)</p> <p>46 Establish a knowledge management system to share best practice and precedents more easily within the team. (8.32.2)</p> <p>47 Devise innovative approaches to training and knowledge sharing within the new dedicated team (8.32.2)</p> <p>48 Once these approaches to addressing the organisational and cultural issues are agreed, develop and communicate plans for an integrated programme to provide staff with the support and tools they need to deliver their challenging role as expeditiously as is possible whilst ensuring probity and robustness (8.32.2)</p> |



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