

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

*The 2nd Report on the Work of
the Working Group on Review of Premium Valuation Process*

Purpose

This paper reports the progress of the work of the Working Group on Review of Premium Valuation Process (WG) since the last meeting of the Pre-construction Task Force (PCTF) held on 10 October 2007.

Background

2. As agreed at the meeting of the PCTF on 30 May 2007, the WG was established to look into issues of premium valuation process with a view to recommending improvement measures in order to speed up implementation of development projects. Members of the WG include representatives of the Pre-construction Task Force, the Hong Kong Institutions of Surveyors, the Real Estate Developers Association of Hong Kong, the Lands Department (LandsD) and the Economic Analysis and Business Facilitation Unit.

Progress

3. The WG has met four times and come up with recommendations around valuation procedures, performance targets, empirical rates, valuation parameters and communication. They believed that the improvement measures could help both parties to arrive at acceptable premium value without resorting to appeal proceedings, hence facilitating early settlement of premium. Time and manpower of the LandsD and the applicants could be saved accordingly. Details of the issues and recommendations are described at Annex for Members' discussion.

Background

1. The Real Estate Developers Association of Hong Kong (REDA) considered the existing premium assessment process a major cause of delay to development projects. Many projects did not proceed either due to high premium or delays throughout the valuation process. The consequential loss of economic development and job opportunities were often not taken into consideration by the Government.
2. On 28 May 2007, the REDA has suggested improvement measures to expedite the valuation process to the Business Facilitation Advisory Committee (BFAC). At its meeting on 30 May 2007, the Pre-construction Task Force (PCTF) under the BFAC agreed to set up a working group to look into the issues with a view to recommending improvement measures, including the REDA's suggestions, to the premium valuation process in order to speed up the implementation of development projects.

Issues

3. The WG has met four times to discuss the following major issues raised by the trade :
 - (a) The current premium valuation process and the formulation of the opinion of value are not transparent. Without a performance pledge, the applicant does not know when he will receive the Binding Basic Terms Offer (BBTO) with the premium value after acceptance of the Provisional Basic Terms Offer (PBTO). Neither will he know if the information submitted for premium valuation will be acceptable to the LandsD.
 - (b) There is duplication of work in the valuation procedure. Staff of the district land offices (DLO) could not comply with the respective internal targets. Due to the long lead time between the DLO's valuation and the audit by the Headquarters (HQ), moderation or "re-do" of the valuation submitted by the DLO is necessary.
 - (c) The appeal process incurs significant time, i.e. 5 months on average, and resources.
 - (d) There is no communication / consultation with the trade regarding the valuation parameters adopted by the LandsD, e.g., site formation costs, marketing costs, development profit, etc. Sometimes, the premium offers deviate significantly from that projected by developers.

- (e) There exist deadlocks when developers could not agree with the LandsD on the premium value.

Recommendations

4. Key recommendations of the WG are highlighted below:

- (a) Upon the acceptance of the PBTO, the LandsD should advise the applicant of the likely timeframe for the Valuation Committee/Conference (VC) to decide on the premium value to facilitate the project management.
- (b) Before the VC decides on the premium value, an applicant will be allowed to give a 15-minute presentation at the VC. The presentation is intended to draw the attention of the VC to fundamental issues which can be critical to the premium value.
- (c) Premium assessment should be centralised to avoid duplication of work. The DLO should only prepare a skeleton valuation for the Valuation Section of the HQ who would prepare the full valuation.
- (d) After the VC's decision on the premium value, the LandsD will inform the applicant of the premium value and the basis of valuation within three days. Where necessary, the applicant can give a counter-offer of premium value within five days for consideration by the VC. This arrangement will facilitate early settlement of premium value and reduce the number of appeal cases.
- (e) The LandsD should establish a formal channel to exchange views with the trade on valuation parameters.
- (f) The LandsD should regularly review the valuation parameters to catch up with the market pace and consult the trade before changing any value of the valuation parameters, e.g. the development profit.
- (g) The LandsD should consider the Expert Determination Mechanism (EDM) proposed by the REDA. Under the proposed EDM, a third party will be assigned to recommend a premium value after considering the separate valuations by the LandsD and the applicant. The EDM will help break the deadlock when both parties could not agree on the premium value after several rounds of appeal proceedings.

The way forward

5. Apart from the EDM which involves policy decision, the LandsD will consider the recommendations, consult the ICAC and provide a formal response to the PCTF on each recommendation.
6. Regarding the EDM, the then Housing, Planning and Lands Bureau raise a number of issues, inter alia, on impartiality, confidentiality, criticism of “Transfer of benefits”, public revenue implications that had to be addressed before the EDM could be further explored. Besides, the LandsD has concern on the responsibility of land management vested in the LandsD by Article 7 of the Basic Law. If the LandsD refers to a 3rd party’s decision on the premium value, it will be regarded as a shifting of responsibility to a 3rd party.