

# LCQ1: Waivers of land lease restrictions of industrial buildings

Following is a question by the Hon Jimmy Ng and a reply by the Secretary for Development, Ms Bernadette Linn, in the Legislative Council today (October 23):

Question:

At present, the Lands Department allows owners of industrial building (IB) units to put their units to uses other than those permitted under the land leases through applications for waivers to temporarily relax the restrictions under the land leases. However, some owners have relayed to me that the fee for a waiver application is very high, and the original amount of the fee must be paid in the first place even if the appeal lodged by the owner against the amount of the fee is yet to be concluded. In this connection, will the Government inform this Council:

(1) of the respective numbers of waiver applications in respect of IB land leases received, approved and rejected by the Government in each of the past five years; the number of approved applications for which waiver fees had been paid, as well as the respective amounts and floor areas involved; the respective numbers of appeals lodged against the amount of the waiver fee and successful appeals;

(2) whether it will enhance the mechanism of appeal against the amount of the waiver fee to allow owners to pay the fee only after the appeal has been concluded; if so, of the details; if not, the reasons for that; and

(3) given that at present, the Government has put in place an arrangement for relaxing waiver application in respect of IB land leases, under which owners are allowed to put their units to specific non-industrial uses without applying for a waiver, and such arrangement will expire on January 31, next year, whether the Government will extend or regularise the arrangement and expand the scope of the relevant specific non-industrial uses; if so, of the details; if not, the reasons for that?

Reply:

President,

Under land leases granted in earlier years, many existing industrial buildings (IB) may only be used for industrial use. In general, if owners wish to convert all or part of the units in such IBs for non-industrial uses, applications for waivers must first be made to the Lands Department (LandsD), subject to payment of a waiver fee and an administrative fee.

With a view to encouraging the transformation of aged IBs, and making

good use of the floor space of IBs in the urban area to meet the needs of economic development, the Government has rolled out concessionary measures, through exemption of waiver fees, to encourage owners to carry out wholesale conversion of IBs aged 15 years or above and situated in designated planning zones for non-industrial uses.

If owners simply convert individual IB units for non-industrial uses, subject to compliance with the regulations of land planning and fire safety, the Government has also put in place measures to facilitate approval currently, including:

- Under the policy support of the Innovation, Technology and Industry Bureau, if some units in an IB are converted for the use of operating data centres or testing and calibration laboratories, the LandsD would exempt the waiver fees payable for such units;
- If the individual IB units are used for some common non-industrial uses such as office, information technology and telecommunication premises, offices for professionals, etc (Note), the LandsD has since 2003 promulgated standard rates for waiver fees for those designated uses, so as to expedite the approval process. The LandsD would make reference to market information to review and adjust the standard rates annually so as to reflect the changes in market rent;

As for those cases where the abovementioned waiver fee exemption or standard rates are not applicable, the relevant waiver fees would be assessed and determined on a case-by-case basis under the conventional assessment mechanism. If applicants do not agree with the fees proposed by the LandsD, they may lodge an appeal with the LandsD.

In this policy context, my reply to the various parts of the question raised by the Hon Ng is as follows:

(1) In the past three years, the LandsD received 198 applications for waivers relating to individual IB units. Setting aside those rejected or withdrawn cases, there are 154 cases approved or under processing, over half of which, or some 80 cases, are exempted from waiver fees or are subject to calculation of waiver fees at standard rates. Among the 87 approved cases in the past three years, 31 cases are subject to individual assessment for waiver fees, including three cases in respect of which appeal on the fees have been lodged and are under processing. Details of the relevant figures are set out at Annex. Given the time constraint, the LandsD could only provide the figures for the past three years.

(2) As I mentioned earlier, the LandsD promulgates the standard rates for waiver applications for designated uses. The merit of the standard rates is to allow the applicants to know the fee calculation method upfront and decide whether to make the applications. This would help shorten the processing time. Therefore, applications calculated at standard rates are not subject to appeal.

As for other cases under the conventional assessment mechanism, applicants may lodge an appeal against the fees assessed by the LandsD, which would consider the justifications received to make a decision. If the premises has not yet been used for the proposed non-industrial uses at the time of application, applicants do not need to pay the waiver fees immediately during the appeal period.

If the premises has already been used for non-industrial uses at the time of application, which means that the use has already changed before the application is approved, the relevant use is indeed in breach of the user restriction of industrial use under the lease. Before accepting the appeal on waiver fees for handling, the LandsD would request the applicants to pay upfront the administrative fee and the fees already assessed by the LandsD, so as to avoid the continuation of non-compliant uses without any payment by the applicant through making an appeal. Subject to the review result, if the applicants have overpaid, the relevant amount would be deducted accordingly in the next quarter.

Even though the above mechanism operates relatively smoothly, the Development Bureau and the LandsD would conduct a review, covering whether there is room for applying standard rates to more uses under waiver applications, and whether standards and targets can be set for the appeal procedures in terms of processing time, so as to optimise and expedite the approval procedures for facilitating businesses.

(3) To continue encouraging redevelopment and wholesale conversion of aged IBs, the Policy Address delivered last week announced the extension of an array of measures under the revitalisation scheme for IBs to end-2027, including the measures of concern to the Hon Ng as cited in the question, i.e. the conversion of individual units into the non-industrial uses designated by the Government without the need for applying for waivers in the case of those IBs that may not have been able to undergo wholesale conversion due to multiple ownership. The Government has introduced this measure (waiver measure) since 2019, permitting these units to be used for the following uses, including (a) Art Studio; (b) Office (Audio-visual Recording Studio); (c) Office (Design and Media Production); (d) Office (used by "specified creative industries" only); and (e) Research, Design and Development Centre. As no waiver application is required, no waiver fee is payable. For public safety, the designated non-industrial uses under the waiver measure should not involve any uses or activities with direct provision of services or goods, to prevent attracting the public to visit buildings that still have industrial activities..

Note: Designated non-industrial/non-residential uses are: (1) headquarters or back-office operations; (2) offices for professional consultants, such as architects, engineers, surveyors, planning consultants, solicitors and accountants; (3) offices for business services, such as advertising agencies, management consultants, public relations agencies and interior/graphic designers; (4) information technology and telecommunications industries; (5) cargo handling and forwarding facilities; (6) recyclable collection centres; and (7) such other uses for non-industrial/non-residential purposes not involving direct provision of customer services or goods to the general

public.