

LCQ21: Extension of land leases

Following is a question by the Hon Tony Tse and a written reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (April 28):

Question:

In reply to a question raised by a Member of this Council on November 27, 2019, the Secretary for Development (SDEV) indicated that the Lands Department (LandsD) was collating information on all the land leases in Hong Kong expiring on or before June 30, 2047, and the collation exercise was expected to be completed by phases from 2021 onwards. The SDEV also indicated that the LandsD would generally begin processing the extension of a land lease three years before its expiry, and the LandsD was exploring whether there would be more streamlined procedures and more convenient means to effect the extension of land leases. Some members of the surveying sector have relayed that whether land leases can be extended in a smooth and timely manner and whether the Government will impose additional conditions on lease extension will have significant impacts on not only the rights and interests of the land owners concerned, but also the development, leasing and sale, redevelopment, as well as repair and maintenance arrangements for the land and properties concerned. They therefore hope that the Government processes the applications for extending the aforesaid land leases as early as possible and streamline the relevant procedures. In this connection, will the Government inform this Council:

(1) of the respective numbers of land leases expiring within the coming (i) five years and (ii) six to 10 years, and the information on the lots involved, such as the user categorisation and number of interests;

(2) of (i) the respective numbers of applications for extending land leases received, approved and rejected by the LandsD, with a breakdown of the number of approved applications by the term of lease extension and the conditions imposed (if any), (ii) the average time taken by the LandsD to process an application, and (iii) the main reasons for the LandsD rejecting some applications (if any), in the past five years;

(3) of the latest progress of the exercise of collating information on land leases, and the respective expected completion dates of the entire exercise and its various phases; whether there have been delays in any phase of the exercise; if so, of the reasons for that;

(4) whether the exploratory work on streamlining lease extension procedures has been completed; if so, of the details; if not, the latest progress, and the reasons why the work, which commenced more than one year ago, has not yet been completed; and

(5) whether the LandsD will consider (i) advancing the date on which it

begins processing the extension of a land lease from three years to five years before expiry, and (ii) undertaking that under normal circumstances it will make a decision, within one year after the commencement of processing, on whether or not the lease will be extended so that the land owners concerned may formulate plans in advance for the development, leasing and sale, redevelopment, as well as repair and maintenance arrangements for the land and properties concerned, with a view to optimising the use of precious land resources?

Reply:

President,

The Government has clear and unequivocal policy for handling matters related to the extension of expiring land leases all along.

According to the policy statement promulgated by the Hong Kong Special Administrative Region (HKSAR) Government in July 1997, leases not containing a right of renewal (excluding short term tenancies and special purpose leases) may, upon expiry and at the sole discretion of the Government, be extended for a term of 50 years without payment of an additional premium, but an annual rent shall be charged equivalent to three per cent of the rateable value of the property, adjusted in step with any changes in rateable value thereafter. Under this policy, generally the lease terms of land leases granted since the establishment of the HKSAR Government have been for 50 years and extending beyond 2047.

Since the establishment of the HKSAR, the Lands Department (LandsD) has been dealing with matters related to the extension of expiring land leases in accordance with the aforementioned policy. Factors to be taken into account when considering lease extension include whether serious breaches are found under the original lease and whether such breaches were purged before the specified period; and if the original lease was granted on certain policy considerations (e.g. promoting the development of an individual industry), whether such policy considerations remain valid. Since the above policy came into effect in July 1997, setting aside leases granted for special purposes on policy considerations, most expiring leases not containing a right of renewal have been extended, with terms largely based on the original lease terms.

My reply to the five-part question is as follows:

(1) Insofar as land leases for general commercial/residential/industrial uses are concerned, on the basis of the information on the Land Registry (LR), no such leases will expire between 2021 and 2024, and the leases of about 50 lots (on sub-divided lot basis) will expire in 2025 and the number of interests involved is about 300 (based on number of sub-divided registers on the LR). In the next five years (i.e. from 2026 to 2030), the land leases of about 320 lots (on sub-divided lot basis) for general commercial/residential/industrial uses will expire and the number of interests involved is about 8 500 (based on number of sub-divided registers

on the LR).

(2) In the past five years (2016 to 2020), there was no expiry of land leases of lots for general commercial/residential/industrial uses.

(3) Regarding land leases expiring on or before June 29, 2047, there are leases of about 2 400 lots (on sub-divided lot basis) for general commercial/residential/industrial uses. The collating exercise for these leases has been completed, and the result shows that the number of interests involved is about 66 000 (based on number of sub-divided registers on the LR). As for land leases expiring on June 30, 2047, the LandsD is collating the relevant information, including the number of lots involved, their user categorisation, and the number of interests, etc. Owing to the larger volume of leases involved, the relevant compilation exercise is expected to be completed by phases from this year to end of 2022.

(4) and (5) Under the existing practice, the LandsD will generally begin accepting application for extension from the relevant owner three years before the expiry of the lease. For more complicated cases or those with a large number of owners, the LandsD will consider commencing the internal work and making preparations for extension of the relevant leases earlier, with a view to completing the extension of the land leases in a smooth and timely manner.

Where extension of a land lease is approved, the LandsD will complete the necessary procedures and execute relevant instruments with the owner(s) through appropriate means. For land under single ownership, or multiple ownership with all owners unanimously agreeing to the lease extension arrangement, the LandsD will generally execute a lease extension document with all owner(s). For land under multiple ownership but owners not unanimously agreeing on or having difficulties in unanimously agreeing on the arrangement for lease extension (e.g. residential buildings with alienated units), after the expiry of the current lease, the Government will grant a new lease to the Financial Secretary Incorporated, which will then assign the undivided shares of the individual premises to their registered owners. This arrangement ensures that even if individual owners do not agree with or cannot execute the lease extension arrangement, the interests of other owners who are ready to accept the lease extension and complete the assignment procedures will not be affected.

The procedures of the abovementioned mechanism are relatively complex (in particular the lots with more multiple ownerships) including the requirement for execution of document(s) by each and every lot owner. The Government is exploring whether there are other suitable arrangements under which the extension of land leases could be effected through streamlined procedures and more convenient means, including exploring the possibility of reducing the formalities needed from the owners through legislation while preserving the legal effect of the relevant lease if approved for extension. Currently, land leases for general commercial/residential/industrial uses will expire in 2025 the earliest. The Government will come up with a proposal and communicate with the stakeholders at an appropriate juncture before then.