

LCQ3: Supporting documents for ownership of fixed assets

Following is a question by the Hon Yim Kong and a reply by the Secretary for Development, Ms Bernadette Linn, in the Legislative Council today (January 15):

Question:

There are views pointing out that the supporting documents for ownership of real estates in Hong Kong, which often comprise hundreds to thousands of pages, cause great inconvenience to ownership holders in terms of storage and safekeeping. Additional costs are also incurred for depositing the relevant documents in safe deposit boxes in banks and it is difficult to make up for the damage or loss of the documents due to dampness, aging of paper, infestation by pests, fires or moving of homes, etc. The aforesaid problems have, to a certain extent, restricted the circulation of ownership. In this connection, will the Government inform this Council:

- (1) as it is learnt that in the event of damage or loss of supporting documents for real estates, even if certified copies of assignments (photocopied deeds) are obtained as replacement through law firms, the titles will still be regarded as incomplete, which may affect property prices and mortgage applications, whether the Government has reviewed if photocopied deeds approved by the Land Registry (LR) have the legal effect of proving full titles in the market;
- (2) of the number of applications made by members of the public to the LR for photocopied deeds in the past three years and the main reasons for such applications; and
- (3) whether it has considered comprehensively promoting the digitalisation of proof of ownership of fixed assets such as houses, land and vehicles; if so, of the details; if not, the reasons for that?

Reply:

President,

The current land registration system in Hong Kong is a deeds registration system, under which the proof of property ownership must comply with the common law and the requirements of the Conveyancing and Property Ordinance (Cap. 219). In terms of ordinary property sale and purchase, the vendor must provide the original title deeds relating to property transactions dating back at least 15 years for the purchaser's solicitor to review at the purchaser's request, in order to confirm that the vendor is the true owner of the property. The title deeds relating to property transactions hereby refer to government land grant, sale and purchase, assignment,

mortgage instruments, etc. Under this system, the purchaser obtains title by executing a valid assignment with the vendor after the title is verified, and therefore proof of title is not based on one single document. After completion of the property transaction, the purchaser has possession of the title deeds; and where the property is mortgaged, the title deeds are kept by the mortgagee bank until the mortgage loan is repaid. For each property transaction, the purchaser's solicitor will deliver the original transaction instruments to the Land Registry (LR) for registration. The LR will make and keep image records for each registered instrument and return the original instruments to the purchaser's solicitor after registration is completed.

In this policy context, my response to the three parts of the question raised by the Hon Yim Kong is as follows:

(1) Under the current deeds registration system, it is essential for property owner to retain the physical original title deeds. The LR's function and its role in property transactions and ownership verification are to register instruments, provide property search services, and provide copies or certified copies of registered instruments (Note).

In cases of loss of title deeds, we are aware of the Court's ruling that if there is doubt on the property owner's title arising from missing title deeds, the property owner needs to provide satisfactory evidence to remove the doubt. What is regarded as satisfactory depends on the circumstances of the particular case. In many past cases, a statutory declaration explaining why the title deeds are missing, accompanied with certified copies of the required title deeds and documents, may be regarded as title being established.

(2) In the past three financial years (i.e. 2021-22 to 2023-24), the average annual number of certified copies of land instruments provided by the LR is around 99 000. The instruments concerned are mostly orders issued by the Government concerning buildings matters and government land grant documents, with instruments relating to assignments only constituting a very small percentage, that is about three per cent. Since an applicant is not required to provide the reason for obtaining a certified copy from the LR, we do not keep information on the reasons for application.

(3) Under the current deeds registration system, the title to a property is ascertained through the provision and checking of title deeds. As mentioned above, the title cannot be proved by one single document, whether in paper form or electronic form, under the current system.

The Government is preparing to introduce a title registration system to gradually replace the current deeds registration system, starting with newly granted land. In this connection, we will introduce an amendment bill into the Legislative Council in the first quarter of 2025 to amend the Land Titles Ordinance (Cap. 585) for this purpose. Under this new title registration system, the Title Register is conclusive evidence of title, and title to property can be ascertained through search of the Title Register, without the need to go through past title documents as is currently done. Accordingly,

upon implementation of the amendment bill, for newly granted land, checking or keeping of a series of title documents over the years as under the current system, will no longer be necessary. This also addresses the problems arising from the loss of original title documents.

Under the title registration system, the Title Register itself is sufficient proof of title. Even so, in response to the public's wish to hold a paper title certificate, the LR will in future issue a paper title certificate to property owners in respect of land under the title registration system, and a copy of the certificate will be kept in the LR electronically. Generally speaking, the LR will issue one title certificate of around one to two pages for each property.

In respect of proof of ownership of vehicles, the Transport and Logistics Bureau indicated that particulars of registered vehicles are currently stored electronically in the Transport Department (TD)'s computer licensing system. The Vehicle Registration Document (VRD) is an important document issued by the TD to the registered owner of a vehicle, which contains the personal particulars of the registered owner and the registration details of his/her vehicle. As the implementation of full-digitalisation of the VRD, i.e. there will no longer be paper form of the VRD, involves a number of considerations, including regulation, technology and system security and acceptance of the community, etc, the Government needs to study carefully and consider prudently the appropriateness and practicability so as to meet the needs and expectations of the public and the industry.

Note: A normal copy is a copy printed from the LR records, while a certified copy is printed on security paper and certified by the Land Registrar.