

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 17 March 2010**

**The Council met at Eleven o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, S.B.S., S.B.ST.J.,  
J.P.

THE HONOURABLE LEE CHEUK-YAN

DR THE HONOURABLE DAVID LI KWOK-PO, G.B.M., G.B.S., J.P.

THE HONOURABLE FRED LI WAH-MING, S.B.S., J.P.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, G.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN, S.B.S., J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

THE HONOURABLE LAU WONG-FAT, G.B.M., G.B.S., J.P.

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE TIMOTHY FOK TSUN-TING, G.B.S., J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

THE HONOURABLE ABRAHAM SHEK LAI-HIM, S.B.S., J.P.

THE HONOURABLE LI FUNG-YING, B.B.S., J.P.

THE HONOURABLE TOMMY CHEUNG YU-YAN, S.B.S., J.P.

THE HONOURABLE FREDERICK FUNG KIN-KEE, S.B.S., J.P.

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

DR THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P.

THE HONOURABLE JEFFREY LAM KIN-FUNG, S.B.S., J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, S.B.S., J.P.

THE HONOURABLE CHEUNG HOK-MING, G.B.S., J.P.

THE HONOURABLE WONG TING-KWONG, B.B.S., J.P.

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CHIM PUI-CHUNG

PROF THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

DR THE HONOURABLE LAM TAI-FAI, B.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN

THE HONOURABLE PAUL CHAN MO-PO, M.H., J.P.

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

THE HONOURABLE WONG KWOK-KIN, B.B.S.

THE HONOURABLE IP WAI-MING, M.H.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

DR THE HONOURABLE SAMSON TAM WAI-HO, J.P.

**MEMBER ABSENT:**

DR THE HONOURABLE MARGARET NG

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE AMBROSE LEE SIU-KWONG, G.B.S., I.D.S.M., J.P.  
SECRETARY FOR SECURITY

PROF GABRIEL MATTHEW LEUNG, J.P.  
SECRETARY FOR FOOD AND HEALTH

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.  
SECRETARY FOR LABOUR AND WELFARE

THE HONOURABLE MRS CARRIE LAM CHENG YUET-NGOR, J.P.  
SECRETARY FOR DEVELOPMENT

THE HONOURABLE EVA CHENG, J.P.  
SECRETARY FOR TRANSPORT AND HOUSING

MR GREGORY SO KAM-LEUNG, J.P.  
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

**CLERKS IN ATTENDANCE:**

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY  
GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**PRESIDENT** (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

(After the summoning bell had been rung, a number of Members entered the Chamber)

## **TABLING OF PAPERS**

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Inland Revenue (Amendment) Ordinance 2010 (Commencement) Notice.....	28/2010
Toys and Children's Products Safety (Amendment) Ordinance 2010 (Commencement) Notice.....	29/2010

## **Other Papers**

- No. 77 — AIDS Trust Fund  
Financial statements together with the Director of Audit's report for the year ended 31 March 2009
- No. 78 — Employees Retraining Board Annual Report 2008-09
- No. 79 — The Lord Wilson Heritage Trust Annual Report 2008-2009
- No. 80 — HKSAR Government Scholarship Fund  
Financial statements together with the Director of Audit's report for the year ended 31 August 2009
- No. 81 — Report of changes made to the approved Estimates of Expenditure during the third quarter of 2009-10  
Public Finance Ordinance: Section 8

Report No. 6/09-10 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

**ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): Questions. First question.

**Entry Requirements for Vietnam Citizens**

1. **MR CHAN KAM-LAM** (in Cantonese): *President, in recent years, Vietnam has adopted an open economy policy and the livelihood of its nationals has greatly improved as a result. Besides, with the economic ties between Vietnam and Hong Kong growing closer and closer, it has become increasingly common for Hong Kong people to invest in Vietnam. Yet, the immigration arrangements for foreigners visiting Hong Kong for purposes such as investment, studies, employment and training, and so on, currently implemented by the Hong Kong SAR Government are not applicable to Vietnamese nationals, thus making it impossible for them to apply under such arrangements for entry into Hong Kong. In this connection, will the Government inform this Council:*

- (a) *why the existing immigration arrangements implemented in respect of Vietnamese nationals are different from those applicable to the nationals of other countries; and*
- (b) *whether the Government will base on the national situation of Vietnam at present and consider further relaxing the entry requirements for Vietnamese nationals?*

**SECRETARY FOR SECURITY** (in Cantonese): President, the question raises enquiries to the immigration policy of the Government of the Hong Kong Special Administrative Region (HKSAR) on Vietnamese refugees ..... Vietnamese nationals. Our reply is as follows:

- (a) The HKSAR abides by the principle of free economy. Under this principle, the HKSAR Government has been adopting a relatively liberal visa policy. Whereas we endeavour to facilitate genuine visitors and overseas talents to come to Hong Kong, we also need to strike a balance and uphold effective immigration control. In this regard, we will take into account the different circumstances of

individual countries or regions and implement corresponding immigration arrangements. Under the existing arrangements, nationals of Vietnam require a visa to visit Hong Kong. Furthermore, the existing immigration arrangements applicable to most foreign nationals, such as employment, training or study, and so on, or the Quality Migrant Admission Scheme (QMAS), do not directly apply to Vietnamese nationals. Our existing immigration policy on nationals of Vietnam is based on our overall assessment of the situation of the country and its nationals, including the assessment on the risks associated with Vietnamese nationals to the effective immigration control and overall security of Hong Kong.

- (b) The HKSAR Government will take into consideration the actual circumstances and review our visa policy on individual countries or regions from time to time. In recent years, the Immigration Department (ImmD) has put in place special measures to facilitate the visits of genuine Vietnamese visitors, such as streamlining their visit visa application procedures. Also, ImmD will consider the merits of individual cases and relax the entry visas, as appropriate, for Vietnamese nationals with genuine needs to come to Hong Kong for employment, training or study. We believe that the existing immigration arrangements on nationals of Vietnam strike a necessary and proper balance between facilitation and effective immigration control. Of course, we will take into consideration the actual circumstances and update our assessment as necessary, with a view to considering whether we should further adjust the immigration arrangements on Vietnamese nationals.

**MR CHAN KAM-LAM** (in Cantonese): *President, even the Secretary had a slip of the tongue, for instead of Vietnamese nationals, he mentioned "Vietnamese refugees" at the outset, which has probably left a deep impression in the minds of the general public. I believe that over the past 30 years, the economic policy in Vietnam has changed a lot, so I hope that Hong Kong people can have a more correct perception towards the Vietnamese people. The SAR Government said that it would frequently assess the national conditions in Vietnam, I would like to know the criteria for the relevant assessment, whether it is based on the economic development, policy, various activities or incomes of its nationals, or anything else?*

**SECRETARY FOR SECURITY** (in Cantonese): President, I think our assessment is based on the economic, political and social circumstances of a particular country or region. In addition, we will also assess that when its local residents or nationals come to Hong Kong, no matter whether they visit Hong Kong for sight-seeing or business purposes, if their arrival will constitute an impact on immigration control in Hong Kong or risk, or if they will pose a high risk to local law and order or security. We will consider the matter from a holistic perspective. We will not only take into account its development or economic situation, but will also look at the past statistics and will assess whether its nationals will cause any impact on Hong Kong's immigration control and local law and order.

**MRS SOPHIE LEUNG** (in Cantonese): *President, part (a) of the main reply pointed out that Hong Kong's existing immigration policy on nationals of Vietnam was based on the overall assessment of the situation of the country and its nationals. May I ask the Secretary, when making the assessment, have we taken into account the immigration policies implemented by other countries on Vietnamese nationals? Or has any similar assessment been conducted?*

**SECRETARY FOR SECURITY** (in Cantonese): President, regarding the assessment I mentioned, just as the reply I gave to Mr CHAN Kam-lam just now, the assessment was made according to the situation of the country, its political, economic and social conditions, as well as whether its local residents will cause any impact on Hong Kong's existing immigration control, law and order and internal security upon their arrival. These are our main consideration. As to whether reference has been made to immigration control policies implemented on Vietnamese nationals by other countries, the answer is positive. Take Vietnamese nationals as an example, at present, the majority of the advanced economies — I dare not say all of them — are imposing immigration control on Vietnamese nationals.

**MR TAM YIU-CHUNG** (in Cantonese): *President, the establishment of China — ASEAN — Free Trade Area has been fully completed, and the development of the relevant region rapid, for that reason, Hong Kong will also need to expedite the exchange with ASEAN member states. For member states of ASEAN, including Cambodia, Laos and Vietnam, which we have just mentioned, if we impose special entry visa policy on them, will it be unfavourable to our exchanges*



*with ASEAN member states and will it affect the development of relationship between Hong Kong and them? Should a review and reassessment be conducted as soon as possible?*

**SECRETARY FOR SECURITY** (in Cantonese): President, Mr TAM is viewing the issue from an economic perspective. The ten ASEAN countries have become a free market economy, which hopes to further develop with our country (that is, China), South Korea and Japan (the so-called 10+3) into a free economy of a bigger size. As Hong Kong is situated at the centre of this expanded free economy, we therefore hope that we can play an intermediary role, and to be exact, the role of a so-called financial hub. Therefore, we will certainly co-operate in this respect. As I said earlier, for *bona fide* Vietnamese businessmen, tourists and all those who come to do business in Hong Kong, we will offer them convenience in respect of the visa issuance procedures, such as issuing multiple entry visa to them. They only need to make application once and they may come to Hong Kong at any time within two years after having been issued a visa. Moreover, Vietnam is also a member of APEC, and under the framework of this organization, there are already measures to facilitate tourism or business, they only need to apply for the "APEC Business Travel Card" and application for endorsement is not necessary when they come to Hong Kong.

We should bear in mind that when we grant visa-free access to certain nationals of a given country, their financial status is only one of the factors for consideration. As I have mentioned earlier, we also have to consider immigration control, and whether they will cause any impact on internal security or crime rate. Actually, some member states of the 10 ASEAN countries have imposed visa control on Vietnam nationals, that is, even the 10 ASEAN State have such an arrangement. Moreover, at present, China has also imposed visa control on ASEAN states, for we have not yet been as developed as the EU which allows free access among EU countries. Development has not yet been up to such an extent at present.

**MR CHIM PUI-CHUNG** (in Cantonese): *President, Hong Kong people still remember vividly the issue of Vietnamese boat people. Just now Mr TAM Yiu-chung said that Hong Kong people still have to apply for travel or work visa in the three Indochinese countries, may I ask whether the ImmD under the*

*Security Bureau of the SAR Government will take the initiative to examine the matter pertaining to the abolition of mutual visa arrangement, with these three countries, so as to facilitate communication between all parties concerned? Will he consider doing so?*

**SECRETARY FOR SECURITY** (in Cantonese): President, the answer is positive. However, before we propose a visa-free arrangement to other countries, we must first determine our stance of granting an unconditional visa-free access to them, and then we can ask for the same treatment for our residents. As I said earlier, according to the present assessment, in view of the immigration control and the need to maintain good order as I mentioned just now, we are unable to take the initiative to offer visa-free access to Vietnamese nationals for the time being. If it happens that one day the result of the assessment allows us to grant such a treatment, we will certainly do so. In fact, over the past 10 years or so, since the establishment of the SAR and the issuance of SAR passports, it has been on our list of priority jobs to secure visa-free access for SAR passport holders. Let us not forget that we have secured visa-free access of more than 130 countries and regions for the SAR passport. Some day, when we consider all aspects of the three Indochinese countries are mature, I will definitely study the visa-free arrangement with them.

**MR LAU KONG-WAH** (in Cantonese): *President, I think the immigration policy may reflect economic development on the one hand, but we should also take into account the security factor, there is not wrong with that. As a country's economy will develop over time, perhaps the risk associated with security will reduce. Will the Secretary tell us which countries have imposed such measure — actually may be only very few countries impose such restrictions? On the other hand, will the Government consider gradual or partial relaxation, so that such a policy can be implemented in a gradual manner? For example, we welcome people who come to Hong Kong to pursue their studies, but now there are still restrictions, so it seems that the situation is not so ideal.*

**SECRETARY FOR SECURITY** (in Cantonese): President, I have also mentioned in the main reply that Hong Kong is a free economy, and we welcome tourists from all over the world to visit Hong Kong and do business here. So far,

nationals or residents of 170 countries or regions are granted visa-free access to Hong Kong, they need not apply for a visa in advance. In addition to these 170 countries, nationals or residents of about 50 countries or regions have to apply for entry visas, the main reason is just as I said earlier, it is based on immigration control, internal security and security considerations.

Just now Mr LAU Kong-wah asked whether we can relax the policy under the existing mechanism as far as possible according to circumstances. In fact, we are making an effort in this direction. Initially, apart from travelling to Hong Kong (excluding application for visa), Vietnamese nationals were not permitted to travel to study, work or receive training in Hong Kong. In fact, for sometimes in the past, we have already relaxed the policy in this regard. At present, if they want to come to study in Hong Kong, on their making the application, we would discuss with the relevant education institution, and if we consider that they are in genuine pursuit of their studies in Hong Kong, such an application will generally be approved. At present, there are Vietnamese nationals studying in universities or institutions of higher learning in Hong Kong, they are either granted working visas or permission to come to Hong Kong for training purpose according to circumstances. We are making an effort towards this direction, and I hope that one day we will find that Vietnamese nationals in Hong Kong have not brought us any immigration or security problem, because in the past five years, every year, more than 500 Vietnamese nationals were prosecuted in Hong Kong for committing criminal offenses. This figure ranks the second highest among nationals of all other countries visiting Hong Kong, that is to say, the ratio of its nationals committing crime in Hong Kong is rather high.

**MR PAUL TSE** (in Cantonese): *President, the Secretary repeatedly says that we welcome tourists coming to Hong Kong, but mere talking without action is futile. In terms of tourism, of course, the biggest hope is to minimize all kinds of barriers, but I also understand the importance of balancing.*

*The Secretary's reply just now was rather interesting, he pointed out that crimes committed by Vietnamese nationals in Hong Kong ranked second, then who ranked first? Furthermore, under what circumstances will further relaxation be considered? We understand that Vietnam has brought about much troubles to the security of Hong Kong, but that is past history. Security threat associated with Vietnamese nationals in Hong Kong has significantly reduced in*

*recent years, more especially as a lot of Vietnamese nationals residing in Hong Kong also have the need for family reunion or other needs. In this regard, I hope the Secretary will consider exerting more efforts as soon as possible, and will not just sit and wait because waiting is endless. If there is an Equal Opportunities Commission in the international community which opposes the discrimination against certain countries or certain race, I would like the Secretary to answer why we still cherish a biased view towards Vietnamese nationals? This is something we must make improvements without delay.*

**PRESIDENT** (in Cantonese): Mr TSE, please speak out clearly the supplementary question you wish the Secretary to answer.

**MR PAUL TSE** (in Cantonese): *Will the Secretary please gently answer which country ranks first, and then how can the travel restrictions on Vietnamese nationals visiting Hong Kong be lifted without delay.*

**PRESIDENT** (in Cantonese): The Rules of Procedure does not contain any provision about your so-called "gently", (*Laughter*) or "heavily" answering a question. Secretary, please reply.

**SECRETARY FOR SECURITY** (in Cantonese): President, just as I have replied to other Members just now, I also hope that one day the relevant visa requirements can be abolished, so that Vietnamese nationals may enjoy the same visa-free access as people from other 170 visa-free countries. It has nothing to do with nationality discrimination or racial discrimination, our immigration policy is chiefly for safeguarding the integrity of immigration control in Hong Kong as well as our law and order. When responding to Mr LAU Kong-wah's supplementary just now, I have also mentioned the figure of Vietnamese nationals committing crimes and being arrested in Hong Kong over the past five years, each year there were 560 people on average, which is just below the nationals of another country — Pakistan, as the relevant number of Pakistani was higher than Vietnam nationals, while the number of illegal Vietnamese immigrants is 540 each year. Therefore, we believe that in order to safeguard the integrity of immigration control, we cannot abolish the visa requirement at this stage.

Just now Mr Paul TSE mentioned that we should offer convenience to our visitors, actually we have also worked on this area. For some time in the past, for those who come to Hong Kong to do business or travel genuinely, as long as they are eligible persons, for example, they are either employees of some reputable business institutions, celebrities, or they are in group tours organized by reputable travel agencies, they may apply directly to the Chinese Embassy in Hanoi. We have authorized the Embassy to issue Hong Kong visa to persons of good reputation within two to three days. In the past few years, we have also made some efforts to facilitate *bona fide* parties coming to Hong Kong for travelling or business purposes.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MR CHAN KAM-LAM** (in Cantonese): *President, the Secretary said that discretionary consideration would be given to professionals, students coming to study in Hong Kong or businessmen. Of course I understand that it is impossible to make significant policy changes, neither do I wish to have major changes made abruptly in circumstances under which a lot of aspects are still waiting to be improved, such as the current crime rate of Vietnamese offenders in Hong Kong is still so high while there are still some 500-odd Vietnamese illegal immigrants. However, have we done enough to publicize the fact that we allow or welcome professionals or businessmen to come to Hong Kong? Will the existing policies give people a general impression that we still discriminate against them or they are not welcomed at all? Because whenever we meet our Vietnamese friends, they always raise such kind of complaints. I would like to know whether the Secretary will make a personal trip to Vietnam to acquire an idea of its current economic condition and development, as well as the life and other aspects of its nationals?*

**SECRETARY FOR SECURITY** (in Cantonese): President, our policy is very clear. As for the promotion or expressing welcome to Vietnamese visitors, I hope our friends in the tourism sector, such as Mr TSE or the relevant trade unions — they have actually done a lot of work for us — will notify such as the so-called eligible persons, trade associations or package tours organized by

reputable travel agencies and so on, so that they also know that there is no problem to obtain a visa, and that it is rather easy for them to obtain a visa through the Chinese Embassy.

Certainly, in due course, I would also like to visit Vietnam, as Mr CHAN said, I should take a look at its local development, or to study how to co-ordinate over repatriation matters of Vietnamese who have overstayed in Hong Kong, Vietnamese offenders or illegal Vietnamese immigrants in Hong Kong with the officials in charge of its immigration affairs. I reckon that all these issues are worthy of discussion.

**PRESIDENT** (in Cantonese): Second question.

### **Health Conditions of Drivers and Road Safety**

2. **MR CHEUNG HOK-MING** (in Cantonese): *President, it has been reported that recently, a runaway public light bus ran into a queue at a roadside bus stop, resulting in one death and five injuries, and the traffic accident was suspected to have been caused by a momentary blackout of the driver while driving. Regarding the health conditions of drivers and road safety, will the Government inform this Council:*

- (a) *of the number of traffic accidents caused by professional drivers suffering from bouts of illness while driving, as well as the resultant casualties, over the past five years;*
- (b) *as the Road Traffic (Driving Licences) Regulations (Cap. 374B) (the Regulations) provide that an applicant for a driving licence shall make a declaration as to whether or not he is suffering from any disease specified on the First Schedule to the Regulations or any other disease, but some applicants have never undergone any medical check-up and therefore simply do not know whether or not they are suffering from such diseases, whether or not the authorities will explore appropriate measures to enable applicants for a driving licence and professional drivers to know more about their own health conditions; and*

- (c) *given that at present, the Road Traffic Ordinance (the Ordinance) has not prescribed the relevant standards on the offence of driving under the influence of drugs and stipulated any arrangement for differentiating a motorist who drives under the influence of drugs, whether or not the authorities will consider drawing up guidelines to specify that drivers should not drive within a certain period of time after they have taken medicine which may influence their consciousness and judgment or cause drowsiness?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):

President, we appreciate the importance of motorists' health conditions to road safety. At present, the Regulations already clearly provide that any person applying for or renewing his driving licence must declare if he is suffering from any disease or physical disability specified on the First Schedule to the Regulations, such as epilepsy, mental disorder, hypertension or any other cause that may lead to sudden attacks of fainting and so on. Section 111(3) of the Ordinance (Cap. 374) provides that any person who knowingly fails to report the disease or physical disability in question commits an offence and is liable to a fine of \$5,000 and imprisonment for six months. The relevant statutory requirements are set out in detail on the driving licence application form and website of the Transport Department (TD). The Commissioner for Transport (the Commissioner) will, upon receiving a declaration of the disease or physical disability in question, enquire about the situation with the doctor-in-charge of the applicant making the declaration. The Commissioner shall refuse to issue, re-issue or renew the driving licence should the applicant suffer from any disease or physical disability specified on the First Schedule to the Regulations.

Besides, according to the Regulations, if a holder of any valid driving licence only becomes aware of the disease or physical disability specified on the First Schedule to the Regulations subsequent to the issue of such licence, he should forthwith give notice in writing of such fact to the Commissioner, otherwise, he would contravene regulation 46(1) of the Regulations and is liable to a fine of \$2,000. The Commissioner may cancel the driving licence of such person if he is satisfied that such person is not suitable for driving, after confirming with the doctor concerned or making such an enquiry as he considers necessary, such that the person concerned can no longer drive any vehicle.

In case a person whose driving licence is cancelled for any of the abovementioned reasons, he has to, in accordance with the existing requirements, submit a relevant medical report together with a fresh application and pass the relevant driving tests and probationary driving period, in order to obtain a driving licence again. The Regulations provide that only those who have held the driving licences for private car or light goods vehicle for at least three years are eligible for applying for driving licences for commercial vehicles, such as taxi, light bus, bus and medium or heavy goods vehicle.

My reply to the various parts of the main question is as follows:

- (a) The number of traffic accidents caused by drivers suspected to be suffering from bouts of illness while driving commercial vehicles and that of the resultant casualties over the past five years are set out in the Annex. Over the past five years, there has been no noticeable growth in the number of these cases. They represented a very small proportion when compared with the average of some 15 000 traffic accidents per year within the same period.
- (b) Regarding the requirements governing the physical fitness of motorists, the existing Regulations mainly rely on applicants for a driving licence to make an honest declaration. The onus is on them to ascertain their physical conditions by way of health check-ups. If they are suffering from any disease or physical disability specified on the First Schedule to the Regulations, they should notify the TD in the declaration section of the driving licence application form. In 2009, 78 persons took the initiative to declare to the Commissioner the diseases that they were suffering from. As mentioned above, it is an offence to knowingly provide false information on the driving licence application form or not to make the necessary declaration after becoming aware of the disease or physical disability listed on the First Schedule to the Regulations. We consider that the existing legislative provisions are effective in encouraging proper declaration of physical fitness by persons applying for or holding a driving licence.

Besides, employers and the public transport operators concerned have the responsibility to ensure that public transport drivers are



physically fit for the safe delivery of public transportation services. Any driver found by employers and public transport operators to be feeling unwell or in an abnormal mental condition while reporting for duty should not be allowed to drive and should be requested to consult a doctor or undergo health check-ups.

To raise the alertness of drivers of commercial vehicles to their health conditions with a view to enhancing road safety, the TD launched a "Safe Driving and Health Campaign for Professional Drivers" from late December 2009 to early February 2010 to promote the importance of health to drivers of commercial vehicles. During the campaign, six "Health Check Days" were organized and simple health check-ups were provided free of charge for drivers of commercial vehicles. Apart from free health check-ups, the TD also disseminated safe-driving messages and health tips through radio Announcements in the Public Interests, celebrity sharing, its website, distribution of pamphlets on health and so on. When resources permit, the TD will consider launching similar campaigns as appropriate to remind drivers of commercial vehicles to pay attention to driving safety and health.

- (c) Drivers have the responsibility to ensure that they will drive only when they are apt to do so. The TD will remind drivers of commercial vehicles of such responsibility from time to time through trade conferences and provide the trade with the relevant information if need be.

At present, according to section 39 of the Ordinance (Cap. 374), a person who drives or attempts to drive or is in charge of a motor vehicle on any road while he is under the influence of drink or drugs to such an extent as to be incapable of having proper control of the motor vehicle commits an offence.

To allow more motorists, including drivers of commercial vehicles, to better understand the influence of illness or drugs on driving, the TD has already provided guidelines in the Road User Code that health conditions affect the driving performance of motorists and motorists are reminded not to drive when they are tired, feel unwell

or emotionally upset. We will continue to make efforts in terms of publicity and education, for example, reminding motorists not to underestimate the effects of drugs and watching out for the warnings on drug labels, such as "This drug may cause drowsiness" or "Do not drive after taking this drug", before taking any drugs. A person should not drive if he has to take drugs which may affect driving and should instead use other transport modes for safety sake.

Since a wide range of drugs are available in the market and reaction to drugs varies among individuals, it is difficult to ascertain the effects of each type of drugs on driving behaviour. Therefore, the task of formulating guidelines on the drugs that a driver must not take while or before driving or setting the relevant standards is highly complex. Given that the public have grave concern about traffic accidents caused by motorists who drive under the influence of drugs, particularly narcotics, we plan to accord priority to dangerous drugs in dealing with the problem of drug driving. We will draw reference from overseas experiences and study how the laws should be amended. We hope to formulate some initial proposals for public consultation in the middle of this year, so as to consider the public's views.

Annex

Number of traffic accidents caused by drivers suspected to be suffering from bouts of illness while driving commercial vehicles and that of the resultant casualties

<i>Year</i>	<i>Number of traffic accidents</i>	<i>Number of resultant casualties</i>
2005	4	5
2006	12	26
2007	10	17
2008	11	13
2009	4	6

**MR CHEUNG HOK-MING** (in Cantonese): *President, I found that the Secretary, in giving a reply to my main question just now, had not addressed*

*part (b). The question which I asked is, some applicants had never undergone any health check-up and therefore simply had no idea about their physical conditions. Since they have no idea, they can by no means make a declaration regarding the diseases set out on the Schedule concerned. May I ask the Secretary whether or not the authorities will explore any appropriate measures to enable these people to be aware of the need to make a declaration of their physical conditions in applying for a driving licence?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the most important principle is that we now adopt a system for declaration. In some major regions or countries in the world, under their respective basic mechanisms, motorists are required to make a declaration because the onus is on them to do so. This is also specified in our laws.

Certainly, can other mechanisms be put in place? I have heard some views, for example, on conducting random checks. However, we have to process 440 000 applications each year and insofar as licensed drivers are concerned, there are 1.2 million people holding a driving licence in Hong Kong. Therefore, if other mechanisms are set up, we hold that this will give rise to some complexities in terms of management and resources. At present, the onus is still on the persons applying for a driving licence to acquire an understanding of their physical conditions by way of health check-ups and then make a declaration.

**MR ANDREW CHENG** (in Cantonese): *President, basically, with the gradual ageing of the population worldwide, drivers are also showing signs of ageing. For this reason, some countries are gradually fine-tuning their policies on health declaration on the part of drivers. I wish to put a follow-up question to the Secretary in this regard. If the system concerned relies solely on drivers to make a self-initiated declaration, the drivers themselves probably may not even have any idea that they are suffering from some kinds of hidden illnesses that affect their driving. Consequently, will the Government formally examine and consider this policy — because in Hong Kong at present, driving licences are renewable once every 10 years — on requiring drivers to, apart from making a declaration, submit a formal medical report within, for example, two or three years prior to the next renewal of their driving licences? This will not only*

*ensure their health conditions, but will also have positive impact on road safety, thereby achieving a win-win situation.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I understand that there is a change in society at present. As I said just now, a majority of other countries and regions have followed our present practice, that is, declarations are made on the part of drivers. However, as raised by the Member concerned, what age should be specified as the age of making a declaration? At present, we specify that an applicant, in applying for or renewing his driving licence, is required to submit a medical examination report completed and signed by a registered medical practitioner if he has reached the age of 70. We have also noticed that different practices are adopted in other countries. In some countries, the age requirement is set at 65 years of age while in some other countries, it is set at 75. This pertains to drivers in general. In some countries, there are different age requirements for drivers falling within different age brackets. For example, professional drivers may have another set of requirements to follow. We will continue to pay attention to the practices adopted in other countries, so as to ascertain the arrangements and practices that should be applicable to Hong Kong. Certainly, a balance has to be struck in this regard. We have to take into account the fact that not all the persons holding a driving licence for professional drivers are engaged or active in the profession of professional drivers. For example, there are 18 000 taxis in Hong Kong and the number of people holding a taxi licence amounts to some 200 000. If we are to require that drivers belonging to a certain category or drivers of commercial vehicles, in certain circumstances, for example, when they have reached a certain age or above, to submit a report on their health at an interval of two or three years (as suggested by the Member concerned), we will need to consider carefully where the point of equilibrium should be set. If any proposal is made in this regard, members of the public in the community should also be consulted.

**MRS SOPHIE LEUNG** (in Cantonese): *President, in the last paragraph of the main reply, the Secretary mentioned "motorists who drive under the influence of drugs, particularly narcotics" and said that dangerous drugs would be accorded first priority. So, may I ask the Secretary whether or not drugs purportedly used for lifting the spirit will be included in these so-called dangerous drugs? I ask this question because recently, I heard some rumours that several accidents*

*involving taxis were caused by drivers who drove their cars under the influence of undesirable drugs as they had lifted their spirit with materials similar to drugs. How can it be ascertained whether or not certain medicine is used for lifting the spirit? And how can drivers be kept from using these dangerous drugs to lift their spirit?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as I mentioned in the main reply, although the current trend shows that there are not many such cases, we have worries over the problem of drug driving, so to speak. For example, some drivers of a younger age still drive despite having sniffed ketamine. For this reason, we are now giving thoughts to these cases which are easier for detection, rather than instances involving drugs such as cold drugs and cough medicine that cause drowsiness, as mentioned in society. It is difficult to draw a line in this regard. In addition, at that material time, was the driver really under the influence of the drugs concerned, thus causing the accident? In dealing with cases involving drugs, since there are standards that are more objective, whether or not a person has taken drugs can be determined by tests, for example, by conducting body-fluid tests. Our present work mainly aims to examine how the police can be empowered to collect evidence in this regard. Under the existing laws, the police have not been empowered to do so. We have taken note of two practices. In Australia, saliva tests are adopted, but at the present stage, such tests are not conducted to detect ketamine. In Britain, behaviour identification is adopted, meaning that drivers are asked to walk in a straight line or cross some thresholds. A driver failing such tests can be asked to provide further evidence for testing, for example, to undergo a blood test. We are now conducting research in this regard, in the hope of making some initial proposals in the middle of this year. Target-specific measures, if any, will mainly be made against dangerous drugs.

**MS MIRIAM LAU** (in Cantonese): *President, the number of traffic accidents caused by drivers of commercial vehicles suffering from bouts of illness, as set out in the Annex, is a cause for grave concern to the transportation industry. Although it is mentioned in part (a) of the main reply that there is only very small number of such cases, each of these cases had seemingly resulted in casualties, thus warranting our serious attention. For this reason, the transportation*

*industry highly welcomes "the Safe Driving and Health Campaign for Professional Drivers" held by the Government, as highlighted in part (b) of the main reply. During this campaign, six "Health Check Days" were organized. May I ask the Secretary, during these six "Health Check Days", how many members of the transportation industry had been benefited? Given that simple health check-up services were arranged during these six "Health Check Days", may I ask the Secretary how simple such services were and what items were included? Have items of grave concern to the transportation industry, such as sleep apnoea or diabetes, been included for testing?*

*Finally, despite the Secretary's remark that when resources permit, programmes of a similar nature will be organized as appropriate, will the Secretary undertake to consider organizing similar programmes each year?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):

President, I agree that such programmes certainly cannot replace drivers' own responsibility for their personal health and safety, but as a publicity and education programme, it has its own effectiveness. Regarding the question put by the Member concerned just now, I do not have at hand the information in this regard, but as far as I remember it, probably some 2 000 to 3 000 drivers have been benefited. In addition, on the question of whether or not such programmes will be organized on an ongoing basis, we also hope to do so when resources permit. Certainly, we hope that other organizations can join us in holding these programmes and sponsor relevant activities in this regard.

Insofar as the simple health check-ups for drivers are concerned, to my understanding, tests for hypertension and so on were included.

**PRESIDENT** (in Cantonese): Has your supplementary question not been answered?

**MS MIRIAM LAU** (in Cantonese): *President, the Secretary has not given an answer as to whether or not the two items mentioned by me just now were included. If the Secretary does not have the relevant information at hand, can*

*she provide it to me after this meeting, that is, the number of drivers benefited and the items included in the health check-ups?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, perhaps you will allow me to provide the information concerned after this meeting. (Appendix I)

**MS LI FUNG-YING** (in Cantonese): *President, I have come into contact with many drivers of commercial vehicles. They are pragmatic and give much weight to road safety because they are sitting in the same vehicle as members of the public. In case anything untoward happens, they will also have to pay a heavy price. However, in fact, if they feel that they are in good physical condition, they will not participate in these health check-ups, right? On the other hand, as life is excruciating, heavy burden has been brought to bear upon them. They are afraid that their participation in health check-ups may end up for them a failure to keep their "rice bowls", so they simply dare not undergo such check-ups. Focussing on this situation, I wonder if the Secretary has any good proposal to dispel the worries of drivers of commercial vehicles?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the Member concerned is correct in saying that they give much weight to road safety. Speaking of physical condition, in the long run, our bodies are our assets, so we must manage them properly. As to publicity and education, apart from the health check-up programme that I mentioned just now, we have also encouraged drivers to do more exercise. Perhaps, I can provide Members with some information. For example, in 2009, regarding the persons making a declaration to us, that is, the 78 persons who took the initiative to make a declaration to the TD, a majority of their applications for a driving licence actually had not been refused or disallowed. This is because after gaining an understanding from doctors, we found that many of the diseases set out on the First Schedule to the Regulations were actually beyond control. For these reasons, drivers may not necessarily lose their "rice bowls" after making a declaration. On the contrary, by so doing, they may properly manage their health condition. Insofar as publicity and education are concerned, in the future,

we will strike a balance in disseminating such messages as road safety, paying attention to symptoms of physical illnesses and doing exercises to maintain physical health.

**PRESIDENT** (in Cantonese): We have already spent more than 20 minutes on this question. Last supplementary question.

**MR IP KWOK-HIM** (in Cantonese): *President, I have read from the main reply that at present, drivers will make a declaration only when applying for or renewing driving licences. Although 78 persons have taken the initiative to make a declaration, when compared to 1.2 million persons holding a driving licence, this number was really very minimal. Moreover, it is unknown whether they made a declaration on account of renewing their driving licences or of feeling something wrong in the course. In contrast, what is more commonly seen is that other problems are caused by their health problems. For these reasons, I am also concerned about the "Health Check Days". May I ask whether or not the Government has considered or tried to understand their effectiveness in this regard? If they are really effective, can a tracking system be put in place, so that in case drivers suffer from, for example, hypertension or epilepsy after obtaining a driving licence, they may have an opportunity to become aware of their problems and thus make a declaration, thereby protecting their own safety as well as that of the public?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, just as I have said a minute ago, we actually have to process 440 000 applications for new or renewing driving licences each year. If the authorities are to keep track of the health of members of the public through a mechanism of the TD, this will give rise to definite difficulties. The existing laws provide that they must make an honest declaration, otherwise, they are liable to a fine or imprisonment. On the other hand, we remind drivers to do so through publicity and education. Ultimately, if drivers attach importance to their health, it is actually they themselves who will be benefited. However, at present, we are not permitted to design such a mechanism in terms of the resources concerned or the power conferred by the law.

**PRESIDENT** (in Cantonese): Third question.



**Hong Kong Enterprises Operating Express Delivery Service Within the Mainland**

3. **DR LAM TAI-FAI** (in Cantonese): *President, in her reply to a written question raised by a Member of this Council on 24 February this year regarding Hong Kong enterprises operating express delivery service within the Mainland, the Secretary for Commerce and Economic Development indicated that, apart from having all along been closely monitoring the launch of the Postal Law of the People's Republic of China (the new Postal Law) and its impact on the local enterprises, the SAR Government had also proposed to include the service concerned under the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA), so as to enable Hong Kong service providers to operate express delivery service for letters which was outside the monopoly of the China Post Group. In this connection, will the Government inform this Council:*

- (a) whether the aforesaid proposal will be implemented in Supplement VII to CEPA to be announced; if it will, of the details; if not, the reasons for that;*
- (b) given that it has been reported that the new Postal Law was passed on 24 April 2009 by the Standing Committee of the National People's Congress only after seven years' deliberations on the Mainland and numerous amendments, whether the SAR Government had conducted any assessment during that period on the impact of the relevant provisions on the courier industry in Hong Kong and relayed to the relevant Mainland authorities the difficulties in operation faced by the trade; if it had, of the details; if not, the reasons for that; and*
- (c) whether it has assessed, following the implementation of the new Postal Law, the number of Hong Kong enterprises operating express delivery service within the Mainland which will face bankruptcy or closure, the number of Hong Kong employees who will become unemployed or underemployed as a result, and the possible impact on the business of the Hong Kong enterprises in the Pearl River Delta which have been using the service of these companies for a long time; if it has, of the details; if not, the reasons for that?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I am replying in sequence the questions raised by Dr LAM Tai-fai:

- (a) Under the new Postal Law which came into effect from 1 October 2009, foreign companies (including Hong Kong enterprises) are prohibited from investing in and operating express delivery service for letters within the Mainland (that is, the entire process of the express service from collection of the letters to delivery takes place within the Mainland). The State Post Bureau published a notice on 30 September 2009, which stipulates that enterprises not meeting the statutory requirements for operating express delivery service would have to meet the relevant requirements for their business, and obtain a permit to operate such service before 30 September 2010. In other words, enterprises which are now operating express delivery service but yet to meet the conditions under the new Postal Law may continue to operate temporarily during the grace period until 30 September 2010.

The Government of the Hong Kong Special Administrative Region (the Government) is very concerned about the impact of the new Postal Law on the Hong Kong courier industry. We have reported the latest developments in the written reply we sent to the Honourable Wong Ting-kwong on 24 February. The Government has reflected the trade's concerns to the Mainland authorities and has proposed to open up this restricted service under CEPA, so that Hong Kong enterprises can invest in and operate this type of business. Discussions between the Government and the Mainland authorities are now underway. It is inappropriate to make any speculation at this stage.

- (b) The Hong Kong courier industry first raised with us their concerns on the new Postal Law in mid-2009 (that is, after the Standing Committee of the National People's Congress had passed the new law). Subsequently, the Government has been in close contact with the Mainland authorities, so as to gain a better understanding of how the new Postal Law is being implemented and to reflect the concerns

and views of the Hong Kong trade. As we understand it, apart from the restriction on express delivery service for letters within the Mainland, Hong Kong enterprises can operate, in accordance with the law, express delivery service for letters between the Mainland and Hong Kong, express delivery service for parcels within the Mainland and cross-border express delivery service for parcels. Furthermore, the Government has been in contact with trade organizations to try to get a better understanding of the scope of business of individual enterprises in the Mainland, the number of employees involved and other relevant details. Such information will not only enable us to make an assessment of the potential impact of the new Postal Law, but also facilitate the Government's discussion with the Mainland authorities. Up till now, we have not yet received the necessary information. Hence, we are unable to make any detailed assessment at this stage.

- (c) Since the scope of business of individual Hong Kong courier enterprises may be different, the impact of the relevant provisions of the new Postal Law on them would also differ. We therefore need more detailed information from the trade to facilitate our assessment of the impact of the new Postal Law on the trade as a whole. Until we have received such information, we are not able to make any detailed assessment at this stage. We will continue to keep in touch with the trade.

**DR LAM TAI-FAI** (in Cantonese): *President, I fully understand that discussions with the Mainland authorities in respect of CEPA take time. Neither is it possible to forge a consensus over just one session. However, in view of the economic uncertainties at present and the difficult road to recovery, it is most crucial for small and medium enterprises to grasp a clearer picture of their prospects in planning ahead. In the Secretary's reply just now, there was no mention of whether the proposal concerning the courier industry can be implemented in Supplement VII to CEPA which will soon be announced. However, may I ask the Secretary how long it will normally take from negotiating and implementing the Supplement? I hope a timetable can be provided to the industry so that they can plan ahead. If the proposal cannot be implemented in*

*Supplement VII to CEPA, will it be feasible to introduce it in Supplement VIII? I hope the Secretary will not simply reply that it will be implemented expeditiously or proactive action is being taken.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the CEPA discussion is currently underway. An announcement will be made as soon as an agreement can be reached with the relevant Mainland authorities on some liberalization measures proposed by us.

**MR ANDREW LEUNG** (in Cantonese): *President, representatives of couriers have also come to see me and I suggested to them that they could seek information from the Jinan University where a research centre on express delivery has been set up. At present, 230 Hong Kong enterprises are operating express delivery services directly or indirectly in the Mainland, employing 100 000-odd employees with an annual turnover of around RMB 10.5 billion. In fact, after the implementation of the new Postal Law, are there any other ways to legalize the express delivery service provided by Hong Kong enterprises and what measures are there to help them, apart from implementing the proposals under CEPA?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, let me explain the situation before the Postal Law came into effect. Under the old Postal Law enacted in 1986, postal services for letters and items of similar nature are exclusively provided by postal enterprises, except as otherwise provided for by the State Council. These postal enterprises may according to need delegate other entities or individuals to operate such delivery service exclusively run by them. Hence, before implementation of the new Postal Law, foreign enterprises had no franchise to provide express delivery service unless approved by the State Council or on delegation by Mainland postal enterprises. In this regard, we have also maintained close contact with the industry, hoping that they can provide some information to us. As I mentioned in the main reply, this will facilitate the progress of our discussion with the Mainland authorities.

**MR WONG TING-KWONG** (in Cantonese): *President, according to the Administration's reply to my written question on 24 February, express delivery service not compliant with the new Postal Law can continue to operate during the grace period until 30 September 2010. May I ask the Administration whether it is possible to fight for an extension of the grace period for Hong Kong enterprises before the deadline on 30 September, thus giving the Administration more time to discuss the matter with the Mainland and avoiding closure of Hong Kong enterprises operating express delivery service?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): *President, we also wish to promote more liberalization measures apart from that under the framework of CEPA. In fact, we have also proposed to the Mainland authorities that, before the grace period of the new Postal Law expires on 30 September this year, consideration be given to extending it.*

**DR SAMSON TAM** (in Cantonese): *President, the Government indicated that the concerns of the trade had been reflected during discussions with the Mainland authorities on proposals under CEPA. I consider this inadequate because data are needed to support our proposals on including the relevant business in CEPA. But unfortunately, in parts (b) and (c) of the main reply, the Secretary maintained that information from the trade is still pending for analysis. May I ask the Secretary why the Administration is still unable to provide information as the trade has been so anxious about the matter? Is it because of any communication problems between the two sides? If so, may I know what the Secretary will do to improve communication?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): *President, in fact, we have maintained communication with the trade, through meetings and other channels such as correspondence and phone calls, to gain a better understanding of their concerns since mid-2009. We have also, through some trade organizations, tried to grasp the scope of business of individual enterprises in the Mainland, the number of employees involved and other relevant specifics. The Government has certainly collected some general statistical information and data of the courier industry, such as the number of*

people involved in the trade and the number of enterprises. However, these are just data of the trade in Hong Kong. Regarding enterprises operating such business in the Mainland, we need the trade to provide us more information on the scope of business of enterprises in the Mainland, the number of employees involved and other relevant details to facilitate our overall assessment of the impact of the new Postal Law on the trade.

**DR SAMSON TAM** (in Cantonese): *President, I just asked what the Government can do to improve communication.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, as I mentioned just now, in this regard, we have maintained communication with the industry through many channels. And these letters to the trade inviting them to furnish some specific information. With such information, we will know the scope of business of Hong Kong enterprises in the Mainland, the number of employees involved and other specific details, which will help us to identify solutions through discussions with the Mainland authorities.

**MR TAM YIU-CHUNG** (in Cantonese): *President, according to Hong Kong enterprises in the Mainland, express delivery service run by Hong Kong companies is preferred because of its efficiency and inexpensive fees. Most importantly, senders can trace their documents if they have been delivered to somewhere else and claim damages. Has the Hong Kong SAR Government conveyed to the Mainland authorities the efficiency and features of express delivery service run by Hong Kong enterprises with a view to reducing their operating costs and risks in the Mainland? Has these factors been reflected to the Mainland authorities?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, letters subject to the restriction under the framework of the

new Postal Law refer to letters collected and delivered in the Mainland. In fact, Hong Kong enterprises can still provide express delivery service of parcels for destinations across the boundary and within the Mainland. To take one step further, they can continue to operate cross-boundary service for letters in accordance with the law. Therefore, only one type of mail is subject to restriction and that is, express delivery of letters within the Mainland. The operation of cross-boundary express delivery service for letters is still allowed in accordance with the law.

Turning to quality, we also understand the requirements of Hong Kong businesses in respect of express delivery service run by Hong Kong enterprises. But I would also like to point out that under the framework of the new Postal Law, there are also specific requirements on the quality of service. Take the express delivery service for mails within a city as an example, a telephone inquiry service should be provided. As for express delivery service for mails within a province or across provinces, the providers will also offer information networks for mail tracking and enquiry, in addition to a telephone inquiry service. In other words, the quality requirement of express delivery service in the Mainland under the new law has been raised accordingly. I certainly understand the unique requirements of Hong Kong businesses, which will be relayed to the Mainland authorities.

**MS MIRIAM LAU** (in Cantonese): *President, I would like to remind the Secretary that he did not answer Dr LAM Tai-fai's question at all. But I am not going to ask a follow-up question on this, President.*

*My supplementary question is: Although the Government has proposed to the Mainland that courier business be included in CEPA and the Secretary has just read out some of relevant provisions, the industry is most anxious about this because many Hong Kong enterprises have indeed been operating express delivery services in the Mainland over the years. They are very anxious because their investment will come to naught if there is any policy change or they are not allowed to operate their business anymore. Even if the Government can really include express delivery service in CEPA, will Hong Kong enterprises be provided preferential treatment under CEPA so that their operation of express delivery business currently in the Mainland can continue as usual without any*

*major changes? If preferential treatment cannot be provided, will the Government fight for it on behalf of Hong Kong businessmen?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, under Article 52 of the new Postal Law Article, an express delivery service provider shall meet the requirement on registered capital. For instance, it shall have a registered capital of RMB 500,000 or more if it is to provide the express delivery service within a province, autonomous region or municipality directly under the Central Government; have a registered capital of RMB 1 million or more if it is to provide the express delivery service across provinces, autonomous regions or municipalities directly under the Central Government; or have a registered capital of RMB 2 million or more if it is to provide an international express delivery service. Under the new Postal Law, Hong Kong enterprises and Mainland enterprises are treated equally. Therefore, if Hong Kong enterprises want to operate businesses in the Mainland, they are still required to comply with the non-discriminatory provisions of the new Postal Law on foreign and Mainland enterprises. We certainly hope that more liberalization measures to improve the room for operation can be introduced for Hong Kong enterprises in the Mainland under CEPA.

**MR IP KWOK-HIM** (in Cantonese): *Secretary, before formal enactment, the new Postal Law had been discussed by the National People's Congress (NPC) or the Mainland for many years. I would like to know whether the Government is aware of such discussions in the Mainland. In this process, has the Government reflected the impact of the new Postal Law on the express delivery business currently operated by Hong Kong enterprises? When did the Government liaise with the Mainland or reflect the situation to them over meetings, if any? Why has the Government not raised the issue earlier so that the Standing Committee of NPC could have considered the difficulties faced by Hong Kong enterprises when making a decision instead of solving the problem by Supplement VII to CEPA as proposed by a Member of the Legislative Council now?*



**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): In fact, offices of the SAR Government in the Mainland and foreign countries will keep an eye on the vital development of policies, laws and regulations in the relevant regions, in particular those that would impact on the development of Hong Kong businesses, and will keep in touch with Hong Kong enterprises operating in those regions. As Hong Kong businessmen have made investments in many places on a wide scope of businesses, we encourage and rely on Hong Kong businessmen in foreign countries and the Mainland to proactively liaise with the SAR Government and provide relevant information when they meet problems of specific concerns so that we can follow up. For example, in respect of the processing trade, many trade organizations and individuals contacted us following the outbreak of the financial tsunami last year and measures in various aspects were introduced to alleviate their difficulties.

President, regarding Mr IP's question, the trade did not liaise with us until mid-2009, and we have been very concerned about the matter ever since. We have discussed the problem with the relevant Mainland authorities through a variety of channels with a view to introducing liberalization measures for the trade.

**PRESIDENT** (in Cantonese): Fourth question.

### **Implementation of Neighbourhood Support Child Care Project**

4. **MR CHEUNG KWOK-CHE** (in Cantonese): *President, the Neighbourhood Support Child Care Project (NSCCP), which has been implemented since October 2008, provides more flexible forms of day care services for children aged under six to meet the needs of the parents at the neighbourhood level. At present, the Project in respect of each administrative district of the Social Welfare Department (SWD) is operated by only one operating organization. In this connection, will the Government inform this Council:*

- (a) *of the details of the operation of the NSCCP by various operating organizations, including fees charged for the services, average numbers of person-times using the services and utilization rates per month, and so on;*
- (b) *whether it will review the existing upper age limit of children eligible for the care services and the service hours; and*
- (c) *whether it will expand the NSCCP so that each administrative district may have more than one organization operating the NSCCP?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, it is the responsibility of parents to take care of their young children. To support parents who are unable to take care of their children temporarily because of work or other reasons, the SWD has all along been providing subvention to non-governmental organizations (NGOs) to run a variety of child care services. The SWD also strives to increase the flexibility of such services.

In 2008, the SWD launched the three-year NSCCP on a pilot basis. The NSCCP aims to provide needy parents with more flexible child care service in addition to regular services and to foster, at the same time, mutual help and care in the community. Services include the home-based care service for children aged under six and the centre-based care group for children aged between three and under six. Service operators recruit and train carers in the neighbourhood to take care of children in the service centres run by the operators or at the carers' homes.

The NSCCP commenced operation in October 2008. The first phase was launched in six districts with a higher demand for child care services (that is, Tung Chung, Sham Shui Po, Kwai Chung, Tuen Mun, Yuen Long and Kwun Tong). In March 2009, it was extended to Wong Tai Sin/Sai Kung, Kowloon City/Yau Tsim Mong, Tai Po/North, Sha Tin and Eastern/Wan Chai, thereby covering all the 11 administrative districts of the SWD. At present, the NSCCP is run by 11 different service operators in their respective responsible districts.

My reply to the three parts of Mr CHEUNG Kwok-che's question is set out below:

- (a) Since the implementation of the NSCCP, service operators have maintained close liaison with relevant groups, organizations and social service units to develop child carers networks in the community. On the number of service places, the SWD requires each service operator to provide at least 40 service places, including 26 home-based child care places and 14 centre-based care group places, in its respective district. Therefore, the entire NSCCP provides at least 440 service places in total (including 286 home-based child care places and 154 centre-based care group places). Some service operators would increase the number of service places on a need basis in order to meet the service demand. As for the utilization rate, the average monthly number of children benefiting from the NSCCP during April to December 2009 was 430.

The fees for the NSCCP service are determined by service operators with prior approval from the SWD. At present, the basic fees for home-based child care service range from \$18 to \$24 per hour while those for centre-based care group range from \$13 to \$24 per hour. Families with financial difficulties will be granted fee waiving or reduction, subject to their passing the social need and means tests.

Detailed information about the operation of individual service operators is at Annex which has been distributed to Members.

- (b) To meet different service needs, the various kinds of child care services subsidized by the SWD have different service targets. The service targets of the NSCCP are young children under the age of six. That said, in exceptional circumstances (such as when there is an urgent need for child care services because of sudden events), service operators will provide temporary service for children aged six or above on a discretionary basis to ensure that the concerned children can be taken care of properly.

The service needs of children aged six or above are not entirely the same. We understand that many parents expect the service operators to provide homework guidance, and so on, to children aged above six in addition to the basic care services. We believe that the After School Care Programme (ASCP) targeting children aged six to 12, instead of the NSCCP, can better meet their needs. Services provided under the ASCP include homework guidance, meal service, parental guidance and education, skills learning and social activities, and so on. The SWD provides fee waiving or reduction to needy low-income families.

On service hours, the centre-based care group under the NSCCP operates up to at least 9.00 pm on weekdays, and provides at least one service session on weekends. Urged by the SWD, most of the service operators also provide additional service sessions in response to the actual demand. The service hours of the home-based child care service are even longer. It operates from 7.00 am to 11.00 pm daily (including weekends and holidays) and overnight service can be provided in exceptional circumstances.

We believe that the operating hours and flexibility of the two kinds of services under the NSCCP should be able to meet the needs of most parents who are unable to take care of their children temporarily because of work or other reasons. The SWD will continue to maintain close liaison with the service operators to monitor the operation of the NSCCP.

- (c) The NSCCP is still in its pilot stage and this will end in the first quarter in 2011. The SWD will review the effectiveness and operation of the NSCCP by the end of this year. Upon completion of the review, we will decide on the way forward for the NSCCP having regard to the review outcome and the best interests of children.

## Annex

Service Operation and Utilization by District  
(as at 31 December 2009)

<i>SWD Administrative District</i>	<i>Kwun Tong</i>	<i>Tsuen Wan and Kwai Tsing</i>	<i>Sham Shui Po</i>	<i>Central Western, Southern and Islands</i>	<i>Tuen Mun</i>	<i>Yuen Long</i>	<i>Kowloon City &amp; Yau Tsim Mong</i>	<i>Sha Tin</i>	<i>Wong Tai Sin and Sai Kung</i>	<i>Tai Po and North</i>	<i>Eastern and Wan Chai</i>
<i>Name of Operator</i>	<i>Christian Family Service Centre</i>	<i>Women Service Association</i>	<i>The Tsung Tsin Mission of Hong Kong Social Service Company Limited</i>	<i>Hong Kong Outlying Islands Women's Association</i>	<i>Yan Oi Tong</i>	<i>Hong Kong Tin Shui Wai Women Association</i>	<i>Tung Wah Group of Hospitals</i>	<i>Hong Kong Single Parents Association</i>	<i>Hong Kong Family Welfare Association</i>	<i>Hong Kong Women Development Association Limited</i>	<i>Baptist Oi Kwan Social Service</i>
<i>Service capacity and service fees of Home-Based Child Care Service (HCCS)</i>											
Capacity	26	40	26	26	26	30	28	26	26	26	26
Service fee (per hour)	\$18	\$18	\$18	\$20	\$18	\$18	\$18	\$18	\$20 (\$24 - applicable to HCCS provided at the service users' home, or service from 11.00 pm to 7.00 am)	\$23	\$18
<i>Service capacity and service fees of Centre-Based Care Group (CCG)</i>											
Capacity	14	14	14	28	14	14	14	14	14	14	14
Service fee (per hour)	\$13	\$13	\$18	\$15	\$13	\$13	\$18	\$13	\$20 (\$24 – applicable to non-operating hours of the CCG)	\$18	\$13
<i>Total number of children beneficiaries during the period from April to December 2009</i>											
Number of children	263	552	308	435	525	478	392	166	299	290	161

**MR CHEUNG KWOK-CHE** (in Cantonese): *President, according to the information provided by some service operators, child carers are now generally*

*paid approximately \$20 per hour. I find this a blatant exploitation of the income of child carers, for they are exposed to the risk of work injuries or accidents when taking care of young children. May I ask the Secretary, through the President, whether the service operators have taken out employees' compensation insurance for their child carers? If not, how can these operators make compensation should their child carers encounter any work injury accidents?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I would like to thank Mr CHEUNG for his question. This issue is also of great concern to us. This is why we have requested the service operators participating in the pilot scheme to adopt complementary measures, including providing training and insurance, and making regular home visits to examine the quality of child carers. Furthermore, the service operators must ensure that the child carers are already trained, have at least five years' experience in taking care of children, have received professional training, and know how to handle sudden events. Hence, all of them are trained.

Just now, Mr CHEUNG mentioned that the subsidy was relatively low. Actually, it must be noted that the objective and starting point of the NSCCP is not an employment project. Members can see that the project is named the "Neighbourhood Support Child Care Project". By "Neighbourhood Support", it really means bringing into play the spirit of neighbourhood support. Many women participating in the provision of child care service have their own children. In addition to taking care of their own children, they can now take care of one more child without leaving their home and, at the same time, receive a subsidy. Actually, \$20 ..... the rationale of the NSCCP is volunteer work. The subsidy ..... nonetheless, I appreciate Members' concern. Therefore, the subsidy will also be reviewed during the review to be conducted in the future. Members all understand that a minimum wage will be implemented. Upon the implementation of a minimum wage, the subsidy will also be brought in line with the minimum wage, and they will at least have a basic income. By then, the issue of whether the subsidy is too low will no longer exist, as a level would have been set then. This is an improvement.

**PRESIDENT** (in Cantonese): Which part of your supplementary question has not been answered?

**MR CHEUNG KWOK-CHE** (in Cantonese): *President, the Secretary has not answered whether employees' compensation insurance cover has been provided.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I already answered it just now. We require service operators to provide insurance cover, including employees' compensation insurance.

**DR JOSEPH LEE** (in Cantonese): *President, the reply given by the Secretary to Mr CHEUNG Kwok-che just now made me think of the Chinese saying of "putting one more pair of chopsticks on the table for one more person", thus assuming that the child carers can be paid less. I have no idea if the NSCCP is designed in this manner, and as a result, even insurance is included. But my supplementary question is not about this. I have read the figures provided by the Secretary in the annex and found that the demand is particularly high in several districts, namely Yuen Long, Tuen Mun, Kwai Tsing and Tsuen Wan. However, according to the Secretary, a review of the NSCCP will not be conducted until a year later. My supplementary question is: Will the Secretary consider ..... he should have noticed that the demand in some districts is particularly high. Will he provide more resources to meet the demands or increase the number of places? If so, he will be able to help the people living in those districts.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I would like to thank Dr LEE for his question. The NSCCP, which has been implemented for some time, will be reviewed by the end of this year. For the time being, we will, based on our expenditure, give each service operator a funding of \$1.27 million, with \$760,000 being used for paying subsidy, or meeting waived fees, and the remaining \$510,000 for meeting operating expenses which will be met in part by fees and charges. If necessary, we can discuss with the service operators to see if the number of places can be increased. Of course, decisions will be made in the light of the actual situation.

**MR FREDERICK FUNG** (in Cantonese): *The Secretary said for participants of the NSCCP ..... the service operators will take out employees' compensation insurance for them. However, if they are not employees, would it be wrong to take out employees' compensation insurance for them?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, the insurance mentioned by me just now is meant to ensure the safety of the children and ..... there are two types of services, namely home-based service and centre-based service. They are different, and Members have to be clear about this. The purchase of insurance shall depend on whether the child carers have a so-called employment relationship with the centres. If such a relationship is established, the centres will have to take out insurance for the child carers. This is what I meant when I said that insurance should be included in the funding.

**PRESIDENT** (in Cantonese): Is your supplementary question not yet answered?

**MR FREDERICK FUNG** (in Cantonese): *President, perhaps my question was not clear enough. I said ..... Mr CHEUNG Kwok-che's question is about the domestic case, but my question just now was about taking care of children at the neighbourhood level. The Secretary described the \$20 as a subsidy rather than an income. In spite of this, the Secretary then said that the centres would take out employees' compensation insurance for the child carers. For this reason, I asked the Secretary whether or not the child carers were employees or it was wrong to take out employees' compensation insurance for them.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, just now, I made it very clear that there are two types of services. First of all, the \$20 is a subsidy payable to them for provision of services. However, two types of services are involved here, namely centre-based service and home-based service, depending on their relationship with the service operators, or whether there is an employment relationship between the two. Should there be an employment relationship, the centres will definitely bear the responsibility. This



was what I meant when I said a sum of money had been set aside for providing insurance cover.

**MR FREDERICK FUNG** (in Cantonese): *Have the service operators taken out insurance for women providing home-based service?*

**PRESIDENT** (in Cantonese): Secretary, do you have anything to add?

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, just now I made it very clear that if they have a very clear employment relationship with the service operators, that is, if the service operators treat them as employees or require them to provide services, then the service operators will have to take out insurance for them. However, discretion will have to be exercised depending on the actual circumstances should the abovementioned circumstances do not apply to them, and the services provided are treated as isolated services. In any case, we have advised service operators to provide insurance cover by all means. Certainly, as pointed by a Member just now, it is true that employees' compensation insurance is unnecessary if there is no employment relationship.

**MRS SOPHIE LEUNG** (in Cantonese): *The Secretary mentioned in the main reply that the NSCCP is in its pilot stage and will be reviewed by the end of the year. May I ask if the Secretary will consider diversification of the NSCCP during the review, as with the proposal put forth by the Women's Commission years ago, in the hope that these service operators will not only be responsible for recruitment, but also maintain their self-help and mutual-help role with even greater perseverance by inviting mothers in the neighbourhood who have to take care of small children to join the centres as members? Only in doing so will there be a chance for these mothers to take up employment and receive training, so that they can rebuild self-confidence in taking up employment in the future.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I would like to thank Mrs Sophie LEUNG for her valuable and constructive suggestion. Actually, we will conduct a comprehensive study during the review. Since the NSCCP has been implemented for a considerable period, we have already gained some valuable experience. How should we proceed if regular and major services are really to be launched? A certain mode should be established. I will definitely take into account the Member's view, that is, to provide a variety of opportunities for participation by women at different levels.

**MR IP WAI-MING** (in Cantonese): *After listening to the reply given by the Secretary just now, I feel that the Secretary himself is actually not clear about the relationship between those service operators and the child carers in the community. It seems that ..... First, I find that the fees charged range from \$18 to \$24 per hour, and the gap is actually quite large. Second, is there an employment relationship between the child carers and the service operators? It seems that the SWD merely allows the service operators to decide by themselves. Under such circumstances, will the SWD encounter problems in supervision? Will even the SWD find this confusing? What is more, if the Government cannot determine whether or not the child carers should be treated as employees, we will doubt whether the wages are too low and whether the child carers are being exploited. The most important point concerns insurance as mentioned just now. If there is an employment relationship, insurance must be taken out. However, if there is no employment relationship, what kind of insurance should be taken out instead? As far as we know, general insurance and employees' compensation insurance are different in terms of coverage and premium .....*

**PRESIDENT** (in Cantonese): Please clearly raise the supplementary question you would like the Secretary to answer.

**MR IP WAI-MING** (in Cantonese): *May I ask the Secretary if, in case there is no employment relationship, he has ensured that the insurance taken out for them is comparable to employees' compensation insurance?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, just now I have stated very clearly that there are two types of services provided under the NSCCP. The first type of service is centre-based care service. The woman child carers providing such service definitely have an employment relationship with the service operators. Hence, the funds provided to these service operators will definitely include the amount of money payable for the insurance taken out for these child carers. This is absolutely clear.

As for the second type of service, that is, service provided by child carers at home, it will really depend on whether these child carers have any employment relationship with the service operators. Should the latter opt for a flexible approach, they will have no employment relationship with the child carers. Members are concerned about what will happen should the child carers in the community sustain work injuries. We appreciate Members' concern. However, it must be borne in mind that the chances of these women sustaining work injuries in taking care of children are actually not high, as they are also taking care of their own children. This should be known to all Members. Yet, we do appreciate Members' concern. Therefore, in conducting the review in the future, we will consider how best issues concerning these women in such aspects as work injuries and insurance during the implementation of the regular project can be addressed. I agree that this problem must be tackled.

**PRESIDENT** (in Cantonese): Which part of your supplementary question has not been answered?

**MR IP WAI-MING** (in Cantonese): *The question raised by me just now is: For those child carers who have no employment relationship with service operators, can the Government ensure that the insurance taken out by service operators for them is comparable to employees' compensation insurance? I feel that .....*

**PRESIDENT** (in Cantonese): I think the Secretary has already answered the question. If you are not satisfied with his reply, you may follow up through other channels.

**MR WONG KWOK-HING** (in Cantonese): *President, on behalf of some mutual aid committee (MACs), I would like to put a question to the Secretary. The After School Care Programme offered is actually very popular in the community, but the number of places is utterly insufficient. I have been told by some MACs that the SWD had contacted them in the hope that they could support and organize after-school care service. They are very enthusiastic and eager to render support. But unfortunately, the support given by the Government or the SWD for organizing after-school care service is inadequate. For instance, the MACs have no toilets and water taps. How can the children wash their hands if there are no water taps? At the same time, the MACs cannot afford paying the electricity bills on a long-term basis. Even if they wish to turn on their air-conditioners, they cannot afford the electricity bill. Therefore, I would like to ask the Secretary this question: Will he review how support can be given to the MACs in the community to complement the after-school care service launched by the Government? If this service can really be provided, many people will be benefited because the demands of the people can hardly be met if there is only one centre providing such service in each community.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Thanks to Mr WONG. After-school care service is currently provided on a self-financing basis. At present, there are 5 000 places, with 137 organizations providing such service in Hong Kong. These organizations, which are scattered in different housing estates, can even be found in some easily-accessible places. But their utilization rate is only 85%, and some places are still ..... of course, the supply and demand situation is relatively tight in some places, but such service is not fully utilized in other parts of the territory. We have also set aside \$15 million for the SWD to waive or reduce the fees payable for the services provided by these organizations. This is in line with the calculation method adopted by the NSCCP. When necessary, the fees payable by relatively poor families can be waived or reduced. Hence, we will discuss with the relevant party.

Members should understand that after-school care service is provided for children aged six or above. Basically, homework guidance and other services are provided. Generally speaking, there are three sessions of service provision, including morning, afternoon and evening sessions. In some cases, even meal service is provided. Therefore, the requirements on facilities will be more stringent. For instance, toilets must be provided. As the requirements are

similar to those to be met by a school, the matter cannot be handled in a slapdash manner. In the review to be conducted in the future, I will definitely consider Members' views and examine how best the service can be improved. We will definitely give this consideration.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, can the Secretary clarify this, such that those child carers in the community can be given specific guidelines? Those child carers will often treat the money they receive as subsidy as a small amount of wages or allowance. However, they bear the risk of sustaining work injuries, such as sprain and strain, when taking care of small children. I think they cannot enjoy protection should the Secretary merely allow the service operators to determine their employment relationship with them. Can the Secretary make it clear that this is also a kind of employment relationship in a clearer and more specific manner so that they can enjoy greater protection?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, thanks to Mr LEUNG. Today, a number of Members have expressed great concern about employee protection. As Members are aware, this is also a matter of great concern to me. I undertake that I will study this matter again to examine what can be done in terms of protection during the transitional period. However, the most important point is that there must be an employment relationship because many child carers are self-employed or consider the service as a part-time job at home. Once they have registered with a service operator to express their willingness to be a child carer, the service operator will arrange for them to provide child care service, or arrange time slots for them to take care of small children. We need to study the matter again to examine how the relationship between the service operator and them should be handled should they sustain work injuries under such circumstances. Nevertheless, I undertake that a study will be conducted in this respect.

**PRESIDENT** (in Cantonese): We have spent more than 20 minutes on this question. Last supplementary question.

**MR WONG SING-CHI** (in Cantonese): *I thought I would not be able to ask my question. The question I wish to ask the Secretary has actually been asked by a number of Members already, and that is: Have the authorities determined the positioning of this service? Insofar as this service is concerned, are the people serving the small children treated as volunteers or employees? If they are treated as volunteers, I am worried that a very dangerous situation will arise because the protection for these people will definitely be affected. The children served by them might also encounter problems because, if they are treated as volunteers, they will have no specific responsibility to ensure the safety of the small children, and the relevant service operators will have to do something on their own. May I ask the Secretary if this service can be classified as one being supervised by the SWD? Furthermore, should the quality of the service be regulated? Should the staff providing such service be protected as well? Will concrete plans and supervisory measures be formulated in this direction?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I would like to thank Mr WONG for his question. The objective of the NSCCP *per se* can be said to be "killing several birds with one stone", with the hope that a multi-win situation can be achieved. In other words, the Government seeks to, on the one hand, provide flexible child care service and, on the other, promote care and mutual care at the community level while allowing some parents and women to, in addition to taking care of their own children, make some money by taking care of their neighbours. This is actually an all-win situation. Therefore, Members should not describe the NSCCP merely as an employment project; it is actually a multi-win project.

Regarding the question raised by the Honourable Member concerning whether the child carers should be treated as volunteers or employees, I would say they are both volunteers and employees. This is actually a multi-win situation. Is it a good thing that they can take care of small children without leaving their home and make some money and help their neighbours at the same time? We will definitely improve the NSCCP in this direction when we determine the positioning of the service in the future. As for supervision, the SWD has its requirements. We will sign service contracts with the service operators and they will be required to submit an operating report to us monthly. Should they receive complaints about child abuse, they will have to report to us. Furthermore, we attach great importance to the quality of training, and we will

ensure that the child carers will receive training. These will be our requirements, and we will continue to maintain them. During the review, we will study all factors in a holistic manner.

**PRESIDENT** (in Cantonese): Fifth question.

### **Human Swine Influenza Vaccination Programme**

5. **MS AUDREY EU** (in Cantonese): *President, the Government earlier spent \$237 million to purchase 3 million doses of Human Swine Influenza (HSI) vaccine, of which only about 180 000 doses have been administered as at 1 March. Moreover, it has been reported that the World Health Organization (WHO) has formed a preliminary view earlier that the HSI outbreak had passed its worst stage, and the Controller of the Centre for Health Protection has also admitted that the progress of HSI vaccination in Hong Kong is unsatisfactory and a large surplus of vaccines is expected. It has also been reported that at present, many European and American countries, including the United States, the United Kingdom, France and Germany, and so on, have one after another requested pharmaceutical manufacturers to reduce the supply of such vaccines, or have sold the surplus vaccines to other countries in need. In this connection, will the Government inform this Council:*

- (a) *of the existing stock of vaccines and their total value, and how the authorities plan to dispose of the vaccines, so as to ensure the optimal use of public funds;*
- (b) *whether it has assessed the public's acceptance level of the vaccination, so as to estimate the ultimate amount of surplus vaccines, and whether it has followed the practice of some European and American countries with a view to disposing of the surplus vaccines properly; if so, of the details; if not, the reasons for that; and*
- (c) *whether the authorities have learnt their lesson from this exercise of vaccine procurement, so as to improve the policy on vaccine procurement in the future; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I would like to thank Ms EU for the question. Since 21 December 2009, the Government has launched the HSI Vaccination Programme (the Programme) with the primary objective of reducing the chance of complications, hospitalization and deaths among high-risk people after they have been infected with the disease.

To implement the Programme, we procured 3 million doses of HSI vaccine at the cost of \$79 per dose in accordance with established tender procedures. Among the vaccines procured, 2.5 million doses are intended for five target groups who are at higher risk, namely chronic patients and pregnant women, children aged between six months and less than six years, elderly aged 65 and above, health care workers and pig farmers and pig-slaughtering industry personnel. At the same time, the Government has reserved 500 000 doses of HSI vaccine for those who do not belong to these target groups but who wish to get vaccinated so that they may seek vaccination in private clinics at their own cost.

Our decision to procure the HSI vaccines was made on the basis that we had to prepare for the most conservative scenario and make the safest plan for the development of the pandemic. We have foreseen that some of the vaccines may be left unused if the pandemic eventually turns out to be not severe. I want to emphasize that the Government's procurement of the vaccines is intended as a necessary insurance to safeguard public health in case there is a serious outbreak in Hong Kong. To safeguard public health, we need to purchase enough vaccines to protect the more vulnerable groups in the population against HSI and its complications.

Since the end of last year, the Department of Health has been publicizing the Programme through a series of publicity activities, such as distribution of leaflets and broadcasting of announcements of public interest on television and radio. We have also explained clearly to the public the potential risks of vaccination and provided them with timely update on such information as the latest development of pandemic both locally and worldwide, and the adverse events with history of HSI vaccination. Such efforts are aimed at ensuring information transparency and providing the public with adequate information for their consideration so that they can decide whether to get vaccinated. Similar to the case of other medical treatments, the ultimate decision to get vaccinated rests with members of the public. Vaccination is voluntary under the entire



Programme. The actual vaccination rate can be affected by a number of factors, including changes in the pandemic, the number of severe and fatal cases, and the public's understanding as to the safety of the vaccine, and so on.

Although we have received reports of two confirmed cases of patients developing Guillain-Barre Syndrome (GBS) with history of HSI vaccination since the Programme was launched, the Expert Group on Serious Adverse Events following Human Swine Influenza Vaccination under the Centre for Health Protection has pointed out after having studied these cases that the WHO has to date found no evidence suggesting a causal relationship between GBS and HSI vaccination and the reported number of GBS cases worldwide has not exceeded the usual background rates prior to the introduction of such vaccines. As a matter of fact, according to HSI vaccination data from around the world, the safety of HSI vaccine has been confirmed and its side-effects are on the whole relatively mild. For those high-risk groups recommended for vaccination by the Scientific Committees in particular, the benefits of protection they will get from HSI vaccination will outweigh any possible adverse vaccine effect.

Up to 14 March since the Programme was launched, more than 185 000 doses of HSI vaccine have been administered to the target groups. Currently, there are roughly 2.75 million doses of HSI vaccines in stock. Maintaining this stockpile of vaccines is considered crucial in the coming few months as it can provide an assurance for public health protection and ensure the availability of sufficient vaccines for use once the pandemic has worsened. Under such circumstances, we do not have any plan to donate or sell the vaccines to other places at this stage.

In fact, vaccination is only one of the preventive and control measures we have launched. At the same time, we have enhanced our virus surveillance in the community especially at schools and residential care homes, continued to implement public health measures at boundary control points, actively promoting protective measures at individual and community levels, use of antiviral drugs, and have made necessary preparations and contingency planning for treatment. All these measures are aimed at reducing the incidence rate, chance of hospitalization and mortality rate of HSI infections, and the overall impact to Hong Kong.

President, as at 14 March this year, there were 73 HSI fatal cases and 262 severe cases of HSI infection, and 179 patients were admitted into the intensive care unit. It is still unpredictable whether the constant mutation of the virus will result in a more severe pandemic or whether there will be a second or a third wave of HSI pandemic. As such, we must stay vigilant. The Government will continue to closely monitor the development of the pandemic in Hong Kong and other places in the world as well as the vaccination coverage to ensure that our preventive and control measures can achieve the best result.

**MS AUDREY EU** (in Cantonese): *President, I must seriously protest against the Government's practice. President, my main reply is divided into parts (a), (b) and (c). But as you can see, the Secretary's main reply is simply lumped together and not divided into parts (a), (b) and (c). He has not answered my question at all and instead, he just talked about things that I did not ask, such as the side-effects, GBS, and so on, things not mentioned in my question. For example, I asked him whether the authorities had learnt their lesson, whether improvements would be made on the future policy of vaccine procurement, and so on. He has not answered these questions at all. This is really not right because I can only ask one follow-up question but the Secretary has not even answered my original question.*

*President, when the Government first came to the Legislative Council for funding approval in relation to this matter, I already said then that I would of course agree to buying the vaccines but the Government's estimate was wrong and unrealistic. The proposed quantity was way too large. If we look at the figures now, the Government has procured 3 million doses of HSI vaccine but only 185 000 doses, that is, only 6%, have been administered. I must then ask, what should be done about such a large amount of surplus vaccines? Has the Government learnt its lesson so that improvement can be made next time when vaccine procurement is required? President, the Government has admitted now that the original estimate is wrong, so what lesson it has learnt? How is it going to deal with similar problems in the future?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, thanks to Ms EU for the follow-up question. What we aimed to do was that, having listened to the advice from experts of the Scientific Committees and reviewed

international scientific literature, we knew five high-risk groups would be vulnerable to the complications and death threats of the disease. Hence, we procured the vaccines after calculating the quantity required to protect these five target groups. As I have said in the main reply, these five target groups would need 2.5 million doses of vaccine in total and therefore, we have procured 2.5 million doses of vaccine. In addition, we have procured 500 000 doses of vaccine for people who do not belong to these five target groups. In the course of our procurement, we heard quite a number of voices from the people indicating their wish to get vaccinated by private doctors or private clinics at their own cost. Hence, the quantity of vaccines procured was determined with reference to scientific research and consideration of the then prevalent public sentiments.

**MR ANDREW CHENG** (in Cantonese): *President, the vaccines have an expiry date. As far as the current inventory is concerned, which according to the main reply stands at 2.7 million doses, and judging by the ongoing trend of vaccination, it would be a tremendous waste if these 2 million plus doses of vaccine are not administered before expiry. Of course, we know that some countries are able to resell the vaccines to other countries or cancel their contracts, but Hong Kong can hardly follow their practices with respect to these several million doses. I would like to ask the Secretary this — because some specialist doctors have also advocated this publicly — after all, some Hong Kong people want very much to be administered the vaccine, but because they do not belong to the high-risk groups, they have not done so to date. Will the Secretary consider letting Hong Kong people get vaccinated for free within a certain period of time, say within one month, before the expiry of these 2.75 million doses of vaccine? This arrangement is at least better than putting these 2 million plus vaccines down the drain because it may induce some several hundreds of thousands of people to get vaccinated. As such, will the authorities consider providing this service for free to those people who want to get vaccinated?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as we said when we first explained the Programme to the Legislative Council, the scheme is drawn up according to scientific consideration — the consideration of whether only these five groups of people can get maximum benefits from the vaccination, that is, whether the benefits outweigh the risks. Therefore, our

arrangement was made entirely on basis of scientific consideration and we will not decide whether the initial recommendation made by the Scientific Committees should be reverted on the basis of the amount of surplus vaccines in the inventory. As such, President, I believe the two matters should be discussed separately: first, we have to decide, on the basis of scientific consideration, which groups of people are the greatest vulnerable and hence, should be given the greatest protection so that we must provide them with free vaccination or subsidy. Second, regarding those people who do not belong to the five target groups, we have of course made available sufficient vaccines for their use since day one of the Programme. But it would be a self-financed arrangement.

**MR FRED LI** (in Cantonese): *President, an over reliance on science will result in a tremendous waste of public funds. Before the Government came to the Finance Committee of the Legislative Council for funding approval, I had already given a very serious warning about the Programme because from the public opinions I gathered through community work, many elderly had indicated that they would not get the vaccination. I told the Secretary this, but he did not listen.*

*President, we know from the Government's reply now that only 7% of the 2.5 million people in the target groups have been administered the vaccine. It is only 7%, and I wonder how long these vaccines can remain effective and whether anything can be done to revitalize them? I really hope the Government can give us an answer on this: only 7% of the people in the five target groups have been vaccinated, and out of these five groups, which one has the lowest vaccination rate? What more will the Government do to convince more people to get the vaccination in the coming months so that our public funds would not be wasted?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I believe we must first clarify what is our common goal. In this fight about disease prevention and pandemic control, our common goal is to minimize the number of people affected by HSI in Hong Kong, as I said just now. By minimizing the impact, we must of course strive to keep the mortality rate, the hospitalization rate as well as the rate of patients receiving intensive care because of HSI infections to the lowest possible so that the overall impact of the disease on Hong Kong will be kept to the minimum. That is our ultimate goal, President.

Our ultimate goal is not simply measured against the so-called vaccination coverage rate. As I mentioned in the main reply just now, vaccination is but one of our pandemic prevention measures. Meanwhile, we have implemented many different preventive and control measures. For example, a lot of work has been done in the level of the community, schools and residential care homes. We have also done a lot of work in environmental hygiene. In this connection, we have adopted a multi-pronged approach so that we can achieve the ultimate, the most meaningful common goal, that is, to minimize the impact of the disease on the people's health and society as a whole. Our ultimate goal is not determined by whether the coverage rate of a particular measure is particularly high or low.

**PRESIDENT** (in Cantonese): Has your supplementary question not been answered?

**MR FRED LI** (in Cantonese): *My question is about which of the five target groups has the lowest vaccination rate? The Secretary should at least answer that part of my question, should he not, President?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, please give me some time, for I need to check the relevant information. What I can answer is that I know the group with the highest vaccination rate is pig farmers and pig-slaughtering industry personnel. The percentage of this group is the highest. This is all the information I have on hand. As for information about the other groups, I can provide them to Members after the meeting. (Appendix II)

**DR LEUNG KA-LAU** (in Cantonese): *President, the Secretary just mentioned that when procuring the 3 million doses of vaccine, the intention was that private doctors would also assist in administering some of them to the public. In other words, people who do not belong to the five high-risk groups can be administered the vaccine in private clinics at their own cost. The Government has in fact done a most stupid thing. Let me tell the President and see if the Government is willing to make improvement.*

*There are 10 doses of vaccine in one pack and each dose costs \$80. That means once a pack of vaccine is opened, the cost would be \$800. This is known to all. As such, if a general patient goes to a private doctor for vaccination, he is expected to pay \$80 for the cost of the vaccine in addition to some fees charged by the doctor. However, given the circumstances currently, few people would go and get the vaccination. If a private doctor opens a pack of vaccine, there are 10 doses with a cost of \$800. If few patients come to seek vaccination, say maybe only two patients, the doctor will be making a loss.*

*What is the most stupid thing the Government has done? Well, it has distributed the vaccines to private doctors but barring them from redistributing their vaccines to other doctors. In other words, if a private doctor has only one patient requesting vaccination, he would at least have to charge that patient \$800 at-cost, whereas the remaining nine doses of vaccine cannot be redistributed to the doctors next door. Under the circumstances, what can the private doctors do? They can but opt out of the Programme.*

*The Government has said that it would require the assistance of private doctors to administer the 3 million doses of vaccine to patients. But given the present circumstances, no private doctor is willing to assist in administering the vaccines because if there is no patient requesting vaccination, the doctors will be making a loss. President, do you understand my point?*

**PRESIDENT** (in Cantonese): What is your supplementary question?

**DR LEUNG KA-LAU** (in Cantonese): *May I ask the Secretary if he will make a very simple rectification and allow private doctors to share the use of vaccines? In other words, if a private doctor cannot use up all the 10 doses, he can redistribute the remaining doses to other private doctors so that the vaccines can be administered to the patients at a lower cost and more people will seek vaccinations. But now the Government does not allow the doctors to redistribute the vaccines. What should be done then?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I have already stated very clearly in my reply to Mr LI's question that our ultimate goal is to minimize the impact of the disease on people's health, public hygiene and Hong Kong society as a whole. That is what we want to achieve ultimately with our disease prevention and pandemic control measures. We are not simply looking at the coverage rate of a particular measure. That is our major premise.

Second, regarding the distribution of vaccines in the private market, I believe colleagues at the Centre for Health Prevention (CHP), including the Controller himself, have already met with representatives of private doctors many times before. From what I have heard, some private doctors have this query. When a private doctor opens a pack of vaccine which contains 10 doses, he can of course redistribute some of them to private doctors next door or in the adjacent floors. But what if unfortunately, something happens or goes wrong? Is it caused by the patient's own reaction to the vaccine or some problems with the storage of the vaccine? As the vaccine is taken out from one doctor's refrigerator and transferred to the second or third clinic, it would involve safety issues in the supply chain of the medicine or vaccine. In this connection, we have heard voices about this concern. Therefore, the matter is not that simple and it is not something that the Government can easily resolve. But if there are any concrete and practicable proposals, colleagues of the CHP will be very interested to listen and discuss them with private doctors to see if some solutions could be worked out.

**MR CHAN KIN-POR** (in Cantonese): *President, there are in fact many factors to be considered when estimating the quantity of vaccines required, such as how severe the pandemic is anticipated to be. However, as pointed out by some earlier reports, the seriousness of the pandemic has been exaggerated by some organizations. That is why I believe that there must be some deviation in the estimated amount of vaccines required. The fundamental solution is to fight for more flexible terms for the supply of vaccines from manufacturers. For example, similar to the case of taking out an insurance policy when we can pay a higher premium in exchange for certain terms and conditions, we may fight for the option of procuring the vaccines in batches or returning the surplus ones. Will the Government learn from this experience — I shall refrain from calling it a lesson for the time being — and consider adopting this approach? It is because the authorities will do such work each year and hence, the procurement*

*programme must be improved. What is the Government's response to this suggestion?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I must clarify that we in fact procure many vaccines year in, year out. The Government has put in place various vaccination programmes, especially for children, and many different kinds of vaccines will be procured every year. As regards influenza vaccines, we will procure several hundred thousand doses each year. However, when it comes to the method and timing for the procurement of seasonal influenza vaccines and HSI vaccines, I think they must be dealt with separately.

President, I think you may recall that on 1 May last year, a foreigner imported the first HSI case into Hong Kong and by June, we had already briefed the panel on the funding proposal for the procurement of these vaccines. If, at that time, we had a very clear idea about how the pandemic would develop in the coming year, we could of course make a more accurate estimation about the quantity of vaccines required. One could always be wise after the event, with the ready benefit of hindsight. But during last June and July, we acted according to the information and scientific findings available then as well as the advice given to us by the WHO. I believe there is neither deviation nor error in our estimation.

Certainly, I agree very much with what Mr CHAN said just now. The coverage rate of vaccination depends on many factors and some of the more important ones are the development of the pandemic, the mortality rate as well as the seriousness of the relevant cases. These would all affect the vaccination rate.

**PRESIDENT** (in Cantonese): Last supplementary question.

**DR PAN PEY-CHYOU** (in Cantonese): *I believe the Secretary may recall that when the matter was discussed at the panel and on other occasions last year, I had time and time again raised my concern about the safety of the vaccines and this was of course related to the take-up rate. In fact, unfortunately, my worries then have materialized and we can see that the current take-up rate of the vaccines is only 6.26%.*



*May I ask the Secretary whether he can tell us the expiry date of the existing stock of vaccines held by the authorities? This is the first point. The second point relates to a point also raised by colleagues earlier. In fact, Raimondi College Primary Section has to be closed today because there is an outbreak of two strands of influenza amongst the students and the school closure is meant to pre-empt the spread of the diseases. As there are many people in the community who would really like to get vaccinated, can the authorities relax the Programme so that the vaccines can also be made available to other non-high-risk persons in the community? My idea is that, say, the vaccines can be provided to private doctors for free so that they can administer the vaccines to patients for only a service charge. With the cost of vaccines waived, more people will get the vaccination. The fact is with such a low vaccination rate now, the Government has to think up some ways.*

**PRESIDENT** (in Cantonese): Dr PAN, you have asked two questions and the second question has already been asked by other Members. Secretary, please answer.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I want to reiterate that our ultimate goal is to minimize the impact of the pandemic on public health as well as in other areas, and vaccination is but one of the measures. That is why, President, I believe the coverage rate of vaccination is not our most important consideration.

Secondly, as far as I am aware, one primary school has to be closed for seven days starting from today. This arrangement was made because two strands of viruses were found in the school and the child who was hospitalized because of more serious symptoms has already recovered and been discharged. He was infected with influenza B, not HSI. Therefore, this case does not bear any great relevance to HSI vaccination.

**PRESIDENT** (in Cantonese): Last oral question.

**Platform Screen Doors and Automatic Platform Gates in MTR Stations**

6. **MR ANDREW CHENG** (in Cantonese): *President, at present, all underground stations of the MTR Corporation Limited (MTRCL) have been retrofitted with platform screen doors (PSDs), and the works of retrofitting automatic platform gates (APGs) at eight at-grade and above-ground MTR stations will also be completed in 2011. Due to the design of the platforms along the East Rail Line, the retrofitting of APGs may render passengers unable to see the width of the platform gap clearly, thus posing danger. The trial of the mechanical gap filler (MGF) system carried out by the MTRCL for its study to solve this problem was completed in October last year, and a comprehensive review was expected to be completed at the end of last year or early this year. Moreover, in January this year, an incident occurred at Shau Kei Wan MTR Station in which the glass pane of a PSD cracked. In this connection, will the Government inform this Council whether it knows:*

- (a) *apart from the above incident, other incidents involving cracking of PSD glass panes or failures of PSDs have occurred at the underground stations since the completion of the works of retrofitting PSDs in 2006; whether the MTRCL or its predecessor, the MTRCL, has conducted any investigation into these incidents; if such investigations had been conducted, of the progress and outcome; if not, the reasons for that;*
- (b) *at present, the MTRCL has put in place a mechanism to test and inspect the quality, safety and operation of PSDs and APGs regularly; if so, of the details; if not, the reasons for that; what measures the MTRCL has put in place to prevent the recurrence of incidents of cracking of PSD glass panes; and*
- (c) *the MTRCL has completed the comprehensive review of the MGF system; if so, of the outcome; if not, the reasons for that, and whether there is any specific timetable for the retrofitting of PSDs or APGs at the stations along the East Rail Line and the Ma On Shan Line; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):  
President,

- (a) PSDs were retrofitted at 30 underground stations on the MTR Kwun Tong Line, Tsuen Wan Line and Island Line from 1999 to 2006. Since completion of the project in 2006, PSD operation in the MTR network has been smooth with only a few incidents recorded. From 2006 to the present, there have been four cases of broken PSD glass panels and five cases of cracks being found on individual panels (details of the nine cases are in the attached table). As the glass panels are made of toughened safety glass, no injuries resulted from breakage of glass panels of PSDs.

After every incident, the MTRCL would follow up and conduct investigation into the cause of the incident. Investigation revealed that most of the incidents were caused by human factors, such as the glass being hit by hard objects, while others were caused by impurity in the glass panels.

- (b) The toughened safety glass panels currently used for PSDs are manufactured by specialist glass manufacturers. The manufacturing process adopts stringent standards and the glass panels are subject to rigid tests. In general, the raw materials used to manufacture toughened safety glass contain some natural impurities (for example, nickel sulphide). To ensure product quality as far as possible, each toughened safety glass panel must undergo a heat soak test under a high temperature of 290 degrees Celsius for 8 hours before they can be validated and leave the factory. After these tests, the manufacturers would issue certificates which would be examined by the suppliers. This method of testing has been recognized in the market as an effective way to test the quality of glass. Nevertheless, this cannot completely rule out that tiny impurities may still exist in individual glass panels, creating vulnerable points for cracks or breakage if the glass panel is hit at a certain angle or from a certain direction. However, one characteristic of toughened safety glass is that when broken, it will shatter into small pieces with rounded edges, and so the broken glass itself will not cause harm to passers-by.

The MTRCL has in place a robust maintenance regime to ensure the smooth operation and good condition of PSDs. Each day, station staff will conduct function test and visual check of PSDs before the start of train service. In addition, maintenance contractors conduct quarterly inspections of PSD glass panels, replacing the panels when cracks or damage are identified. As regards PSD operation, regular maintenance and testing at varying levels are carried out quarterly, half-yearly, annually and five-yearly to ensure continued smooth operation. The MTRCL has all along reminded staff and contractors to carefully inspect and test PSDs according to established timing and procedures.

- (c) The MTRCL is in the process of arranging for the installation of APGs at eight above-ground stations on the Island, Tsuen Wan and Kwun Tong Lines. Retrofitting APGs at platforms of an operating railway line involves highly complicated works including major modifications to the platform structure, ventilation system and earthing protection system. Concrete breaking and installation works have to be carried out during the very tight non-operating hours in the night-time so that disruption to railway service could be minimized. The MTRCL is also conscious of the noise issue in association with the works and will hence work closely with the contractor in controlling noise generated. Temporary mitigation measures such as erecting noise barriers will be implemented during the works to mitigate possible noise nuisance caused to nearby residents and this will inevitably further reduce the time available for the installation works every night. The MTRCL understands that both Members of the Legislative Council and the general public would like to see the completion of retrofitting of APGs as soon as possible. Therefore, when the MTRCL awarded the contract for the project in January 2009, the contractor has been asked to look at the possibility of speeding up the programme. In planning the detailed implementation programme, the contractor and the MTRCL's project management team determined that some works can be done simultaneously to shorten the works period. The MTRCL has announced in May 2009 that the installation work will be completed one year earlier than originally scheduled, that is, in 2011.

For East Rail Line, there are platforms with relatively greater curvatures and wider platform gaps at some stations. The problem of wide platform gaps has to be properly resolved before APGs are installed at stations along the line in order to reduce the risk of passengers inadvertently stepping into the platform gaps because of sight line obstructions caused by the APGs. If APGs are to be considered to be installed on the East Rail Line, MGFs have to be installed at platforms first to reduce the risk of passengers stepping into the platform gaps when they are boarding and alighting. Therefore, the pre-merger Kowloon-Canton Railway Corporation decided to study the effect of installing MGFs at station platforms with wider gaps first. The design and operation of MGFs has to interface with the train signalling system, the MGF plates will automatically extend after the arrival of a train before the train doors are opened, and automatically retract into the platform edge after the train doors are closed and before the train departs to ensure passenger safety. The MGF system is new and has never been used in Hong Kong. In fact, it is also uncommon in other railway systems internationally. As such, the MTRCL needs to develop a MGF system that is suitable for East Rail Line and conduct on-site trial at platforms during train service hours to test its effect.

The trial was conducted at Lo Wu Station in three phases. In the first phase, the MTRCL installed MGFs at one boarding and alighting position of each of Platforms 3 and 4 of Lo Wu Station for initial mechanical testing. The second phase of the trial was to test the effect of MGFs operating together with the signalling system at a total of 10 boarding and alighting positions at Platforms 3 and 4. In the last phase, the MTRCL installed MGFs at a total of 98 boarding and alighting positions at four platforms at Lo Wu Station where platform gaps are relatively wider to conduct function and reliability test during service hours (for example, to test whether MGFs extend and retract to reduce the platform gaps every single time according to requirement, and to test the fault rate of the MGF system during operation) and collect test data in order to assess the performance of the system. The whole trial commenced in July 2008 and was completed at the end of last year.

The MGF system needs to have a sophisticated interface with other railway systems, such as signalling and train control systems, and so on. Due to safety consideration, when a train comes to a complete stop at a station, MGFs would extend from the platform edge, and only after the system verifies that MGFs are extended would the train doors open. After boarding and alighting of passengers, the train doors would have to be securely closed before MGFs start retracting. Trains would depart only when the system verifies that the whole process has been completed. During the trial, the MTRCL found that, since elaborate verifications for the communications between the MGF system and the various railway systems are required, additional platform dwell time and lengthening of total journey time are incurred. The MTRCL is now collating and analysing the data collected to assess the system's performance and implication on train service.

We understand the public's views on the installation of APGs at platforms. However, before installing any facilities in the railway system, considerations have to be given to the operational safety of and implications on railway services. We will continue to follow up closely with the MTRCL on the review of the trial on the MGF system.

Attachment

MTR PSD incidents  
(2006 - January 2010)

<i>Date</i>	<i>Station</i>	<i>Damage of glass panel</i>	<i>Cause</i>
18 June 2006	Airport	Cracks found	Human factor
6 October 2006	Yau Ma Tei	Glass panel broken	Human factor
27 November 2006	Tseung Kwan O	Glass panel broken	Impurity contained in glass
12 January 2007	Shek Kip Mei	Cracks found	Human factor
22 March 2007	Central	Cracks found	Human factor
18 October 2007	Admiralty	Cracks found	Human factor
21 April 2008	Tiu Keng Leng	Glass panel broken	Impurity contained in glass
11 April 2009	Tsing Yi	Cracks found	Human factor
27 January 2010	Shau Kei Wan	Glass panel broken	Impurity contained in glass

**MR ANDREW CHENG** (in Cantonese): *President, the last part of the main reply is precisely related to the long-awaited MGF system. The trial on the system has been conducted for almost two years, but the answer we have now got is that the MTRCL is currently collating the data collected in the final phase and that the relevant operation may lengthen journey time.*

*President, in fact, all of us understand that the relevant operation will definitely cause a certain extent of impact. May I ask the Secretary if she will, in order to speed up the retrofitting of PSDs at stations along the East Rail Line and the Ma On Shan Line, postpone the relevant works at some stations with wider platform gaps so that the authorities could continue to study how to install the MGF systems at these stations? However, for some stations with relatively smaller curvatures and are basically straight, will you consider retrofitting PSDs at these stations first using the existing technologies and then making the best efforts to expedite the completion of the study on the MGF system? Will the work in these two areas be carried out concurrently lest more innocent people should fall onto the tracks or some should use this as a means to commit suicide?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, we know and understand Members' concerns, and we will try our best to take measures to enhance safety in this respect. I am grateful to Members for their appreciation that this MGF system is developed in Hong Kong and there is no standard in the world that we can very easily make reference to and adopt immediately.

We have studied the matter again and again with the MTRCL, and we eventually still concluded that MGFs and PSDs should operate as one system rather than separately. For this reason, the tests conducted at the time not only included mechanical tests but also tests on the effect of MGFs operating together with the signalling system and reliability tests. Since PSDs cannot operate separately but in co-ordination with the MGF system, and other signalling and train operation systems, I spent some time just now explaining the way in which the train doors are opened and closed, and how the MGFs operate. First of all, it has to be confirmed whether the MGF plates are extended or retracted, and drivers should receive signals before setting the trains in motion, and the train doors will only be opened or closed after signals have been received; otherwise,

some passengers may mistakenly think that the MGF plates are extended and inadvertently step into the platform gaps.

For these reasons, the PSD and MGF systems must be developed and tested together with the entire signalling system. Actually, we have considered if, just as Members have said, some work can be carried out first in phases; but we found that it is unfeasible insofar as the practical operation of the system and the overall arrangements are concerned.

**MR CHEUNG HOK-MING** (in Cantonese): *President, in her main reply, the Secretary said that PSDs were retrofitted at stations on the Island Line, Kwun Tong Line and Tsuen Wan Line one year earlier than scheduled. I am pleased to learn that and I believe the public at large are pleased with the completion of such works. Nevertheless, as some Honourable colleagues have mentioned just now, after the completion of the relevant works, how will the works at the stations along the East Rail Line be executed? The Government conducted the relevant study in three phases, and completed the entire study at the end of last year. May I ask the Secretary, after the completion of a study report, how long it will take to assess the result? Can the Secretary provide a more specific timetable in regard to when the PSD retrofitting works at the stations along the East Rail Line will begin in order to allay the misgivings of residents along the East Rail Line?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, we have already completed the tests and are now assessing the test results. I believe we will come to a conclusion some time in the future, especially with respect to the performance of the system and the effects on stable rides. At this stage, we do not have any report to publish. But we appreciate people's aspirations in this connection and we will proactively follow up the matter. At present, we not only need to confirm that the MGF plates can mechanically extend and retract — there is little difficulty in this regard — but also the reliability and the fault rate of the MGF system while operating together with the signalling system, or its performance in different weather conditions and its operation as one of the permanent systems of the entire East Rail Line in the



future. We are now evaluating the system in these areas and we will report to the Legislative Council and discuss with Members the next phase of work when the relevant information is available.

**DR RAYMOND HO** (in Cantonese): *In fact, the problem of the platform gaps at stations along the East Rail Line cannot be easily solved. As mentioned by the Secretary, the retrofitting of PSDs or APGs involves modifications to the platform structure, ventilation system, and so on, which are complicated engineering issues. The Secretary said just now that there is apparently no other places that have installed similar types of MGFs that can provide effectiveness data for reference. May I ask the Secretary, in that case, besides reliability which is a concern in such tests, whether the authorities will consider a more important point, that is, the durability of MGFs because ordinary PSDs or APGs open and close sideways; unless somebody knocks against them, no other things can put pressure on them. However, with regard to MGFs, as the MTRCL has an enormous passenger volume, MGFs are frequently subject to immense pressure from passengers boarding and alighting. Over time, durability may be affected. So, durability is also very important in addition to reliability. If MGFs really fail, for example, failing to retract after extension, or there are other conditions, dangers may arise. Is this one of the reasons why tests have to be carried out over a long period of time?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, we agree with the Member's analysis because the operation of the MGF system is not an easy matter. Certainly, the mechanical installation is an easy solution, but when it has to operate together with the signalling system, it involves the reliability issue mentioned by the Member just now. Whenever the MGFs are extended, signals will be sent to alert the system that the relevant movement has been completed, and the signal must be sent to the train driver. When he receives the signal, he knows that he can open the train doors. Therefore, the reliability of this transmission of return signals is critical.

Second, it is the durability as just referred to by the Member. We have to study the performance of MGFs under different circumstances, for example, the

fault rate when there are a large number of passengers, and the effectiveness of operation in different weather conditions. Thus, in the third phase of the trial, the MTRCL installed MGFs at a total of 98 positions at four platforms at Lo Wu Station where platform gaps are relatively wider to conduct function and reliability tests; and we are now analysing these data. As the Member has remarked, there is not any international standard at present, nor has any other country in the world developed similar devices to which we can very easily make reference or which we can adopt immediately. Since this system must operate in co-ordination with the East Rail Line, we will proactively continue to follow up the matter.

**MR PAUL TSE** (in Cantonese): *President, I participated in an activity earlier on and had a chance to experience how the blind felt living in the dark; I felt how helpless and hesitant they were. I would like to know if the authorities have particularly examined the problems encountered by the visually impaired in using the MGFs in the course of the tests? If not, will they examine these problems at once?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the MGF system is meant to upgrade the safety co-efficient, so we will proactively follow up the matter. What the Member has just said is actually not just about PSDs or MGFs. On the whole, for the protection of passengers, especially passengers with disabilities, the MTRCL has a series of safety measures. For instance, some measures in line with the current international standards have been taken within the MTR network. These measures include the yellow lines painted along platform edges; broadcast of public announcements to advise passengers of approaching trains; installation of CCTV cameras at station platforms to facilitate platform monitoring; and the deployment of additional platform assistants during peak hours to provide assistance to passengers with special needs. Apart from continuing to implement these measures, we will study from time to time whether there are other areas requiring improvement. Each quarter, the MTRCL attends a meeting of the Working Group on Access to Public Transport for Persons with Disabilities hosted by the Transport Department to grasp the views of people with disabilities about actually

using these facilities. We are more than willing to understand their needs and make improvements.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MR ANDREW CHENG** (in Cantonese): *President, it is shown in the Attachment to the main reply that an incident took place at Tseung Kwan O Station in 2006 where a glass panel was broken because of impurity contained in glass. Later, on 21 April 2008, there was an incident at Tiu Keng Leng Station where a glass panel was broken, also because of impurity contained in glass. Both are stations along the Tseung Kwan O Line. Although the cause of the incidents has been stated in the Secretary's reply, as identical incidents of the same causes occurred at two stations along the Tseung Kwan O Line, will the Secretary instruct the MTRCL to examine clearly the PSDs at various stations along the Tseung Kwan O Line, and even expeditiously replace these PSDs when necessary?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I have mentioned in my main reply earlier that the manufacturing and testing procedures of the glass panels of PSDs meet our requirements. Of course, the manufacturers and suppliers have repeatedly verified these procedures and conducted tests, and only glass panels issued with certificates will leave the factory. Moreover, as I have mentioned in my main reply, we have a robust maintenance regime in place. Concerning the Member's question, when we sign contracts with contractors, we have specified the service standards required. It appears that these two incidents are not caused by problematic service standards of the contractors. We have also explained that glass panels inevitably contain some natural impurities in production, and tiny impurities may still exist even after the most stringent tests. Hence, we will continue to carry out inspections and tests conscientiously and carefully to ensure that the glass panels of PSDs are maintained at desirable conditions.

**PRESIDENT** (in Cantonese): Oral questions end here.

**WRITTEN ANSWERS TO QUESTIONS****Arts and Sport Development Fund**

7. **MR TIMOTHY FOK** (in Chinese): *President, the Financial Secretary has proposed in the 2010-2011 Budget to inject \$3 billion into the Arts and Sport Development Fund (ASDF) as seed money and use the annual investment return of the Fund to subsidize the long-term development of sports, culture and arts. In this connection, will the Government inform this Council:*

- (a) of the persons to be responsible for managing the aforesaid seed money;*
- (b) how the items of investment of the seed money will be decided; and*
- (c) whether the Legislative Council and the relevant sectors will participate in monitoring the operation of the seed money; if they will, of the mode of monitoring to be adopted as well as the scope of powers and responsibilities; if not, the reasons for that?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President,

- (a) The ASDF is a sub-fund under the Sir David Trench Fund for Recreation (set up under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128) (the Ordinance)). The Secretary for Home Affairs has been delegated by the Chief Executive to manage the use of the Fund. The Director of Accounting Services, as the statutory trustee of the Fund, is responsible for managing the investment and accounting work. As required by the Ordinance, the Government has set up the Sir David Trench Fund for Recreation Investment Advisory Committee (the Committee) which comprises non-official members. The Committee sets the investment strategies for the Fund and its various sub-funds and advises on matters in relation to investment.
- (b) The investment guideline of the Fund is based on a prudent and conservative principle. The current investments of the ASDF include fixed deposits and bonds. The proposed injection of

\$3 billion by the Government will be used as seed money. Through the annual investment return, the seed money will provide the ASDF with additional and sustainable resources to subsidize the long-term development of sports, culture and arts. Based on the forecast of the annual funding requirements after the injection prepared by the Home Affairs Bureau, the Director of Accounting Services will work out the required target rate of return and consult the Committee on the investment strategies and portfolio.

- (c) As mentioned in (a) above, the Committee has the participation of non-official members. Besides, under Section 9 of the Ordinance, the Director of Accounting Services is required to submit a statement of accounts of the Fund together with the auditor's report to the Legislative Council each year.

### **Demand and Supply of School Places for Primary and Secondary Schools**

8. **MS CYD HO** (in Chinese): *President, primary and secondary schools have ceased operation one after another in recent years as a result of the dwindling student population. Yet, the annual number of births in Hong Kong has been on the upward trend since 2004. There have been comments that different population growth rates and uneven distribution of the student population in various districts have led to a mismatch of student places in certain districts, while the education needs in various districts also vary with the changes in population distribution. In this connection, will the Government inform this Council:*

- (a) *how the authorities assess the birth rates in the coming 10 years and their impact on the demand for primary and secondary school places (including the respective annual intake of school-aged primary one and secondary one students, as well as the respective numbers of primary and secondary schools in various districts which have to cease operation or be built in response to changes in student numbers), so as to make proper arrangement for education resources;*
- (b) *whether the authorities will review the existing method of applying for admission to primary and secondary schools on the basis of*

*school net, as well as plan afresh and reallocate the education resources for different districts so as to cater for the education needs in various districts which have changed because of changes in population distribution; and*

- (c) *given that the authorities are exploring the feasibility of facilitating schools to collaborate with one another or with post-secondary institutions/professional bodies, and so on, in operating special featured programmes to develop students' abilities in different areas of special expertise, with a view to alleviating the pressure of schools having to cease operation due to the decline in student numbers, of the details of the plan concerned and the resources involved; how the authorities will provide teacher training to cater for the need to operate special featured programmes and ensure the quality of education?*

**SECRETARY FOR EDUCATION** (in Chinese): President,

- (a) The territory-wide population projections and the projections of population distribution by district updated regularly by the Census and Statistics Department and the interdepartmental Working Group on Population Distribution Projections respectively form a common basis for government planning in various programme areas, such as housing, education, social services and health services.

As far as long-term planning in education is concerned, the Education Bureau (EDB) will make reference to the school-age population projections, which are compiled based on the former two sets of population projections, and take into account the actual numbers of students at various levels at present and the latest demographic changes, including the number of newly-arrived children from the Mainland, in estimating the future demand for school places and relevant resources.

For the primary level, the school-age population aged six (considered appropriate for Primary One) for the coming 10 school years from the 2010-2011 to 2019-2020 school years is projected to increase gradually by about 14 000 (an increase of 27%) from

51 800 to 65 800. As regards the secondary level, following the earlier wave of decline in primary school-age population, the school-age population aged 12 (considered appropriate for Secondary One) is projected to decrease gradually from 69 500 in the 2010-2011 school year. The population is projected to rebound from the 2017-2018 school year onwards to reach 72 200 by the 2019-2020 school year, representing an increase of 2 700 (an increase of 4%).

Since the population projections refer to the projected number of children in the respective age groups, irrespective of whether they are enrolled in schools or not, the figures provided above should not be taken as the projected number of students. Besides, in view that students under or over the above-mentioned respective age groups can enroll in primary/secondary schools, the actual number of students could be different from the projected school-age population.

Besides, the population projections have taken into account a number of factors and assumptions. Amongst those assumptions, of particular relevance are those related to the newly-arrived children from the Mainland and babies born in Hong Kong to Mainland women. This is because the actual numbers of such children/babies who would arrive or settle in Hong Kong are difficult to predict accurately. Any deviations of the assumptions from the actual situation may render the projected figures different from the actual figures. Furthermore, the district population projections would be affected by changes in housing development plans and thus may be different from the actual figures in individual districts.

Given the volatility of the long-term school-age population projections and the substantial public expenditure involved in school building, we will, in addition to making reference to the school-age population projections, consider other factors, such as the actual enrolment situation, and so on, in the formulation of the School Building Programme. We will also review and revise the Programme, in the light of the prevailing policies and circumstances, so as to avoid as far as possible any mismatch in the demand and supply of public sector school places.

Public sector secondary school places are planned on a territory-wide basis. According to the latest demand and supply projections, we

expect that there will be sufficient public sector secondary school places to meet the projected demand in the coming few years. As such, secondary school building projects will primarily be implemented to facilitate the redevelopment or reprovisioning of existing schools whose facilities fall short of the prevailing standards to improve their learning environment. As for the primary school sector, we will closely monitor the demand and supply of public sector primary school places in various districts. If there are indications of possible shortage in individual districts in the few years ahead, we will first consider providing additional classrooms within the existing school premises, recycling suitable school premises for school use, and so on, to increase the supply of school places. We will only implement school building projects to increase the supply when these measures are unable to meet the expected demand.

In the light of the above and given that the number of Secondary One/ Primary One classes to be operated by individual schools under the Secondary School Places Allocation (SSPA) System and Primary One Admission (POA) System depends on parental choice, number of applicants, class structure of schools and number of classrooms (in the case of primary schools), we are unable to project the number of primary or secondary schools to be closed and their respective districts in the next 10 years.

- (b) Under the existing POA System and the SSPA System, parents may choose schools without restriction of school nets both at the Discretionary Place (DP) Admission stage and under Part A for Unrestricted School Choices at the Central Allocation (CA) stage. Only under Restricted School Choices in Part B at the CA stage that the allocation of school places is based on school nets.

The POA System basically adopts the principle of vicinity in allocating school places. Considering the young age of Primary 1 students, the allocation of places according to school nets at the CA stage seeks to ensure that students are allocated to schools near their homes. There is a standing procedure for the review of school nets. Taking into account the latest development including changes in population, number of schools, supply and demand of school places



and transport situation in individual school nets, school nets are reviewed annually with adjustments made as necessary.

Under the existing SSPA System, the territory is divided into 18 school nets in line with the district administration boundaries. Following the principle of vicinity, Primary Six students are allocated to secondary schools in their own districts as far as possible. To provide parents with more school choices, apart from the secondary schools located in their respective districts, each school net will include a number of schools in other districts as well. A Working Group on Review of School Nets, comprising representatives of major school councils, parent representatives, representatives of Committee on Home-School Co-operation and lay members, has been set up by the Bureau. The Working Group will review the existing demarcation of the school nets and deliberate on the long-term arrangements, taking into account factors such as changes in the student population, demand and supply of school places, distribution of schools and transportation network in each district. The Working Group will put forward comprehensive recommendations and conduct full consultation at an appropriate time.

- (c) One of the proposals for relieving the impact of student population decline on the sustainable development of secondary schools is to allow schools operating effective featured programmes to continue their development. Currently, the idea is that, if schools have proven track record and capability in providing effective featured programmes/services to cater for the different education and development needs of targeted group of students, we will consider allowing them to continue their operation with class-based subvention mode. Factors that will be taken into consideration include teachers' capability and deployment, actual number of students enrolled and their progression pathways as well as the curriculum arrangement and accreditation of the programmes concerned. We will also monitor the arrangement under the programmes and offer professional advice to ensure the quality of the services provided. Since the subvention mode will remain unchanged under the current proposal, no additional government resources will be required.

## **Implementation of Various Financial Assistance Schemes for Tertiary or Post-secondary Students**

9. **MR CHEUNG MAN-KWONG** (in Chinese): *President, in connection with the implementation of the Non-means-tested Loan Scheme (NLS), the Non-means-tested Loan Scheme for Post-secondary Students (NLSPS) and the Extended Non-means-tested Loan Scheme (ENLS), will the Government inform this Council:*

- (a) of the respective numbers of applications received and approved under each of the aforesaid loan schemes in each of the academic years from 2005-2006 to 2009-2010, together with a breakdown of the figures for ENLS by the categories of students as set out in the Eligibility section of the Guidance Notes for ENLS;*
- (b) of the largest, smallest, median and average loan amounts approved under each of the aforesaid loan schemes in each of the academic years from 2005-2006 to 2009-2010, as well as the respective programmes involved;*
- (c) of the number of defaulters and default rate of each of the aforesaid loan schemes in the 2009-2010 academic year;*
- (d) of the reasons for setting a maximum loan amount for NLS;*
- (e) of the reasons for not setting maximum loan amounts on tuition fees for NLSPS and ENLS; and if it will review whether or not such maximum loan amounts should be set; if it will, of the details and the timetable; if not, the reasons for that;*
- (f) whether it will review afresh the practice of setting the interest rate on the basis of the risk-adjusted factor (RAF) of the various loan schemes; if it will, of the details and the timetable; if not, the reasons for that;*
- (g) which of the programmes covered under the various loan schemes are not subject to the regulation of any relevant legislation or the assessment of the Hong Kong Council for Accreditation of Academic and Vocational Qualifications;*

- (h) *of the annual number of programmes for which applications were submitted to the Controller of the Student Financial Assistance Agency (SFAA) for inclusion into the Register of Eligible Course Providers and Courses between 2005-2006 and 2009-2010 academic years, the respective numbers of such programmes for which approval had been and had not been given, as well as the relevant assessment criteria; and the number of programmes being removed from the Register in each of the past five school years; and*
- (i) *of the measures put in place by the authorities to guarantee the quality of the programmes approved by SFAA and to ensure that such programmes will not be discontinued?*

**SECRETARY FOR EDUCATION** (in Chinese): President, the Government's student finance policy is to ensure that no student would be denied access to education due to lack of means. The non-means-tested loan scheme was first introduced in 1998-1999 academic year to provide an alternative source of finance to those tertiary students who failed to or did not wish to go through the means test as required under the financial assistance scheme concerned. Its ambit has been expanded over the years with the approval of the Finance Committee of the Legislative Council. At present, the SFAA is administering the following three non-means-tested loan schemes which aim at providing loans to eligible students to pursue their studies:

- Non-means-tested Loan Scheme (Scheme A) — applicable to full-time students covered by the Tertiary Student Finance Scheme — Publicly-funded Programmes (TSFS), that is, students pursuing publicly-funded post-secondary programmes offered by the University Grants Committee (UGC)-funded institutions, Hong Kong Institute of Vocational Education of the Vocational Training Council, Prince Philip Dental Hospital and Hong Kong Academy for Performing Arts.
- Non-means-tested Loan Scheme for Post-secondary Students (Scheme B) — applicable to full-time students covered by the Financial Assistance Scheme for Post-secondary Students (FASP), that is, students aged 25 or below and pursuing self-financing

locally-accredited post-secondary (degree, top-up degree and sub-degree level) programmes.

- Extended Non-means-tested Loan Scheme (Scheme C) — applicable to students not covered by TSFS and FASP and who are pursuing part-time and continuing education programmes.

My replies to the questions in *seriatim* are in the ensuing paragraphs:

- (a) The number of applications received and approved under the three non-means-tested loan schemes from 2005-2006 to 2009-2010 academic years are at Annex I.
- (b) The highest, lowest, median and average loan amounts under the three non-means-tested loan schemes from 2005-2006 to 2009-2010 academic years and the programmes involved are at Annex II.
- (c) The number of defaulters and default rate under the three non-means-tested loan schemes in the 2009-2010 academic year are at Annex III.
- (d) and (e)

At present, the maximum loan amount receivable by a loan borrower under the three non-means-tested loan schemes in an academic year is as follows:

	<i>Maximum loan amount receivable in an academic year</i>
Scheme A	Tuition fees payable in the academic year (the highest tuition fees payable for eligible courses under the Scheme in 2009-2010 academic year is \$42,100)
Scheme B	Tuition fees payable in the academic year (no ceiling) + living expenses (\$36,880 for 2009-2010 academic year) + academic expenses (\$3,200 for 2009-2010 academic year)
Scheme C	Total tuition fees payable in the academic year (no ceiling)

Since the eligible courses covered by Scheme A and Scheme B are full-time courses, a student can only apply for loans in respect of one eligible course under Scheme A or Scheme B in an academic year. For Scheme C which covers a wide range of continuing education courses, a student may apply for loans for more than one eligible course under Scheme C in an academic year. Where practicable, a student may apply for loans under more than one of the three loan schemes for pursuing different eligible courses in an academic year.

In addition, there is no limit on the total amount of loans that may be borrowed by a person under different loan schemes at any one time. There are also no limits on the total number of courses for which loans may be borrowed and the total amount of loans that may be borrowed by a student under any one scheme across academic years.

Eligible courses under Scheme B and Scheme C are self-financing programmes. Tuition fees of these courses are determined by the relevant institutions having regard to the market situation. To ensure that no student would be denied access to education due to lack of means and to encourage lifelong learning, Scheme B and Scheme C do not set a ceiling on tuition fees loan so that sufficient loans would be provided to eligible students to meet their tuition fees.

The Government will conduct a review on the operation of the non-means-tested loan schemes, which would study whether there should be any changes to the restrictions on the loan amount, loan coverage (whether the loans should cover tuition fees only, or should also cover academic expenses and living expenses) and number of courses for which loans may be applied by each student. We have just launched phase 1 of the review on the operation of the non-means-tested loan schemes on 15 March 2010, which will last for three months. The Government has provided the public with key information and issues of concern on the non-means-tested loan schemes for the purpose of inviting public views. We would carefully consider the views and suggestions received from the

public with a view to drawing up proposals on how best to improve the schemes.

- (f) Borrowers of non-means-tested loans do not need to go through any means test, and the loans are not secured. To ensure the proper use of public money, the non-means-tested loan schemes operate on a no-gain-no-loss and full cost-recovery basis. The current interest rate of non-means-tested loans includes a 1.5% RAF that seeks to cover the Government's risk in disbursing unsecured loans.

In view of the different default situations of the three non-means-tested loan schemes, we have accepted the recommendation made by the Director of Audit in his Report No. 53 published in November 2009 to consider the feasibility of adopting different rates of RAF for the three loan schemes based on their different risk levels, in the context of the review on the operation of the non-means-tested loan schemes.

- (g) The eligible courses under Scheme A are full-time publicly-funded post-secondary programmes offered by the eight UGC-funded institutions, Hong Kong Institute of Vocational Education of the Vocational Training Council, Prince Philip Dental Hospital and Hong Kong Academy for Performing Arts; those under Scheme B are full-time self-financing locally-accredited post-secondary programmes. These programmes are provided by institutions with self-accrediting status or have been accredited by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications.

Scheme C covers a wide range of courses, including programmes offered by the Open University of Hong Kong and Hong Kong Shue Yan University, Project Yi Jin programmes, publicly-funded part-time programmes offered by publicly-funded institutions and their Schools of Professional and Continuing Education, courses offered by statutory bodies, registered and exempted courses under the Non-local Higher and Professional Education (Regulation) Ordinance (Chapter 493), programmes offered by a school registered

or exempted from registration under the Education Ordinance (Chapter 279), programmes offered by a post-secondary college registered under the Post Secondary Colleges Ordinance (Chapter 320) and other programmes approved by the Controller, SFAA. Eligible courses under Scheme C are not required to be locally-accredited or reimbursable courses of the Continuing Education Fund.

- (h) The Controller, SFAA, in exercise of the authority delegated by the Finance Committee of the Legislative Council, approves inclusion of other institutions and courses under Scheme C on the basis of the following approved criteria:

*Approval of Institutions*

The institution offering the course must fall under one of the following categories:

- (i) A registered trade, professional, business association or Chamber of Commerce.
- (ii) An educational agency having affiliation with a Consulate or a foreign government (for example, Alliance Francaise, British Council, and so on).
- (iii) A company incorporated under the Companies Ordinance (Chapter 32) that has at least three years of experience in providing training.

*Approval of Courses*

The course being offered must be:

- (i) A course undertaken to gain or maintain qualifications for use in any employment;
- (ii) A course that takes not less than one month to complete; and

- (iii) A course that will lead to an award of qualification or certificate of attendance.

From 2005-2006 to 2009-2010 academic years, the number of courses approved and removed by the Controller, SFAA are as follows:

<i>Academic Year</i>	<i>Approved</i>	<i>Removed*</i>
2005-2006	19	0
2006-2007	23	6
2007-2008	24	7
2008-2009	22	24
2009-2010 (as at 31.1.2010)	1	0

Note:

- \* These courses were removed because the institutions concerned ceased operation of these courses.

- (i) When processing applications for inclusion under Scheme C put up by other institutions and courses, staff of SFAA will visit the relevant institution's premises, make enquiry on the operation of the course concerned and its basic information, such as the course fee and duration, and so on. If the institution and course concerned are found to meet the criteria mentioned in (h) above, the Controller, SFAA will approve the inclusion of such institution and course under Scheme C. The approval criteria make no reference to the quality of the institution concerned, nor that of the course offered by the institution.

According to the existing mechanism for processing loan applications under Scheme C, SFAA will normally examine whether the applicant fulfills the eligibility criteria and whether the course pursued is an eligible course. The quality of the eligible training institution/body concerned and the course offered is not an approving criterion. Notwithstanding this, SFAA and the Education Bureau will conduct surprise inspections to some eligible



training institutions/bodies under Scheme C to authenticate the course information or the loan borrowers' attendance records.

In the course of reviewing the operation of the non-means-tested loan schemes, we would study whether there should be additional eligibility criteria for courses covered by the schemes, such as whether we should introduce academic accreditation or other forms of quality assurance as an eligibility criterion as appropriate.

## Annex I

Number of applications received and approved under the non-means-tested loan schemes from 2005-2006 to 2009-2010 academic years

### Scheme A

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010 (as at 31.1.2010)</i>
No. of applications received	7 773	6 121	5 802	6 471	6 391
No. of applications approved	7 739	6 074	5 778	6 452	6 259

### Scheme B

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010 (as at 31.1.2010)</i>
No. of applications received	10 550	9 517	10 132	11 405	13 364
No. of applications approved	10 437	9 402	9 989	11 175	12 976

## Scheme C

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010 (as at 31.1.2010)</i>
<i>(1) Open University of Hong Kong</i>					
No. of applications approved	754	596	540	446	407
<i>(2) Hong Kong Shue Yan University</i>					
No. of applications approved	9	16	25	13	8
<i>(3) Part-time publicly-funded programmes or self-financing, local award-bearing programmes (that is, programmes of study leading to the award of local academic qualifications) or training or development courses at the post-secondary level offered by publicly-funded institutions (including their Schools of Professional and Continuing Education)</i>					
No. of applications approved	4 445	3 614	3 168	2 699	2 268
<i>(4) Project Yi Jin</i>					
No. of applications approved	1 723	1 859	2 092	2 287	2 927
<i>(5) Registered courses and exempted courses under the Non-local Higher and Professional Education (Regulation) Ordinance (Chapter 493)</i>					
No. of applications approved	3 837	3 141	2 848	3 071	2 877
<i>(6) Post-secondary courses, adult education courses, continuing and professional education courses offered by a school registered under section 13(a) or exempted from registration under section 9(1) of the Education Ordinance (Chapter 279)</i>					
No. of applications approved	4 305	2 677	2 881	2 059	1 782
<i>(7) Courses offered by a Post Secondary College registered under the Post Secondary Colleges Ordinance (Chapter 320)</i>					
No. of applications approved	31	23	42	28	32

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i> <i>(as at 31.1.2010)</i>
<i>(8) Training or development courses provided or funded by statutory bodies</i>					
No. of applications approved	369	199	165	163	124
<i>(9) Continuing and professional education courses offered by any institution approved by the Controller, SFAA</i>					
No. of applications approved	666	409	316	363	327
<i>Overall of the above nine categories of eligible course providers/courses</i>					
No. of applications approved	16 139	12 534	12 077	11 129	10 752

Note:

For Scheme C, SFAA only maintains statistics on the number of applications approved. Generally speaking, if an applicant can submit all the required documents before the specified deadline, his/her application would be accepted. If an applicant fails to submit the required documents before the specified deadline, SFAA will regard the applicant as withdrawing the application. SFAA has not maintained statistics on the category and number of these applications.

## Annex II

### Highest, lowest, median and average amounts of loans disbursed under the non-means-tested loan schemes from 2005-2006 to 2009-2010 academic years

#### Scheme A

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i> <i>(as at 31.1.2010)</i>
Highest loan amount disbursed (\$)	42,100	42,100	42,100	42,100	42,100
Lowest loan amount disbursed (\$)	2,690	2,800	3,970	2,230	3,320
Median loan amount disbursed (\$)	42,100	42,100	42,100	42,100	42,100
Average loan amount disbursed (\$)	34,521	34,334	34,937	35,541	35,572

## Scheme B

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i> (as at 31.1.2010)
Highest loan amount disbursed (\$)	95,000	102,100	109,310	145,385	120,080
Lowest loan amount disbursed (\$)	3,000	2,000	2,000	1,916	1,080
Median loan amount disbursed (\$)	45,000	45,000	45,702	57,000	50,000
Average loan amount disbursed (\$)	48,376	50,189	51,809	57,621	55,432

## Scheme C

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i> (as at 31.1.2010)
<i>(1) Open University of Hong Kong</i>					
Highest loan amount disbursed (\$)	96,300	98,800	105,445	114,000	66,080
Lowest loan amount disbursed (\$)	3,900	2,300	2,100	3,060	4,050
Median loan amount disbursed (\$)	18,150	18,800	21,955	18,200	18,900
Average loan amount disbursed (\$)	21,459	24,883	27,389	21,592	22,359
<i>(2) Hong Kong Shue Yan University</i>					
Highest loan amount disbursed (\$)	45,000	45,000	49,000	49,000	49,000
Lowest loan amount disbursed (\$)	22,500	16,800	16,800	16,800	16,800
Median loan amount disbursed (\$)	42,000	45,000	45,000	22,500	19,800
Average loan amount disbursed (\$)	41,111	38,750	43,200	30,000	26,250

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010 (as at 31.1.2010)</i>
<i>(3) Part-time publicly-funded programmes or self-financing, local award-bearing programmes (that is, programmes of study leading to the award of local academic qualifications) or training or development courses at the post-secondary level offered by publicly-funded institutions (including their Schools of Professional and Continuing Education)</i>					
Highest loan amount disbursed (\$)	260,000	318,000	280,400	561,600	400,140
Lowest loan amount disbursed (\$)	1,050	1,610	2,080	2,460	2,200
Median loan amount disbursed (\$)	27,000	30,600	34,500	32,760	40,000
Average loan amount disbursed (\$)	32,436	34,449	37,150	36,532	44,603
<i>(4) Project Yi Jin</i>					
Highest loan amount disbursed (\$)	28,000	28,000	28,000	29,500	29,500
Lowest loan amount disbursed (\$)	2,400	2,500	2,500	1,375	2,750
Median loan amount disbursed (\$)	26,000	28,000	28,000	27,500	29,500
Average loan amount disbursed (\$)	21,892	21,824	21,993	21,780	25,036
<i>(5) Registered courses and exempted courses under the Non-local Higher and Professional Education (Regulation) Ordinance (Chapter 493)</i>					
Highest loan amount disbursed (\$)	300,000	393,750	348,000	620,000	433,400
Lowest loan amount disbursed (\$)	3,000	3,000	4,000	3,919	5,000
Median loan amount disbursed (\$)	37,500	42,000	45,000	49,000	52,500
Average loan amount disbursed (\$)	40,193	44,368	47,363	51,359	54,310
<i>(6) Post-secondary courses, adult education courses, continuing and professional education courses offered by a school registered under section 13(a) or exempted from registration under section 9(1) of the Education Ordinance (Chapter 279)</i>					
Highest loan amount disbursed (\$)	73,200	120,000	120,000	120,000	120,000
Lowest loan amount disbursed (\$)	2,000	4,780	3,145	2,750	3,980
Median loan amount disbursed (\$)	18,800	22,000	30,000	33,000	36,000
Average loan amount disbursed (\$)	22,499	25,446	38,205	33,455	34,714

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010 (as at 31.1.2010)</i>
<i>(7) Courses offered by a Post Secondary College registered under the Post Secondary Colleges Ordinance (Chapter 320)</i>					
Highest loan amount disbursed (\$)	45,980	48,000	48,000	49,500	52,200
Lowest loan amount disbursed (\$)	2,600	4,800	17,850	8,280	10,875
Median loan amount disbursed (\$)	39,000	48,000	48,000	42,000	44,890
Average loan amount disbursed (\$)	36,774	40,000	41,190	39,286	41,875
<i>(8) Training or development courses provided or funded by statutory bodies</i>					
Highest loan amount disbursed (\$)	44,925	38,500	43,680	43,680	39,000
Lowest loan amount disbursed (\$)	2,800	3,644	5,350	3,150	2,800
Median loan amount disbursed (\$)	20,520	17,885	19,980	20,860	20,860
Average loan amount disbursed (\$)	20,407	18,794	21,818	21,779	21,935
<i>(9) Continuing and professional education courses offered by any institution approved by the Controller, SFAA</i>					
Highest loan amount disbursed (\$)	98,000	72,800	73,560	73,560	73,560
Lowest loan amount disbursed (\$)	4,000	3,400	4,250	4,450	4,450
Median loan amount disbursed (\$)	35,000	21,900	23,996	29,300	31,100
Average loan amount disbursed (\$)	38,378	24,205	24,462	33,196	35,688
<i>Overall of the above nine categories of eligible courses/course providers</i>					
Highest loan amount disbursed (\$)	300,000	393,750	348,000	620,000	433,400
Lowest loan amount disbursed (\$)	1,050	1,610	2,080	1,375	2,200
Median loan amount disbursed (\$)	26,000	28,000	28,000	29,500	29,800
Average loan amount disbursed (\$)	29,975	32,117	36,233	36,095	38,838

Programmes involved in the highest and lowest loan amounts  
disbursed under the non-means-tested loan schemes  
from 2005-2006 to 2009-2010 academic years

Scheme A

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010 (as at 31.1.2010)</i>
Highest loan amount	UGC-funded or publicly-funded programmes at degree level or above				
Lowest loan amount	Higher Diploma in Early Childhood Education	Higher Diploma in Civil Engineering	Bachelor of Science in Speech and Hearing Sciences	Higher Diploma in Environmental and Safety Science	Higher Diploma in Nursing

Scheme B

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010 (as at 31.1.2010)</i>
Highest loan amount	Associate of Social Science in Social Work	Associate degree programmes	Associate degree programmes	Bachelor of Science (Hons) in Applied Science (Energy and Environment)	Bachelor of Business Administration (Hons)
Lowest loan amount	Associate of Business Administration	Associate of Business Studies (Computing and Internet)	Bachelor of Nursing with Honours in General Health Care	Associate of Science in Network and Systems Administration	Bachelor of Computing with Honours in Internet Technology

Scheme C (Overall of the nine categories of eligible courses/course providers)

	<i>Academic Year</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010 (as at 31.1.2010)</i>
Highest loan amount	Executive Master of Business Administration				
Lowest loan amount	Certificate in Business Information Systems	Certificate in Business Administration	Craft Certificate in Building Services	Project Yi Jin (Part-time) programme	Higher Diploma in Commercial Design

## Annex III

Number of defaulters and default rate  
under the non-means-tested loan schemes in 2009-2010 academic year

	<i>2009-2010 Academic Year (as at 31.1.2010)</i>		
	<i>Scheme A</i>	<i>Scheme B</i>	<i>Scheme C</i>
No. of defaulters	2 289	1 993	10 091
Default rate	9.84%	12.68%	18.11%

## Scheme C - Breakdown by Category

	<i>2009-2010 Academic Year (as at 31.1.2010)</i>
<i>(1) Open University of Hong Kong</i>	
No. of defaulters	676
Default rate	20.81%
<i>(2) Hong Kong Shue Yan University</i>	
No. of defaulters	33
Default rate	25.19%
<i>(3) Part-time publicly-funded programmes or self-financing, local award-bearing programmes (that is, programmes of study leading to the award of local academic qualifications) or training or development courses at the post-secondary level offered by publicly-funded institutions (including their Schools of Professional and Continuing Education)</i>	
No. of defaulters	1 359
Default rate	11.37%
<i>(4) Project Yi Jin</i>	
No. of defaulters	1 412
Default rate	18.29%
<i>(5) Registered courses and exempted courses under the Non-local Higher and Professional Education (Regulation) Ordinance (Chapter 493)</i>	
No. of defaulters	1 661
Default rate	13.14%



	<i>2009-2010 Academic Year (as at 31.1.2010)</i>
<i>(6) Post-secondary courses, adult education courses, continuing and professional education courses offered by a school registered under section 13(a) or exempted from registration under section 9(1) of the Education Ordinance (Chapter 279)</i>	
No. of defaulters	4 511
Default rate	28.58%
<i>(7) Students of courses offered by a Post Secondary College registered under the Post Secondary Colleges Ordinance (Chapter 320)</i>	
No. of defaulters	7
Default rate	11.86%
<i>(8) Training or development courses provided or funded by statutory bodies</i>	
No. of defaulters	302
Default rate	22.08%
<i>(9) Continuing and professional education courses offered by any institution approved by the Controller, SFAA</i>	
No. of defaulters	724
Default rate	25.77%

Note:

A loan borrower may default on more than one loan or on loans under more than one category.

### Arrangements for Statutory Holidays

10. **MR FRED LI** (in Chinese): *President, under the Employment Ordinance (Cap. 57) (EO), when Lunar New Year's Day falls on a Sunday, an employee shall be granted a statutory holiday by his employer on the day immediately preceding that day (that is, Saturday). Yet, quite a number of members of the public have indicated that such provision in effect has rendered employees of companies and organizations which have responded to the Government's appeal and implemented the five-day week losing one day's holiday. It has been reported that the Chief Executive has indicated earlier that a study would be conducted on this matter. In this connection, will the Government inform this Council whether:*

- (a) *it has commenced the study on amending the legislation; if so, of the progress of the study; if not, the reasons for that; and*
- (b) *the Government has any preliminary idea as to the earliest time the proposed amendment to the legislation can be submitted to the Legislative Council for deliberation and scrutiny; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, under the EO, employees are entitled to holidays on the days specified therein as statutory holidays. In accordance with the EO, if any of the first three days of Lunar New Year (which are statutory holidays) falls on a Sunday, then the day immediately preceding Lunar New Year's Day (that is, the first day of Lunar New Year) will be a statutory holiday. This stipulation is in line with the General Holidays Ordinance (Cap. 149) (GHO) which provides that if any of the first three days of Lunar New Year (which are general holidays) falls on a Sunday, then the day immediately preceding Lunar New Year's Day will be a general holiday.

The above arrangement under the EO and GHO in respect of the first three days of Lunar New Year falling on a Sunday has been implemented since 1982 having regard to the views then expressed (mainly by female employees) that a holiday re-arranged to Lunar New Year's Eve could facilitate employees' preparation of family reunion dinners in keeping with Chinese customs as well as better enable them to participate in the most valuable family gathering in the year.

We are aware that labour policy should keep abreast of times. Therefore, we constantly review the current labour legislation in the light of changing social circumstances and economic development. The next time when a statutory holiday and a general holiday have to be advanced to a Saturday in accordance with the EO and GHO will fall in 2013. In the meantime, the Government will study the issue carefully and consult stakeholders and the Legislative Council at an appropriate time.

## Accidents Which Occurred at Public Swimming Pools, Beaches and Water Sports Centres

11. **DR PAN PEY-CHYOU** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the respective numbers of rescue cases, fatal cases and deaths due to other accidents which happened at public swimming pools, beaches and water sports centres during service hours in each of the past five years, together with a breakdown by location as well as the gender and age group (18 or below, 19 to 45, and 65 or above) of the persons injured or died; and*
- (b) *among the cases in (a), of the respective numbers of those in which the accidental deaths were caused by faults arising from problems with venue facilities and venue management, as well as the amounts of compensation involved?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President,

- (a) The Leisure and Cultural Services Department (LCSD) manages 37 public swimming pools and 41 gazetted public beaches in Hong Kong. With the exception of nine beaches that are temporarily closed due to poor water quality, all the other 32 public beaches and 37 public swimming pools provide life saving services when open to the public. The respective numbers of rescue cases, drowning cases and deaths due to other accidents which happened at public swimming pools and public beaches in each of the past five years are tabulated by gender and age group of the victims in Annexes 1 to 3.

There have been no drowning or death cases at the five water sports centres and the three holiday camps with swimming pools under the LCSD in the past five years.

- (b) Among the above cases, no accidental death was caused by faults arising from problems with venue facilities and venue management.

## Annex 1

Statistics on the Number of Rescue Cases at Public Swimming Pools/Beaches  
in the Past Five Years (By gender and age group of the victims)

*Swimming Pools*

Age Group	2005			2006			2007			2008			2009			Total for 5 years		
	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)
18 or below	48	16	64	49	18	67	37	27	64	92	27	119	11	45	56	237	133	370
19 to 45	14	20	34	19	14	33	15	24	39	17	21	38	16	7	23	81	86	167
65 or above	2	3	5	2	3	5	5	2	7	3	11	14	7	6	13	19	25	44
Total	64	39	103	70	35	105	57	53	110	112	59	171	34	58	92	337	244	581

*Beaches*

Age Group	2005			2006			2007			2008			2009			Total for 5 years		
	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)
18 or below	65	50	115	56	36	92	78	25	103	37	20	57	68	34	102	304	165	469
19 to 45	67	32	99	21	30	51	49	19	68	25	12	37	71	33	104	233	126	359
65 or above	0	8	8	3	2	5	0	1	1	3	5	8	3	2	5	9	18	27
Total	132	90	222	80	68	148	127	45	172	65	37	102	142	69	211	546	309	855

## Notes:

- (1) Rescue cases refer to cases requiring rescue operation carried out by lifeguards.
- (2) Owing to the Free Admission Scheme implemented by the LCSD from July to September 2008, there was a drastic increase in attendance at public swimming pools as compared with the number in 2007. The number of rescue cases that occurred at the swimming pools was therefore higher than that in the previous years.

## Annex 2

Statistics on the Number of Drowning Cases  
at Public Swimming Pools/Beaches in the Past Five Years  
(By gender and age group of the victims)

*Swimming Pools*

Age Group	2005			2006			2007			2008			2009			Total for 5 years		
	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)
18 or below	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	1	0	1
19 to 45	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	1	1
65 or above	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
Total	1	0	1	0	0	0	0	0	0	0	1	1	1	0	1	2	1	3

*Beaches*

Age Group	2005			2006			2007			2008			2009			Total for 5 years		
	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)
18 or below	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
19 to 45	1	0	1	1	0	1	0	0	0	0	0	0	1	0	1	3	0	3
65 or above	0	0	0	3	0	3	1	0	1	0	0	0	0	0	0	4	0	4
Total	1	0	1	4	0	4	1	0	1	0	0	0	1	0	1	7	0	7

Note: The classification of drowning cases is based on the direct cause of death determined by the forensic pathologist.

## Annex 3

"Statistics on the Number of Deaths due to Other Accidents  
at Public Swimming Pools/Beaches in the Past Five Years"  
(By gender and age group of the victims)

*Swimming Pools*

Age Group	2005			2006			2007			2008			2009			Total for 5 years		
	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)
18 or below	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
19 to 45	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	1	1
65 or above	0	0	0	1	0	1	1	0	1	0	1	1	2	1	3	4	2	6
Total	1	0	1	1	0	1	1	1	2	0	1	1	2	1	3	5	3	8

*Beaches*

Age Group	2005			2006			2007			2008			2009			Total for 5 years		
	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)	M	F	(Sub-total)
18 or below	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
19 to 45	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	1	0	1
65 or above	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	1	1
Total	0	0	0	0	0	0	0	0	0	1	0	1	0	1	1	1	1	2

Note: Deaths due to other accidents refer to cases in which the deaths were caused by diseases or the cause of death could not be ascertained.

**Countering Hacking Activities**

12. **DR DAVID LI:** *President, the Hong Kong SAR Government has taken a proactive approach to facilitate the digital economy and make government services more accessible, through the Digital 21 Strategy. There are views that while this policy direction has been welcomed by people in Hong Kong, recent news reports about computer hacking activities have raised concerns about the vulnerability of computer networks connected to the Internet. In this connection, will the Government inform this Council:*

- (a) what procedures it had put in place in the past three years to counter hacking activities, and how often these procedures are reviewed to ensure that they are adequate to prevent the continually evolving threat posed by hackers; and*
- (b) whether any government computer had been subject to hacking activity in the past two years?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT:**

President, regarding the questions raised by Dr David LI, my reply is as follows:

- (a) Computers and networks connected to the open Internet risk being the target of attempts at unauthorized access, commonly known as hacking. Government has put in place a set of comprehensive regulations, guidelines and procedures for bureaux and departments (B/Ds) to follow to minimize the risk and protect against possible attacks. These cover a host of measures relating to the development, operation, use and management of information technology (IT) systems and computers. The approach we have been adopting is based on the guiding principle of "Prevent, Detect, Respond and Recover". In this connection, B/Ds are required to designate appropriate personnel to manage IT security, have systems in place to review their information security incident handling procedures and facilities.

Specific measures by B/Ds to counter information security attacks and hacking include (i) observing the guidelines and best practices

on software asset management; (ii) installing firewalls, anti-virus, intrusion detection and prevention systems against security threats; (iii) updating their software systems to incorporate the latest virus signature files and removing any other malicious software in a timely manner; and (iv) conducting formal security risk assessments and audits upon the initial introduction of critical IT systems and periodical reviews thereafter.

Given the open and global nature of the Internet, development and maintenance of a safe Internet environment requires the concerted effort of the Government, industry stakeholders, security experts and all our citizens. The Hong Kong Computer Emergency Response Team Coordination Centre (HKCERT), the establishment of which was funded by the Government, receives security incident reports and provides assistance to the community in regard to the prevention of, and protection against, computer security threats, including computer hacking, and in the recovery actions necessary after encountering security incidents. The HKCERT conducts drill exercises regularly with relevant stakeholders to ascertain their responsiveness in case of cyber attacks.

According to our established Information Security Management Framework, we review and update the appropriate security protection measures and procedures from time to time to keep up with changes in technology, new standards and best practices in the industry in order to maintain a very high level of security in the Government's IT infrastructure and connections to the Internet environment. In addition, B/Ds are required to carry out their information security risk assessment and review their protection measures on a regular basis, and at least once every two years.

- (b) Like all computers connected to the Internet, it is common for government computers to receive unsolicited requests for access. It is likely that some, though not all, of these requests relate to attempted hacking activity. Such requests are routinely blocked by the firewalls that protect government IT systems.

During the past two years (from March 2008 to February 2010), eight hacking related incidents were reported by B/Ds. All of these incidents affected web servers, rather than systems holding personal data or sensitive information. In no case was there any data leakage or any report of adverse impact on a member of the public. The problems affecting the relevant servers have all been rectified and their security protection has been strengthened according to established procedures.

### **Waiver of Government Rent**

13. **MS STARRY LEE** (in Chinese): *President, it has been reported that the Government had, in its Budgets in the past 10 years or more, only launched measures to waive rates, with no measure to waive Government rent. In this connection, will the Government inform this Council:*

- (a) *of the respective current numbers of accounts that are required to pay Government rent only and those required to pay rates only, as well as those accounts which are required to pay both rates and Government rent at the same time;*
- (b) *of the respective average amounts of quarterly rates and Government rent payable by residential units at present;*
- (c) *what criteria it had adopted for deciding to launch in previous Budgets the measure to waive rates only without waiving Government rent at the same time; and*
- (d) *whether the Government will, when launching the measure to waive rates in the future, consider afresh refunding Government rent to those accounts which are required to pay Government rent only?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President,

- (a) Currently, there are 139 000 accounts that are required to pay Government rent only and 817 000 accounts that are required to pay



rates only. There are 1 494 000 accounts which are required to pay both rates and Government rent at the same time.

- (b) For the financial year of 2010-2011, the average amount of rates per quarter (before rates concession) for all domestic properties is \$894 and the average amount of Government rent per quarter for all domestic properties is \$480.

- (c) and (d)

Government rent is the rent paid by all property owners to the Government under land leases in return for the right to hold and occupy the land. Its nature is different from that of rates, which are a kind of tax. Therefore, it is not appropriate to compare the two. The Administration currently has no intention to extend the rates concession to Government rent.

### **Taking out Employees' Compensation Insurance**

14. **MR CHAN KIN-POR** (in Chinese): *President, according to the statistics of the Employees Compensation Assistance Fund Board (the Board), a total of 176 applications were made to the Board between 2005 and 2009 by employees injured at work applying for payments from the Employees Compensation Assistance Fund for their entitlement to compensation, and the amount involved exceeded \$95 million. The employers of these employees had failed to make such compensation because they had not taken out valid insurance policies on employees' compensation (labour insurance policies). There are views that as such compensation payments at present are paid out of the Employees' Compensation Insurance Levies, which are contributed by employers when they take out labour insurance policies, it has resulted in employers who have taken out labour insurance policies subsidizing those who have not, which is unfair to dutiful employers. Moreover, the number of employers who have been found not having taken out labour insurance policies should be much smaller than the actual number of those who have not done so at present. In this connection, will the Government inform this Council:*

- (a) *of the number of employers who were prosecuted in each of the past five years for not having taken out labour insurance policies for their*

*employees as required by the law, as well as the maximum and minimum punishment imposed on the convicted employers;*

- (b) *whether the authorities have, when investigating cases involving employers not having taken out labour insurance policies, looked into the reasons for the employers involved not having done so, and whether they had, in the past three years, assessed if the penalty on such employers under the existing legislation has sufficient deterrent effect; and*
- (c) *whether it will consider amending the legislation or taking measures to ensure that employers comply with the law and take out valid labour insurance policies for their employees; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, according to section 40 of the Employees' Compensation Ordinance (the Ordinance), all employers are required to take out insurance policies to cover their liabilities both under the Ordinance and at common law for injuries at work in respect of all their employees, irrespective of the length of employment contracts or working hours, full-time or part-time, permanent or temporary employment. The Government is concerned about employers' compliance with the requirement. To this end, the Labour Department (LD) has taken a proactive approach on both the enforcement and publicity fronts to ensure that employers abide by the law. Our reply to the question is as follows:

- (a) In the past five years (2005 to 2009), the number of employers who were prosecuted for breaching section 40 of the Ordinance and the highest and lowest sentences imposed by the Court on the convicted employers are provided in the table below:

	2005	2006	2007	2008	2009
Number of employers prosecuted	1 073	734	974	1 096	1 211
Highest fine imposed (per summons)	\$ 10,000	\$50,000	\$13,000	\$10,000	\$16,000

	2005	2006	2007	2008	2009
Lowest fine imposed (per summons)	\$500	\$500	\$500	\$500	\$500
Imprisonment sentence	One employer was fined \$10,000 and sentenced to 2 months' imprisonment, suspended for 2 years.	Two employers were given custodial sentence. One of them was sentenced to 2 months' imprisonment. The other employer was fined \$20,000 and sentenced to 3 months' imprisonment, suspended for 3 years.	-	One employer was sentenced to 14 days' imprisonment.	One employer was sentenced to 7 days' imprisonment

- (b) According to information collected by the LD in investigating suspected offences, employers had alleged that reasons for the non-compliance included failure to take out employee compensation insurance cover for temporary helpers and failure to make timely renewal of the policy upon its expiry. There were also employers claiming ignorance of the law.

Under existing legislation, any employer who fails to comply with the compulsory insurance requirement is liable on conviction to a maximum fine of HK\$100,000 and imprisonment for two years. We are of the view that the existing maximum penalty level is sufficient to create a deterrent effect.

- (c) The LD has adopted a proactive approach on both the enforcement and publicity fronts to ensure employers' compliance with the compulsory insurance requirement. On the enforcement front, labour inspectors of the LD conduct proactive workplace inspections to check employers' compliance. Besides, we have also set up a complaint hotline (2815 2200) to facilitate employees to report

suspected cases of non-compliance. Prompt investigation will be conducted into the reported cases upon receipt. In 2009, the number of workplace inspections conducted to enforce the compulsory insurance requirement reached 84 639, representing an increase of 24% as compared to 2008. If there is sufficient evidence, the LD will institute prosecution against the offending employers. Apart from facing criminal prosecution, employers who defy the law are also liable to pay a surcharge to the Board. The amount of surcharge payable shall be three times the levy payable to the Board on the premium paid in respect of the policy of insurance which the employer concerned has subsequently taken out as required by the Ordinance. For employers who commit a second contravention within 24 months, the amount of surcharge payable would be doubled (that is, six times the levy payable).

On the publicity front, we have made use of different channels to remind employers to fulfil their statutory obligation. We have newly produced announcements of public interests (APIs) to remind employers that taking out employees compensation insurance protects both employees and employers. The APIs are now being broadcast on television and radio. Other publicity efforts include placing advertisements on public transport, introducing major provisions of the Ordinance in major newspapers and on the website of the LD, and organizing seminars, and so on.

We will continue to rigorously enforce the law and launch intensive publicity to ensure that employers take out valid employees compensation insurance cover for their employees.

### **Emissions from Franchised Buses**

15. **MR KAM NAI-WAI** (in Chinese): *President, regarding the reduction in the emissions from franchised buses and the resultant pollution problems, will the Government inform this Council:*

- (a) *of the current number of buses in each of the bus fleets of franchised bus companies, with a breakdown by the emission standard met by the buses;*

- (b) *of the number of old buses replaced by each franchised bus company in the past five years, the replacement cost per bus and the total replacement costs involved; how these figures compare with the corresponding estimated figures in the next five years; whether it knows if such companies have finalized their respective bus replacement timetables for the next five years; if the timetables have been finalized, of the details; if the timetables have not been finalized, the reasons for that; and*
- (c) *whether it has studied and estimated the losses suffered and social costs borne by Hong Kong as a result of the pollution problems caused by emissions from franchised buses; if so, of the details; if not, the reasons for that; and what solutions the Government has to reduce the losses and costs in this regard?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President,

- (a) Number of buses owned by the franchised bus companies as at end December 2009, classified by emission standard, is shown at Annex I.
- (b) Number of new buses purchased and old buses retired by the franchised bus companies between 2005 and 2009 is at Annex II. Currently, a new double-deck bus and a new single-deck bus costs about HK\$3 million and HK\$2 million respectively. The total procurement cost of new buses depends on the number and type of buses purchased by individual bus companies.

All franchised bus companies are required to operate their franchised bus services with buses under the age of 18, and have been replacing their serving buses accordingly. It is expected that more than 40% of the existing franchised buses will be retired by 2015. Franchised bus companies have to submit annually to the Transport Department (TD) their Forward Planning Programmes for the next five years, including programmes for purchasing new buses and retirement of old buses. Since TD is in the process of consulting the relevant District Councils on the Route Development Programmes (RDPs) submitted by the franchised bus companies, further discussions with

the bus companies and adjustments to the RDP may be required. In addition, the bus companies also have to consider other relevant factors. As such, the number of buses that will be purchased and retired by individual bus companies in the next five years cannot be provided at this stage.

- (c) According to the Air Quality Objectives Review Study, if all pre-Euro, Euro I and Euro II commercial vehicles including franchised buses were retired, the economic benefit (including the reduction in costs of medication, consultations, hospital admissions, and loss of earnings due to the receptors' work absenteeism, and so on) to be brought about by this proposed measure would be about \$24,300 million. However, we do not have the estimated figures solely for retiring franchised buses.

In order to promote wider use of environment-friendly buses, the Government has added a requirement in all franchises with the bus companies that when setting specifications for acquisition of new buses, they are required to adopt the latest commercially available and proven environmental technologies. We have also been working with the franchised bus companies on deploying more environment-friendly buses to serve the busy corridors. As at December 2009, all franchised buses plying through Yee Wo Street, over 92% of the franchised buses plying through Hennessy Road and Nathan Road, and over 83% of the franchised buses plying through Queensway and Des Voeux Road Central already met Euro II or above emission standards.

Moreover, the TD has been working with the franchised bus companies to pursue route cancellations, amalgamations, truncations and frequency reductions to reduce the number of buses on road, especially those plying through the busy corridors, in order to improve road traffic and the environment. Based on the age distribution of the existing franchised buses, it is anticipated that all the pre-Euro and Euro I buses will retire by 2012 and 2015 respectively or earlier, while Euro II buses will retire by 2019 or earlier.

We have also been discussing with the bus companies to explore various options to reduce the emissions of franchised buses, which include accelerated replacement of old buses, bus route rationalization, setting up of low emission zones, and assessing the feasibility of retrofitting selective catalytic reduction (SCR) devices onto Euro II and III buses to reduce their NO<sub>x</sub> emissions, and so on. Furthermore, the Financial Secretary has proposed in his recent Budget speech to set up a \$300 million Pilot Green Transport Fund for application initially by public transport operators, including bus companies, to try out green transport technologies to reduce roadside pollution.

## Annex I

Buses owned by the franchised bus companies, classified by emission standard, as at end December 2009

	<i>Kowloon Motor Bus Company (1933) Limited</i>	<i>Citybus Limited (Franchise 1)<sup>Note</sup></i>	<i>New World First Bus Services Limited</i>	<i>Long Win Bus Company Limited</i>	<i>Citybus Limited (Franchise 2)<sup>Note</sup></i>	<i>New Lantau Bus Company (1973) Limited</i>	<i>Total</i>
Pre-Euro	300	44	32	2	0	0	378
Euro I	938	309	86	0	4	0	1 337
Euro II	1 486	368	475	136	168	35	2 668
Euro III	1 100	10	74	18	0	54	1 256
Euro IV	55	28	38	11	0	15	147
Total	3 879	759	705	167	172	104	5 786

Note: "Citybus Limited (Franchise 1)" refers to the franchise held by the Citybus Limited for the provision of Hong Kong Island and cross-harbour bus services, while "Citybus (Franchise 2)" refers to the franchise held by the same company for the provision of North Lantau and Chek Lap Kok Airport bus services.

## Annex II

*Number of new buses purchased by the franchised bus companies between 2005 and 2009*

<i>Franchised Bus Company</i>	<i>Total<sup>Note</sup></i>
Kowloon Motor Bus Company (1933) Limited	279
Citybus Limited (Franchise 1)	41
New World First Bus Services Limited	38
Long Win Bus Company Limited	29
Citybus Limited (Franchise 2)	22
New Lantau Bus Company (1973) Limited	27
Total	436

*Number of old buses retired by the franchised bus companies between 2005 and 2009*

<i>Franchised Bus Company</i>	<i>Total</i> <sup>Note</sup>
Kowloon Motor Bus Company (1933) Limited	549
Citybus Limited (Franchise 1)	43
New World First Bus Services Limited	54
Long Win Bus Company Limited	5
Citybus Limited (Franchise 2)	14
New Lantao Bus Company (1973) Limited	10
Total	675

Note: Information based on the bus registration records of the TD

### **Convention on the Rights of Persons with Disabilities**

16. **MS EMILY LAU** (in Chinese): *President, the Convention on the Rights of Persons with Disabilities (the Convention) signed by the Central Government in March 2007 has come into force on 31 August 2008 and is also applicable to the Hong Kong Special Administrative Region. In this connection, will the Executive Authorities inform this Council whether they have taken any new action and measure "to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities (PWDs)" since the Convention came into force, and whether the following are included in such actions and measures:*

- (a) *"to take into account the protection and promotion of the human rights of PWDs in all policies and programmes", as required by Article 4(1)(c) of the Convention;*
- (b) *to provide barrier-free access and facilities to PWDs, as required by Article 9 of the Convention; and*
- (c) *to improve the employment opportunities for PWDs, as required by Article 27 of the Convention;*

*if new actions and measures have been taken, of their details, including the resources allocated to each of them; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, it has all along been the objectives of Hong Kong's rehabilitation policy to help PWDs



develop their abilities and to create a barrier-free environment with a view to ensuring that they can participate in full and enjoy equal opportunities both in terms of their social life and personal growth. These are also the spirit and core values enshrined in the United Nations Convention on the Rights of Persons with Disabilities (the Convention). Promotion and implementation of the Convention is an ongoing initiative. It is also the direction of continued development of rehabilitation services in Hong Kong. We will continue to collaborate with the Rehabilitation Advisory Committee (RAC), the Equal Opportunities Commission (EOC), PWD groups and other sectors in the community to ensure compliance with the Convention and facilitate PWDs to enjoy their rights under the Convention. My reply to the Ms Emily LAU's question is as follows:

- (a) The Administration adopts legal, policy and public education measures to safeguard and promote the rights of PWDs under the Convention.

As regards the legal framework, the Basic Law and the Bill of Rights set out clearly the rights enjoyed by all persons, including PWDs. The existing Disability Discrimination Ordinance (DDO) affords protection against discrimination on the ground of one's disability, and the Mental Health Ordinance safeguards the rights of mental patients. As the statutory enforcement agency of DDO, EOC will ensure that the rights of PWDs are safeguarded.

On the policy front, the Labour and Welfare Bureau (LWB) has all along been urging all government bureaux and departments to critically review the policies and measures under their purview and take appropriate measures to ensure compliance with the Convention where necessary. Indeed, since the Convention has entered into force in the Hong Kong Special Administrative Region on 31 August 2008, a number of policies and measures have been taken forward in accordance with various provisions of the Convention. For example, the "Design Manual: Barrier Free Access 2008" (Design Manual 2008), which sets out higher design standards for provision of barrier-free facilities, has taken effect since 1 December 2008. To better meet the needs of students in special schools, the Education Bureau will introduce by phases improvement measures on extending the study period from the 2010-2011 school year onwards. Continuous improvements on various rehabilitation

services have also been made. Besides, we will continue to organize ongoing training and promotion activities for civil servants at all levels with a view to ensuring that all government bureaux and departments are fully aware of the need to take into due consideration the provisions of the Convention in formulating policies and implementing measures.

In respect of public education, to tie in with the implementation of the Convention in Hong Kong, from 2009-2010 onwards, LWB has substantially increased the allocation for public education activities from about \$2 million in the past years to over \$12 million, so as to promote the spirit and core values of the Convention. RAC has been assisting the Government in promoting the Convention and monitoring its implementation in the territory. In doing so, RAC has taken proactive effort in mobilizing PWDs, the rehabilitation sector, the business sector, local organizations, government departments and the public to organize and participate in relevant public education programmes. In 2009-2010, LWB subsidized various non-governmental organizations (NGOs) in organizing 34 public education activities under the theme: "All-round promotion of the spirit of the Convention and cross-sectoral collaboration towards building an equal and inclusive society" in order to bring across the message of barrier-free and inclusiveness to the community at large.

- (b) To implement the requirements on barrier-free access and facilities under Article 9 of the Convention, the Government will continue to build and improve a barrier-free environment according to the strategic development directions set out in the Hong Kong Rehabilitation Programme Plan (RPP). In light of the changing social environment and public expectations, as well as the advancement in building technology, the Government amended Section 72 of the Building (Planning) Regulations and promulgated the new "Design Manual 2008" on 1 December 2008 to further enhance relevant design requirements.

In respect of the Government's newly constructed or renovated buildings, all Government buildings constructed after 1 December 2008 will meet the requirements as set out in the "Design Manual 2008", and wherever practicable, achieve a standard beyond the statutory requirements. The Architectural Services Department

(ArchSD) has also put in place a design vetting mechanism to ensure that accessibility measures have been given due consideration in all new projects at the early stage of design.

Regarding existing Government buildings, ArchSD carries out improvement works every year to upgrade the barrier-free facilities of Government premises that are frequently visited by PWDs on the advice of the Sub-committee on Access under RAC. Since 2000, \$72 million has been spent for improving the access and facilities of 147 Government premises.

Individual Government departments and public organizations will also carry out improvement works to upgrade the barrier-free facilities in venues under their management. For instance, since 2006, the Leisure and Cultural Services Department has completed 133 improvement projects to provide suitable access and facilities for PWDs in its cultural and recreational venues, including improvements to 12 venues for the 2009 East Asian Games, and will continue to carry out 40 new improvement works projects.

On public housing estates, the Housing Department has introduced the "Universal Design" concept in all new buildings since 2002 to provide a safe and convenient living environment for different categories of tenants, including the elderly and PWDs. It has also commenced building improvement works in stages to improve the barrier-free facilities of existing buildings. Such improvement works have been completed in around 150 public housing estates.

Regarding public education, the Sub-committee on Public Education on Rehabilitation under RAC has, since 2003, adopted "Working towards an inclusive and barrier-free society for persons with disabilities" as one of the main themes for its annual public education programmes and made active effort in promoting to members of the public the importance of "barrier-free environment" for PWDs. From May 2008 to January 2009, RAC visited all the 18 District Councils (DCs) to promote RPP. In the course of the visit programme, RAC solicited their support in the promotion and provision of barrier-free facilities in their districts. In the coming year, RAC will continue to promote, as one of the foci for public education, the building of a barrier-free environment.

- (c) To implement the requirement on employment of PWDs under Article 27 of the Convention, in accordance with the strategic development directions set out in RPP, the Government will continue to provide suitable training and employment support and promote the working abilities of PWDs with a view to enhancing the employment opportunities for PWDs.

At the policy level, we strive to encourage government departments, subvented organizations and statutory bodies to formulate suitable policies and measures on employment of PWDs, having regard to their business nature and size of establishment, thereby enhancing the employment opportunities of PWDs.

In respect of vocational rehabilitation training, the Government, through the Skills Centres of the Vocational Training Council, the Employees' Retraining Scheme of the Employees' Retraining Board, the vocational rehabilitation services of the Social Welfare Department (SWD) and the employment support services of the Labour Department (LD), seeks to equip PWDs with the work and communication skills required for jobs in the open market. To strengthen the vocational rehabilitation services of the SWD, the Financial Secretary allocates \$16.79 million for the provision of 160 additional places for day training and 100 additional places for vocational rehabilitation services in the 2010-2011 Budget. Coupled with the recurrent funding already earmarked, some 290 places for day training and 420 places for vocational rehabilitation services will be provided in 2010-2011.

The "Enhancing Employment of People with Disabilities through Small Enterprise" Project under the SWD also helps to facilitate the employment of PWDs through the setting up of social enterprises. As at October 2009, a provision of over \$32 million has been granted under this Project to support NGOs to set up 56 small enterprises, creating a total of 468 employment opportunities for PWDs.

The Selective Placement Division under the LD has enhanced the "Work Orientation and Placement Scheme" since June 2009 by increasing the financial incentive to employers (from \$3,000 to \$4,000 per month) and extending the period of payment from three months to six months. This is to encourage employers to offer trial placement opportunities to PWDs, thereby increasing employers'

awareness of the working abilities of PWDs and helping PWDs find employment in the open market.

Over the past two years, RAC has adopted "Promotion of employment for PWDs" as one of the main themes of its public education programmes. A series of new initiatives have also been implemented to enhance public understanding of the working abilities of PWDs and the support services provided by various government departments and rehabilitation agencies for the employment of PWDs. These initiatives have generally received positive response from social welfare agencies, DCs and the business sector. For instance, more and more social welfare agencies have shown their support by establishing voluntary indicators for the employment of PWDs and formulating relevant policies. Many DCs have organized promotional activities relating to the employment of PWDs. A number of business corporations have also offered employment opportunities for PWDs and made wider use of the products and services provided by PWDs through relevant government departments and agencies. Some members of the business sector and community organizations have also collaborated with the Government and NGOs to assist PWDs in starting their own business. This shows that our efforts have started to bear fruit.

### **Level of Internationalization of Tertiary Education in Hong Kong**

17. **MRS REGINA IP** (in Chinese): *President, the Government proposed in 2007 to develop Hong Kong into a regional education hub and sought to attract more quality non-local students to study in Hong Kong. Moreover, the University Grants Committee (UGC) will earmark, from the 800 additional research postgraduate places to be provided to its funded institutions in phases from the 2009-2010 academic year onwards, about 400 for launching the "Hong Kong PhD Fellowship Scheme" administered by the Research Grants Council (RGC), so as to attract quality students from around the world to pursue their PhD programmes in Hong Kong's institutions. According to UGC's information, RGC received about 3 000 applications by the deadline for application. Regarding the level of internationalization of Hong Kong's tertiary education, will the Government provide the following data in table form:*

- (a) *a breakdown of the number of students who had applied for the above scheme by subject of study, as well as the number of*

*applicants from developed countries such as the United Kingdom, the United States, Canada and Australia, and so on; and*

- (b) *the respective numbers of PhD students and undergraduates currently studying in Hong Kong, together with respective breakdowns of these two types of students by whether or not they are local students, their nationality and subject of study?*

**SECRETARY FOR EDUCATION** (in Chinese): President,

- (a) The Hong Kong PhD Fellowship Scheme received a total of 2 996 applications. A breakdown by subject of study is at Annex A.

The Hong Kong PhD Fellowship Scheme received applications worldwide from 100 countries/economies. Amongst the applications received, 189 are from developed countries/economies, accounting for roughly 6.3% of the total number of applications. Detailed figures are at Annex B.

- (b) The statistics on local and non-local students enrolled in UGC-funded PhD programmes by place of origin and broad academic programme category (APC) are at Annex C.

The statistics on local and non-local students enrolled in UGC-funded undergraduate programmes by place of origin and broad APC are provided at Annex D.

Annex A

Hong Kong PhD Fellowship Scheme  
Number of applications by subject of study

<i>Biology and Medicine</i>	
Biological Sciences	315
Medicine, Dentistry and Health	254
Sub-total	569 (19%)
<i>Engineering</i>	
Civil Engineering, Surveying, Building and Construction	168
Computing Science and Information Technology	257
Electrical and Electronic Engineering	302
Mechanical, Production and Industrial Engineering	181
Sub-total	908 (30%)

<i>Physical Sciences</i>		
Chemical Engineering	54	
Physical Sciences	284	
Mathematics	70	
Sub-total	408	(14%)
<i>Humanities, Social Sciences and Business Studies</i>		
Social Sciences	194	
Business Studies	381	
Arts and Languages	264	
Education	79	
Law, Architecture, Town Planning and Other Professional and Vocational Subjects	193	
Sub-total	1 111	(37%)
Total	2 996	(100%)

## Annex B

Hong Kong PhD Fellowship Scheme  
Number of applications by countries/economies

<i>Developed countries/economies with applications submitted</i> <sup>Note</sup>	<i>No. of applications</i>	<i>Proportion to the total no. of applications</i>
Singapore	29	1.0%
Taiwan	26	0.9%
U.S.A.	21	0.7%
Germany	18	0.6%
U.K.	15	0.5%
South Korea	12	0.4%
France	10	0.3%
Canada	9	0.3%
Australia	8	0.3%
Italy	7	0.2%
Netherlands	5	0.2%
Czech Republic	5	0.2%
Finland	4	0.1%
Slovakia	4	0.1%
Belgium	3	0.1%
Greece	3	0.1%
Japan	3	0.1%
Spain	2	0.1%
Austria	1	0.0%
Denmark	1	0.0%

<i>Developed countries/economies with applications submitted</i> <sup>Note</sup>	<i>No. of applications</i>	<i>Proportion to the total no. of applications</i>
Ireland	1	0.0%
Portugal	1	0.0%
Sweden	1	0.0%
Total	189	6.3%

Note: Countries/economies listed above refer to the "advanced economies" classified by the International Monetary Fund (IMF). (Source: World Economic Outlook, IMF, Oct 2009)

## Annex C

Local and non-local student enrolment (headcount) of UGC-funded  
PhD programmes (2009-2010 academic year)

<i>Place of origin</i>	<i>Enrolment</i>	
Local	1 177	(27.2%)
Non-local	3 148	(72.8%)
The Mainland of China	2 952	(68.3%)
Other Places in Asia	114	(2.6%)
The Rest of the world	82	(1.9%)
Total	4 325	(100.0%)

<i>Broad APC</i>	<i>Local students</i>		<i>Non-local students</i>	
Medicine, Dentistry and Health	231	(19.6%)	396	(12.6%)
Sciences	304	(25.8%)	905	(28.7%)
Engineering and Technology	247	(21.0%)	1 054	(33.5%)
Business and Management	35	(3.0%)	177	(5.6%)
Social Sciences	125	(10.6%)	317	(10.1%)
Arts and Humanities	150	(12.7%)	188	(6.0%)
Education	85	(7.2%)	111	(3.5%)
Total	1 177	(100.0%)	3 148	(100.0%)

Notes:

- (1) Figures in 2009-2010 are provisional.
- (2) Figures on students of PhD programmes include only students funded by UGC within their normal study periods.
- (3) The place of origin for non-local students refers to their nationality.
- (4) Since some UGC-funded programmes are mapped to more than one APC, students of these programmes are counted across the APCs concerned on a pro rata basis. Thus the student numbers of some APCs are decimal figures. In the above table, the decimal figures are rounded to the nearest whole number. As such, figures may not add up to the corresponding totals.



## Annex D

## Local and non-local student enrolment (headcount) of UGC-funded undergraduate programmes (2009-2010 academic year)

<i>Place of origin</i>	<i>Enrolment</i>	
Local	51 419	(90.8%)
Non-local	5 191	(9.2%)
The Mainland of China	4 562	(8.1%)
Other Places in Asia	436	(0.8%)
The Rest of the World	193	(0.3%)
Total	56 610	(100.0%)

  

<i>Broad APC</i>	<i>Local students</i>		<i>Non-local students</i>	
Medicine, Dentistry and Health	5 230	(10.2%)	88	(1.7%)
Sciences	8 381	(16.3%)	891	(17.2%)
Engineering and Technology	8 969	(17.4%)	1 100	(21.2%)
Business and Management	11 045	(21.5%)	1 792	(34.5%)
Social Sciences	7 266	(14.1%)	837	(16.1%)
Arts and Humanities	7 529	(14.6%)	398	(7.7%)
Education	2 998	(5.8%)	84	(1.6%)
Total	51 419	(100.0%)	5 191	(100.0%)

Notes:

- (1) Figures in 2009-2010 are provisional.
- (2) The place of origin for non-local students refers to their nationality.
- (3) Since some UGC-funded programmes are mapped to more than one APC, students of these programmes are counted across the APCs concerned on a pro rata basis. Thus the student numbers of some APCs are decimal figures. In the above table, the decimal figures are rounded to the nearest whole number. As such, figures may not add up to the corresponding totals.

**Service Needs of People with Disabilities in Various Districts**

18. **MR CHEUNG KWOK-CHE** (in Chinese): *President, will the Government inform this Council of:*

- (a) *the number of persons with disabilities (PWDs) currently residing in each District Council district; if such data are not available, of the reasons for that; and*

- (b) *the criteria adopted by the Government at present for assessing the service needs of PWDs in various districts?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, my reply to the Mr Cheung Kwok-che's question is as follows:

- (a) According to the findings of the "Survey on Persons with Disabilities" (the Survey) conducted by the Census and Statistics Department (C&SD) in 2007, a breakdown of the number of PWDs by area of residence is set out in the following table:

<i>Area of residence<sup>(1)</sup></i>	<i>All PWDs (excluding persons with intellectual disability<sup>(2)</sup>)</i>	<i>Persons with intellectual disability<sup>(3)</sup> (for crude reference only)</i>
Hong Kong Island	76 100	6 100
Kowloon East	91 700	6 300
Kowloon West	35 900	2 600
New Territories East	64 600	6 600
New Territories West	93 000	9 300

Remarks:

- (1) Given the limited sample size of each District Council district, a breakdown of the number of PWDs by District Council districts may involve significant sampling error. In this regard, in order to provide accurate statistical data of PWDs, a breakdown of the number of PWDs by five regions, that is, Hong Kong Island, Kowloon East, Kowloon West, New Territories West and New Territories East, has been adopted by C&SD.
- (2) Since intellectual disability is a very sensitive issue to some respondents, the information collected from these respondents may be subject to larger error, and hence the survey may have underestimated the number of persons with intellectual disability. For this reason, the survey results of the number of persons with intellectual disability and the number of other PWDs were handled separately.
- (3) As at September 2007, there were 31 000 registrants with intellectual disability on the record of the Central Registry for Rehabilitation. The distribution of these 31 000 persons with intellectual disability by area of residence was estimated on the basis of the survey results.

- (b) To ensure that rehabilitation and support services can meet the needs of PWDs, various Government bureaux/departments concerned will formulate their service strategies at district/territory-wide level having regard to their service nature, service demand, cost effectiveness, service quality, and so on.

For example, in planning for the capacity and nature of various rehabilitation services, as well as the location for provision of service, the Social Welfare Department will conduct analysis by making reference to the number of applicants, waiting time and location preference as indicated by the applicants and recorded in the computerized waiting list system, as well as the current supply and demand of rehabilitation services in the districts.

Regarding special education, under the existing education policy, the Education Bureau will, subject to the assessment and recommendation of specialists and parents' consent, refer students with severe or multiple disabilities to different types of special school for intensive support services. Other students with special educational needs (SEN) are placed in ordinary schools in different districts through the existing School Places Allocation Systems. The Education Bureau will provide additional resources, teacher training and professional support for schools, having regard to the number of SEN students in individual schools and the level of support they require, and so on, to help them cater for the needs of their students. In short, the Education Bureau provides support to schools on the basis of the situation of students and schools, instead of assessing the service needs at district level.

Regarding medical rehabilitation service, the Hospital Authority (HA) has adopted a "Planning Framework" to ensure co-ordination and alignment of services. Forward planning at a territory-wide level is conducted on the basis of a variety of factors, including an

ageing population, epidemiological change of diseases such as the prevalence of chronic illnesses, clinical and cost effectiveness evidence and manpower demand. In planning the services of the HA's hospital clusters, the HA adopts local services demand and development of various specialist services as the principles for consideration. Specifically, health care services having a continual need such as basic, specialist, emergency and in-patient services are provided by all clusters. Specialist services, having a relatively small demand and requiring other complex supporting facilities for delivery, are mainly provided to the public (including PWDs) on a cross-cluster basis under a service network formed by two or more clusters. Neurosurgery and oncology services are examples of such services. As for those specialist services that have a limited demand and require some state-of-the-art technologies, equipment and comprehensive supporting facilities for delivery, they are provided by tertiary services centres at designated hospitals. Organ transplant and burn centres are examples of these services. The above principle for service planning could achieve cost-effectiveness and help pool together the experience of health care professionals and ensure the quality of services.

### **Joint Liaison Committee on Taxation**

19. **DR LAM TAI-FAI** (in Chinese): *President, it has been learnt that when attending the briefing session on the 2010-2011 Budget for this Council on 25 February this year, the Secretary for Financial Services and the Treasury indicated that he would be pleased to review the implementation of section 39E of the Inland Revenue Ordinance (section 39E) through the Joint Liaison Committee on Taxation (JLCT). In this connection, will the Government inform this Council:*

- (a) *of the reasons for reviewing section 39E through JLCT; whether the review can be conducted through other channels apart from JLCT;*
- (b) *whether JLCT conducts monthly meetings at present; if not, of the reasons for that;*
- (c) *why there is only a representative from the Hong Kong General Chamber of Commerce in the membership of JLCT, and no representative from the Chinese Manufacturers' Association of Hong Kong, the Federation of Hong Kong Industries and the Chinese General Chamber of Commerce are included;*
- (d) *whether the Government had reviewed the composition of JLCT since its establishment; whether it will consider appointing representatives from the three major business associations in (c), as well as those from business associations relating to small and medium enterprises, to JLCT; if it will, of the details; if not, the reasons for that;*
- (e) *of the details of the reviews on tax issues conducted by JLCT in each of the past 10 years, and whether the Government had implemented all JLCT's recommendations; if it had, of the details; if not, the reasons for that;*
- (f) *whether JLCT had, since its establishment, conducted reviews on tax issues in response to the aspirations of the industrial sector; if it had, of the details; if not, the reasons for that;*
- (g) *when JLCT will commence reviewing the implementation of section 39E, when the review is expected to be completed, and whether it will make public the review report; if it will, of the details; if not, the reasons for that; whether the Government will, during the review period, consider suspending the application of section 39E to*

*recover relevant taxes from Hong Kong enterprises; if not, of the reasons for that; and*

- (h) *given that at present, the Inland Revenue Department may, on a 50:50 basis of apportionment, assess Hong Kong profits tax payable by Hong Kong enterprises in respect of profits from sale of products processed by Mainland manufacturing units under "contract processing", whether the authorities will request JLCT to review this arrangement to expand its scope of application to include Hong Kong enterprises engaged in "import processing", so as to encourage the upgrading and restructuring of Hong Kong enterprises on the Mainland; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President,

(a) to (g)

The JLCT is a discussion forum set up on the initiative of the accountancy and commercial sectors in 1987. It discusses various tax issues and reflects the views of the industry to the Government. The JLCT is not an advisory body established or appointed by the Government, though government officials are invited to attend its meetings. Hence, we are not in a position to respond to questions in relation to its composition and operation. Nevertheless, we have relayed to the JLCT Chairman the questions and concerns of Dr LAM Tai-fai.

Since its establishment, the JLCT has provided valuable professional advice to the Government on a wide range of tax issues. In the

process of formulating or reviewing policies, the Administration will take into account the views of various stakeholders. We do not have information on the number of proposals from individual organizations that have been adopted by the Government ultimately.

With regard to section 39E of the Inland Revenue Ordinance (IRO), as explained in the Administration's letter dated 10 March 2010 to the Legislative Council Panel on Financial Affairs, we consider that the completeness of the anti-avoidance provisions in the IRO would be affected if the restriction under section 39E is relaxed. There are also practical difficulties in the implementation and the provision could easily be abused. In response to the request of the industry, we have invited the JLCT at its meeting of 4 March 2010 to study the issue of section 39E. In view of its members' professional background as well as their knowledge of the tax regime and tax law in Hong Kong, we hope that the JLCT can explore at the technical level whether there is any practical and feasible solution to address the concerns of the industry and the Administration. Besides, we have suggested the JLCT to consider the views of relevant business associations in the course of the study. Meanwhile, the Inland Revenue Department has to enforce the tax law and could not suspend the application of section 39E.

- (h) In my reply to Dr LAM Tai-fai's written question on 13 January 2010, I have explained in detail the differences between "contract processing" and "import processing" as well as the different tax arrangements under these two modes of operation. If the 50:50 tax apportionment method under "contract processing" is to be extended to apply to profits arising from general trading activities, there will be a fundamental change to the prevailing tax principles in Hong Kong. At present, we have no intention to invite the JLCT to study this issue.

**Monitoring Vehicle Safety**

20. **MR FREDERICK FUNG** (in Chinese): *President, in view of the serious safety problems in recent months of the vehicles manufactured by Toyota Motor Corporation (Toyota) of Japan, which were caused by faulty design and malfunctioning components, and so on, will the Government inform this Council:*

- (a) *whether the authorities had received complaints about vehicle safety problems in the past five years, and how such complaints were handled;*
- (b) *of the counter-measures adopted by the authorities to address the aforesaid problems; and*
- (c) *of the details of the existing legislation related to the monitoring of the safety of imported vehicles; whether the authorities had, in the past five years, reviewed the measures for monitoring vehicle safety (including whether the monitoring measures are too passive and lax, as well as too reliant on self-monitoring by vehicle manufacturers); if they had, of the outcome; whether a comprehensive review will be conducted and improvements will be made in response to the aforesaid incident?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, the Government attaches great importance to vehicle safety. My reply to the three parts of the question is as follows:

- (a) In the past five years, the Transport Department (TD) did receive complaints about the performance or quality of individual vehicle models. These complaints, however, did not involve design errors or potential safety risks of concerned vehicle models. If such complaints are received, the TD will take the initiative to contact the vehicle dealers and request them to take appropriate follow-up actions promptly.
- (b) Regarding the recent recall for certain vehicle models announced by Toyota of Japan, upon learning about the recall exercises in the United States and Japan, the TD had contacted immediately the local



Toyota dealer seeking information about the situation and whether the Toyota vehicle models sold in Hong Kong would be affected. The local dealer confirmed that the models recalled overseas, except Prius 250, are not sold in Hong Kong. Among the Prius 250 vehicle models sold in Hong Kong, only those that were manufactured between April 2009 and January 2010 have to be recalled. A total of 270 vehicles will be affected. The recall aims at upgrading the computer software for the anti-lock braking system to improve the performance of the braking system under exceptional environment and road surface.

To help the dealer notify affected vehicle owners promptly, the TD has uploaded relevant recall information onto its website for public inspection. If the dealer has any difficulties in notifying the owners, the TD will also assist in informing individual vehicle owners to facilitate the early completion of the recall exercise. As at 10 March, the dealer has contacted all the affected owners and completed software upgrade for 260 vehicles concerned. The TD will continue to follow up on the matter to ensure smooth completion of the exercise.

- (c) The Administration keeps a close watch over the quality of imported vehicles to ensure safety. According to Section 53 of the Road Traffic Ordinance (Cap. 374), no person shall sell, supply or hire a motor vehicle for delivery in such a condition that the use of it on a road would contravene any provision of the Ordinance with respect to the construction or weight of that vehicle or its equipment. Section 5(1) of the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374A) states that all body work and fittings of every vehicle shall be soundly and properly constructed of suitable materials and shall be in good and serviceable condition. Such stipulations aim at ensuring the safety and road worthiness of all vehicles.

The TD requires all imported vehicle models to go through the type approval process. Applicants have to provide relevant particulars, such as the information on the braking system, standard of the safety belts and specification of safety glass, to prove that the construction of the model concerned is safe. The model has to pass the vehicle

examination as well to ensure compliance with the Ordinance (Cap. 374) and its subsidiary regulations before it may be sold, registered, licensed and driven on the road.

We consider our measures to monitor the safety of imported vehicles adequate. The TD will continue to monitor recalls by overseas manufacturers and liaise with local dealers to ensure vehicle safety.

## **MOTIONS**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) Regulation 2010 and the Poisons List (Amendment) Regulation 2010.

## **PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE**

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I move that the motion under my name, as printed on the Agenda, be passed.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and monitoring system set up in accordance with the Pharmacy and Poisons Ordinance (the Ordinance). The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, dentist or veterinary surgeon.

Arising from an application for registration of two pharmaceutical products, the Pharmacy and Poisons Board (the Pharmacy Board) proposes to add the following two substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations:

- (a) Desvenlafaxine; its salts; and
- (b) Dronedarone; its salts.

Pharmaceutical products containing the above substances must then be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

We propose that these Amendment Regulations take immediate effect upon gazettal on 19 March this year to allow early control and sale of the relevant medicine.

The two Amendment Regulations are made by the Pharmacy Board, which is a statutory authority established under the Ordinance to regulate pharmaceutical products. The Pharmacy Board comprises members engaged in the pharmacy, medical and academic professions. The Pharmacy Board considers the proposed amendments necessary in view of the potency, toxicity and potential side effects of the medicine concerned.

With these remarks, President, I propose the motion.

**The Secretary for Food and Health moved the following motion:**

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 22 February 2010, be approved –

- (a) the Pharmacy and Poisons (Amendment) Regulation 2010; and
- (b) the Poisons List (Amendment) Regulation 2010."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Food and Health be passed.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Food and Health be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Designation of Libraries Order 2010.

I now call upon Ms Miriam LAU to speak and move her motion.

## **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MS MIRIAM LAU** (in Cantonese): President, at the House Committee meeting on 5 March 2010, Members decided to establish a subcommittee on the

Designation of Libraries Order 2010. Members also agreed to the moving of a motion by me as Chairman of the House Committee to extend the scrutiny period of the Order to 21 April 2010, so as to give the Subcommittee sufficient time for scrutiny.

President, the content of the motion is set out on the Agenda. I urge Members to support it.

**Ms Miriam LAU moved the following motion:**

"RESOLVED that in relation to the Designation of Libraries Order 2010, published in the Gazette as Legal Notice No. 22 of 2010 and laid on the table of the Legislative Council on 3 March 2010, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 21 April 2010."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

(No Members indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Miriam LAU be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Fourteen proposed resolutions under the Interpretation and General Clauses Ordinance to amend the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice.

Six Members intend to move a total of 14 motions to repeal or amend this Notice. Ms Cyd HO, Mrs Regina IP and Ms Audrey EU each intends to move a motion to amend this Notice; Mr Albert HO intends to move three motions to amend this Notice; while Mr James TO and Mr LEE Wing-tat each intends to move four motions to amend this Notice.

Both Ms Cyd HO's motion and Mr Albert HO's first motion propose to repeal this Notice. As the two motions are substantially the same, I will only invite Ms Cyd HO to move her motion. Irrespective of whether Ms Cyd HO's motion is passed or not, Mr Albert HO may not move his respective motion. Moreover, if Ms Cyd HO's motion is passed, other Members may not move their motions.

Furthermore, Mrs Regina IP's motion and Mr James TO's second motion are also substantially the same. If Ms Cyd HO's motion is negatived, I will only invite Mrs Regina IP to move her motion. Irrespective of whether Mrs Regina IP's motion is passed or not, Mr James TO may not move his respective motion. Moreover, as one of the proposals under Mrs Regina IP's motion is to repeal section 4(1)(a) and (b), and other motions intended to be moved after her motion also propose to repeal this section and substitute it with new proposals, if Mrs Regina IP's motion is passed, the relevant Members may not move their motions. Similarly, if any one of the motions moved after Mrs Regina IP's motion is passed, the relevant Members thereafter may not move their motions."

This Council will now proceed to a joint debate on the 14 motions. I will call upon Ms Cyd HO to speak and move her motion first, to be followed by Mr Albert HO, Mr James TO, Mrs Regina IP, Mr LEE Wing-tat and Ms Audrey EU; but no motions are to be moved at this stage.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MS CYD HO** (in Cantonese): President, I move that the motion under my name be passed.

President, among the motions proposed today, mine is the most decisive and radical, for I propose that the Notice be repealed. Actually, I have no alternative but to do so. This rightly reflects the lacuna in co-operation between the executive and the legislature. Before the summer recess in 2009, the Secretary proposed to the panel that the application threshold for compulsory land sale be lowered from 90% to 80% by means of a notice. At that time, we knew that the notice would be dealt with through the negative vetting procedure. At the panel, members expressed concern, for they knew that despite the simple and efficient legislative procedure applicable to the Notice, the Notice would have extremely far-reaching implications on the people's livelihood.

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

For this reason, we in the panel urged the Secretary to ensure proper communication with society and Members before gazetting the Notice. Members hoped that the Notice would incorporate the opinions expressed by them, so that the adverse effect brought about by the system could be minimized, and that they would come up with a fair system that would help minority owners. But, regrettably, since the summer recess in 2009, no consensus has been reached. As a result, the lowering of the application threshold for compulsory land sale from 90% to 80% has to be processed according to the negative vetting procedure. Actually, the executive has taken full advantage of the room of manoeuvre and the authority conferred on it under the principal ordinance to ensure that this legislative amendment with far-reaching effects will be passed in the shortest time.

Deputy President, on Monday morning, I listened to the Secretary's interview on the "Talkabout" radio programme of Radio Television Hong Kong. During the one-hour programme, she explained the policy and her position in detail, but we consider some of the standpoints worrying. The Secretary

mentioned the "Three-Nos" approach: no amendment, no withdrawal and no re-submission. Regarding the first two "nos", that is, no amendment and no withdrawal, I consider it understandable. Though our views are different, I understand that the Secretary, being an official under the accountability system and a Principal Official responsible for promoting policies, must do her level best for her own policy and position. But for the approach of "no re-submission", I consider this a dereliction of duty on her part.

In promoting a public policy, the objective should never be upholding the prestige of governance, nor should it be the transient satisfaction of victory. If the motions on amending or repealing the Notice proposed by Members are passed, I believe the Secretary is obliged to re-submit the relevant amendment expeditiously and amend the principal ordinance. Certainly, I believe all the motions proposed by Members today will be negated. Given the composition of this legislature, under which a lot of Members from the functional constituencies support the Government, I think none of the motions will be passed. But the adamant attitude displayed by the Secretary is tantamount to blackmailing. She says that if none of the motions is passed today, or if the Notice is repealed today, she will not submit this legislative proposal again. Actually, this remark from her is contradictory to her advocacy of the policy, for the Secretary claims that expeditious legislation is required to enhance the safety of existing buildings. If expeditious legislation is required, but when a consensus cannot be reached by Members, she is obliged to re-submit the proposal to the Legislative Council as soon as possible. Regarding the remark that she will not submit the proposal again within her tenure if the Government has to withdraw this gazetted Notice today, I think this is holding us to ransom a subjective and emotional response. I hope the Secretary will reflect on this later.

Deputy President, I think Members will have the opportunity to propose all the relevant motions on amendments today, for my motion will be the first motion to be put to the vote and I do not think it will be passed. Against this background, I hope that during the joint debate that follows, Members will adopt the division of labour approach, conducting in-depth discussions on the policy from different perspectives.

Deputy President, when the authorities introduced this legislative proposal, we were told that its policy objectives would be: first, to provide better means for handling building safety issues, so as to speed up the redevelopment of certain



dilapidated buildings; second, to improve the living environment of residents. Actually, the legislation on compulsory land sale was passed in 1999. We supported the legislation at that time partly because of the consideration that some buildings had only a small number of units, and a single owner might own more than 10% or a certain percentage shares of ownership. There were cases where such owners had emigrated or passed away and could no longer be located, added to this the problem of unclear ownership. Hence we considered it acceptable to put the buildings on compulsory sale by means of legislation. But when we relax the application threshold from 90% to 80% today, we must first review the implementation of the legislation since its enactment. Have the objectives of maintaining building safety and improving the livelihood of residents been achieved? Evident in the many examples in the past, the majority of buildings put up for auction were on expensive lots, which could bring enormous commercial interest after redevelopment. But those genuinely dilapidated buildings located in old districts, where the owners cannot afford the maintenance and repair works, have never attracted the interest of estate developers. Hence, the policy objectives have not been achieved.

The authorities say that by lowering the application threshold, the sector may be attracted to participate in redevelopment using the capital of private enterprises. It is true in some measure, for neither the Urban Renewal Authority (URA) nor the Government should participate actively in the market. However, when it comes to attracting private developers, it will involve external interest. When external interests are involved, the nature of the whole thing will change. However, we at the same time resort to legislation to relax the threshold, which offers more room of manoeuvre to the sector. In this connection, we must be extremely cautious. When the law is invoked to conduct compulsory land sale, this must be justified by significant public interest. If the public interest justification is flimsy, we must act with great caution.

Deputy President, both before and after the establishment of the Subcommittee, we have been eager to communicate with the Secretary, hoping to perfect the mechanism. But regrettably, the Secretary all along adopts an extremely adamant attitude, and that explains why I have to propose the motion today to repeal the Notice. Deputy President, the entire matter is indeed an interest struggle between developers and minority owners, but the authorities have turned it into a struggle for interests among minority owners. Actually, I

would like to point out here that I hope the authorities will not frequently resort to the tactic of provoking division in society. After all, if compulsory land sale is conducted, the small owners will eventually suffer. Hence, no matter the threshold is set at 90% or 80%, the mechanism must be reviewed. We should work out a fair mechanism, so that minority owners will get a reasonable price for their shares. The adversaries of minority owners are indeed developers who have purchased the majority shares of ownership of the building. Today, inconceivably, we see that the authorities are provoking the division between individual owners who are eager to sell their flats and the other minority owners. This is most regrettable.

The Secretary told us that she had done a lot of opinion polls, and the majority of owners agreed with the lowering of the threshold. But I have to cite the example of The Belcher's. The redevelopment took place before the enactment of the legislation on compulsory land sale. The place was owned by a co-operative society of civil servants. When the developer acquired ownership from the co-operative society, it offered the term "a square feet for a square feet" to owners, and undertook the rental accommodation problem faced by owners during the redevelopment by providing rental assistance. Hence, we saw no disputes in the redevelopment of The Belcher's case, and everything went smoothly. It is evident that the interests of all owners can be enhanced under collective bargaining, but naturally, the interests of developers will be reduced as a result. But since we are talking about transactions in private ownership, collective bargaining should be allowed.

Hence, when the Secretary conducted the opinion polls on the preference of owners on the early disposal of their dilapidated flats and lowering of the threshold, which would enable them to get a lump sum to move to more desirable premises, their answers would be obvious, for they were offered no alternative and inadequate information. There are shortcomings with opinion polls or surveys conducted over the telephone, since a simple question is posed to the respondents and the information provided is inadequate, it means owners are only offered a limited choice of answers, and they have to choose between the lesser of two evils. Why do we not disseminate adequate information to them? Why do we not inform the public of the option of collective bargaining as well as other channels for owners' participation in redevelopment, so that owners and developers can work together? The minority owners surely will have to bear the risk. However, when there are options of collective bargaining, participation in

the development and the "flat-for-flat" offer, the parties concerned may negotiate and arrive at a fair mechanism. However, this option was not mentioned in the opinion polls conducted. During the scrutiny at the Subcommittee, Deputy Secretary Tommy YUEN told us that the Government could not mandate co-operation between the business sector and owners, nor should it interfere in these commercial acts. This remark is self-contradictory. If we cannot enact legislation to require developers to negotiate with minority owners, why can we enact legislation to allow developers to apply for compulsory land sale? It is totally illogical and self-contradictory.

Hence, Deputy President, the present relaxation of the policy is indeed an arrangement inclined towards developers and consortia. But the Government is so bold to present this as a struggle for interests between owners with 80% shares of ownership and those with 20% shares of ownership. Minority owners refusing to sell their premises are presented as "kings of nail households", who are jeopardizing the public interest. This is most frightening. For the Government is using the machine of public opinion to divide society. If the Government can do so today, it may provoke such division in future when it deals with other legislation.

Deputy President, apart from individual interests, the compulsory land sale arrangement also has a bearing on town planning. At a time when the district outline development plan has yet to be reviewed, and in the absence of effective restriction on the size and height of buildings and their environmental impact, and in the lack of provisions restricting developers fully utilizing the plot ratio of sites, an immediate relaxation of the threshold will indeed bring disasters in town planning. Running the risk of being repetitive, I must say, in the reports published by The Ombudsman in 2005 and 2006, government departments were criticized for lack of communication, for the redevelopment and development projects in the Central and Western District and the Mid-Levels had exhausted the plot ratios, such that the transport network of the district cannot cope with the traffic flow in the wake of the redevelopment. Under such circumstances, the developers are the first to benefit, but the residents of the district, as well as residents paying high prices to buy the flats, will have to bear the subsequent costs. The authorities often say that town planning is a separate issue, not within the present purview. But governance should be delivered in a holistic but not piecemeal manner. Since the authorities have a lot of information at hand, it is

duty-bound to take preventive measures to pre-empt disasters in town planning brought about by the legislative proposal. It should take precautions early.

Hence, Deputy President, I hope that the Administration will turn promptly today and withdraw the Notice of its own accord. It should then consult members of society and discuss the measures to be implemented to prevent those problems. After that, it may submit the legislation to the Legislative Council again; it will then win the support of society and the Legislative Council. This will be a much better approach. Thank you, Deputy President.

**Ms Cyd HO moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be repealed."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Cyd HO be passed.

**MR ALBERT HO** (in Cantonese): Deputy President, I propose the repeal or amendment of the Notice made under the Land (Compulsory Sale for Redevelopment) Ordinance (the Ordinance). The Ordinance was passed by the Provisional Legislative Council in 1998, which empowered the Chief Executive in Council to make a notice for revising the compulsory sale application threshold. The present proposal put forth by the Government seeks to lower the percentage of shares from 90% to 80%. If the Legislative Council disagrees with this amendment, it can only propose a motion to repeal it today. As Members all know, motions introduced by Members are subject to separate voting. Hence, even if more than half of the Members support the repeal, the motion may still be negated for failing to secure a majority vote in the other group of Members. Deputy President, for such an important policy, it is utterly shocking that amendments have to be made in this manner. I think that by enacting such legal provisions at that time, the Provisional Legislative Council deprived the right of the Legislative Council in scrutinizing important policies

like this. I consider this extremely irresponsible. I even think that it is a shameful decision. I am enraged by this.

Under the provisions of the Notice, the law will be invoked for the compulsory sale of property of private ownership, including the homes where they are living in. I always consider that this power should be exercised only under extremely restrictive and exceptional circumstances and the primary purpose should be consideration of important public interest. If the purpose is for urban redevelopment and the project is carried out by the Urban Renewal Authority (URA), or if it is the construction of railways, roads or public facilities, I believe it will not cause any dispute. However, if the law, including the provision on lowering the threshold, is invoked to enable certain people, particularly private developers, to reap huge profits, or only to cope with the land supply policy of the Government, then I would consider this unacceptable.

I recall that during the discussion on building management policies in the past, we had reflected to the Home Affairs Bureau repeatedly that many provisions in the deeds of mutual covenant were extremely unreasonable. For instance, developers may lay down certain provisions at the sale of the flats stating that they may reserve and use certain places without bearing the management or maintenance fees. This is extremely unfair, and no one will accept these provisions nowadays. These deeds of mutual covenant were mostly made in the 1980s. We have made repeated requests to the Secretary for putting in place a mechanism to amend or repeal these unfair provisions in the deeds of mutual covenant. We have put forth many proposals. For instance, we suggested that there must be the consent of 90% of owners and the approval of the Secretary for Home Affairs, and also the issue of an order by the Court. However, the Government turned down the proposal on the grounds that it would infringe upon private contracts and private ownership. I do not know why the Government can have so many different scales and yardsticks. On the one hand, the Government does not attach importance to the interest of minority owners. But on the other hand, when development is involved, or when the right of development of developers is affected, its scale will tip to their side. Today, we can further debate this. And the Secretary can explain to us again later why this is not the case. Why would this not give such an impression?

Deputy President, the Ordinance on compulsory land sale has been implemented for 12 years, but no comprehensive review has ever been conducted.

During the implementation of the Ordinance, great concern has indeed been aroused in the community. Among the 21 cases of compulsory sale, there were 17 cases in which the remaining shares of ownership were acquired by the majority owner in the auction at the reserve price. Of the many cases, only the redevelopment of Lai Shing Court was carried out under the joint agreement of owners, which represented a win-win proposal. Why do the authorities not examine ways to provide more incentives to facilitate various parties in adopting by all means the mode of redevelopment in the case of Lai Shing Court?

Third, we can see from past examples that both sides were often drawn into fierce disputes on the valuation of flats. Minority owners would resort to prolonged legal proceedings for they considered the valuation unfair. More often than not, this would result in an unfair situation where minority owners and majority owners became the two parties to a lawsuit. When I say "unfair", I mean the unfairness caused by the gap between the two parties in terms of their financial strengths and resources. Under the existing circumstance, we think there is no reason preventing the authorities from considering the establishment of a comprehensive mechanism and procedures for mediation to facilitate mediation over matters relating to co-operation and valuation, so that both parties can enter into an agreement.

The fourth point concerns a question frequently asked by us. At the outset, the objective of this policy is to improve the living environment of residents, particularly for those living in dilapidated buildings in multiple ownership. When a majority of shares of ownership has been acquired but the remaining minority owners obstinately refuse to accept redevelopment, the authorities may carry out redevelopment by virtue of this policy to improve the living environment of the residents. Actually, in the course of scrutinizing this piece of subsidiary legislation, many colleagues working in the old districts said that no one would be interested in acquiring these old buildings. For those eight-storey or 10-storey buildings with stairs only in Sham Shui Po and Kwun Tong — I have just visited a 10-storey old building with stairs only — we seldom hear anyone or majority owners interested in invoking the Ordinance to put such buildings to public auction. At least, I have not seen such a situation to date. On the contrary, in the 21 compulsory land sale cases in the past, most of the buildings are located on Hong Kong Island and in high-priced districts with great development potentials. What are these districts? Castle Steps, Seymour Road, Tai Hang Road, Wood Road, Shan Kwong Road, Stubbs Road, Upper Kai

Yuen Lane, Westlands Road, Tai Yuen Street and Gloucester Road. Is the living environment in these districts really so poor? I have visited many of these places. At Upper Kai Yuen Lane, for example, where many of my friends live, the environment there is not very bad. In view of this, is the redevelopment of these districts urgently needed? On the contrary, why is it that no one has ever shown any interest in such old districts as Sham Shui Po and Kwun Tong?

This is the situation observed by me. Two days ago, I heard the Secretary say in a radio programme that she was "fighting for the people". I am really baffled, for I wonder who she is actually fighting for. For the untouchables living in dilapidated buildings in certain old districts, who will care about them? I have reread some reports in the past. In November 2009, when the Government indicated its intention to make a Notice on lowering the compulsory sale application threshold, a wealthy businessman in Hong Kong — one of the wealthiest man in the world — Mr LEE Siu-Kee indicated openly that his consortia had spent HK\$15 billion on acquisition of old buildings in urban areas to support redevelopment. Hence, who are they serving today when they say they are "serving the people"? In taking such hasty actions, who are they serving eventually?

Deputy President, a review of the law is necessary. At present, there is no need to hastily amend a policy of such enormous import and lower the compulsory sale application threshold from 90% to 80%, by way of a Notice. In the last couple of months, the Panel on Development held a number of meetings to discuss the review of the Urban Renewal Strategy, which includes the development density of buildings in various districts, the environmental protection requirements for building development, the construction requirements in relation to building design and ventilation, and so on, in future, as well as the roles of the URA and other organizations (including the Hong Kong Housing Society). Really, I do not understand why the function of the Ordinance in compulsory sale is not included for discussion in the context of the overall review. I really cannot understand it. There is no reason that the authorities should take out this piece of legislation as an isolated policy. It should not have singled out this part and made amendment to it just at a time when the overall strategy on urban renewal is under heated discussion, and then the law will be invoked right after enactment for urban redevelopment to be carried out in an extremely fragmented manner.

Surely, it is obvious that the amendment to the compulsory land sale legislation is not urgent, for its purpose is not for averting danger posed by dilapidated buildings. Officials representing the Government stated unequivocally at the time that this was not the objective of the policy. There are currently sufficient provisions in law to provide remedies for dangerous or dilapidated buildings. For the purpose of protecting public safety, mandatory building inspections, emergency repairs and demolitions can be carried out. Hence, the present legislation does not target at this situation. Members know that one of the contentions points in respect of the Ordinance is that when an application for compulsory land sale is referred to the Court for adjudication, should the Court consider the state of repair of the buildings in addition to its age? If a building is not dangerous but dilapidated in actuality, and the public wish that improvement can be made, will the Court also consider this point? Members should know that under the existing Ordinance, the Court must consider the age or state of repair of the building, and the word "or" is used in the Ordinance. Certainly, representatives from the Government said that according to the cases handled so far, the Land Tribunal would take into account the state of repair of the buildings at the same time. However, first, these are precedents of the Land Tribunal. In the meantime, I do not see any judgment with binding effect made by the higher courts, stating that consideration must be given to the state of repair of buildings. I notice from the Secretary's reply letter that the issue will be reviewed in future, and the authorities will consider whether amendments will be proposed to the Ordinance to state clearly that the state of repair of buildings must be considered. If that is the case, why does the Secretary not carry out the review and amendments in this respect first?

Second, in the course of scrutiny, we have discussed why the auctions are unsuccessful. If there is no competition at auctions, it will be meaningless to do so. The logic is simple. I have pondered on it for some time and sought the advice of some members of the sector. Members will understand it if they give some thought to it. When a consortium has already acquired 90% of the shares of ownership of a certain site, who else will be interested in competing for the remaining shares? For other people participating in the auction will have to offer 10 times of the premium offered by the majority owner. While the majority owner needs only to undertake 10% of the price, others will have to pay 100% of the price to compete for the site. We know that people holding 90% of the shares of ownership are keen to get a successful bid at the auction. Under such circumstances, no one else will be interested in joining the bid. Members



all know that participants of an auction have to bear certain costs. They may have to pay a deposit and spend time to attend the auction. Hence, at that time, we pointed out the problem of restricting the sale by auction under the Ordinance and proposed that flexibility be introduced to allow the disposal of land by open tender. Under the open tender arrangement, bidders at least do not have to bear any cost. They only need to calculate their cost and submit the bid. They can get the site if their bid is successful, and even if they fail, they will not have to bear any substantial loss. This arrangement will be better than the existing arrangement by all accounts, where sites were sold at reserve prices in 17 out of the 21 auctions held in the past. If the open tender arrangement is adopted, will the bidder dare to set their bidding price at the reserve price? If anyone should have the courage to do so and successfully gets the tender, he is lucky. On the contrary, bidders will surely calculate their costs carefully and consider the case of their competitors before setting the bidding price.

Surely, the motion on amendment proposed today mentions another point, that is, in most circumstances, the value of street level shops of certain tenement buildings accounts for more than half of the value of the whole building. However, the present arrangement does not take into account the valuation of buildings. Hence, one of the amendments we proposed is that in addition to the 80% of the shares of ownership, the value of the ownership should not be less than 80% of the value of the whole building. This proposal is worthy of consideration. So, in view of the several points raised by me earlier, Members should first repeal the Notice today, and then conduct a review and discussions on the issue in future.

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up.

**MR JAMES TO** (in Cantonese): Deputy President, the law on compulsory land sale was enacted by the Provisional Legislative Council. The subsidiary legislation now subject to amendment involves the lowering of the required shares of ownership from 90% to 80%. The amendment is made by the "negative vetting procedure". In other words, the Government needs only secure half of the votes from any one of the two groups of Members, including the functional constituencies, to negative the decision of the majority of Members. Unlike most of the subsidiary legislation, the present amendment does not need to go through the "positive vetting procedure", under which the subsidiary

legislation has to be scrutinized by the Legislative Council before enactment. What is the difference between the positive and negative vetting procedures? It is an indication of its legislative intent. If the Government fails to grasp the thinking of the majority of Members, how can it say that this is the preference of the majority of Members?

Deputy President, the proposal of lowering the required shares of ownership from 90% to 80% has been mooted by the Government in recent years. Some Members reminded the Government that a review might be needed because the principal ordinance was enacted more than 10 years ago. (Surely, it might not have been so long when they raised the issue, and it might only be 10 years.) But the Government said that it involved a lot of issues, thus it would not conduct a review but would only lower the required shares of ownership from 90% to 80%. Certainly, the Secretary will say that she initially intends to deal with buildings aged 30 years or 40 years, and she has now lowered the criteria to buildings aged 50 years. However, this approach only gives the public an impression that it is the Secretary's tactic of making staggering requests in the hope of clinching a desirable deal.

But one indisputable fact is that estate developers have acquired a large number of old buildings within this year. Mr Albert HO said earlier that one of the developers, Mr LEE Siu-kei from Henderson Land Development Limited, had already spent more than \$10 billion on acquisition. Initially, I did not understand why this subsidiary legislation had to be passed expeditiously, but now I know better, and I have reasons to suspect this. Since the review of the Urban Renewal Strategy will be completed in a few months, why is part of it singled out for passage on 1 April — whereas the policy of no withdrawal, no amendment and no re-submission is adopted? What is so important about 1 April? For a man called LEE Siu-kei has hoarded more than \$10 billion worth of stock.

The Ordinance on compulsory land sale has existed for more than a decade, but the Government refuses to make any amendment to it or review it. The Ordinance on the Urban Renewal Authority (URA) has a history of only eight to nine years, but a comprehensive review has to be carried out. It really baffles me.

Besides, it will affect public interest. Donald TSANG says that buildings causing wall effect should be prohibited, but among the 24 plans involved, only 12 have been processed. The 12 plans involve prime lots where the ordinance on compulsory land sale is applicable. Once the law is enacted on 1 April, the developer concerned may recover the some \$10 billion it spent. It may apply for compulsory land sale and then submit a plan, which is rightly the case of Mega Tower. Even if a review is conducted of the 12 plans, it will be too late. No remedy can be done, for it has become a *fait accompli* — buildings causing wall effect will be built. Why? For the plan has already been submitted. What about the concern of public interest?

The most ludicrous point is that all these are now dealt with by the same Bureau, and the same Director of Bureau. She on the one hand lowers the threshold, and on the other holds up the review of the 12 plans. As a result, compulsory land sale is carried out on the other side and plans are submitted. Everything will be finalized. We will then see a large number of cases. And the authorities may exclaim about the plights suffered by the people affected and suggest conducting a review three years later. But by then, Uncle X will have everything settled, and all plans related to the sites will have been submitted. Though the Secretary says that the 12 plans will be reviewed and the possibilities of lowering the plot ratio will be examined, sorry, Members should review the Mega Tower case, where all the plans have been submitted. When owners of the old buildings in the neighbourhood query the blocking of sunlight and airflow to their buildings, who can they approach by then?

I have thought long and hard about that but still cannot figure it out. At a time when the review of a major policy will soon be completed, which is just a matter of a few months, why is a certain part of the policy singled out for passage on 1 April? The principal ordinance has been enacted for more than 10 years and no review has been conducted, but now the subsidiary legislation has to be amended to lower the shares of ownership from 90% to 80%. Insofar as the 24 plans are concerned, 12 plans involve sites located in important lots, and the buildings eventually erected there may easily cause wall effect. But now the authorities call for the enactment of the legislation on 1 April, which will only enable developers to apply for compulsory land sale sooner and submit their plans earlier. We are now facing these problems.

Deputy President, the question is whether or not it involves significant public interest and public safety to such an extent that we need to invoke the Ordinance and the present subsidiary legislation to demolish these buildings as soon as possible? The case of Haven Court is an example. Two years ago, the Hong Kong Housing Society (HS) undertook the costs of repair to restore the building to a certain condition, and no order of repair has ever been issued on the building. At the meeting, we asked the Buildings Department of the Government about this case. It said that even if one of the windows of the building should pose a danger, an order of repair would be issued. But since repair works of the building have been completed, there is no need to issue an order of repair, and the building is in good condition. Then, why has it come to this pass? It is simply because the building is located in a prime lot and the street level shops there worth a lot of money. Surely, ..... Since all the owners of the buildings want to live in peace, they have carried out repair works to keep the building in good condition. But now, just after two years, the building will be subject to compulsory sale. It is stated in the report that another round of comprehensive repair works on the building will cost \$6.3 million, but the \$6.3 million spent will only increase the its value by \$5 million, which means it is not a cost-effective approach.

Buddy, many owners living in old buildings share the views of Dr CHOI Kin, who called into a radio programme hosted by me and Mrs Regina IP the other day. He said he wanted to stay in those buildings during his remaining years, which may only be several decades, and it was not his wish to get rich by selling his flat. He had spent tens of thousand dollars to \$100,000 in the past eight to 10 years to repair the building, and it was not his ultimate aim to recover the \$100,000 spent. He was living peacefully and healthily in the flats. He considered himself lucky and wished to live there after retirement, but other people said that they wanted to get rich by selling the building. Though owners of the building wanted to live peacefully in the building, other people claimed that they wanted to get rich by selling the building.

But the Secretary said that this was not the case. She said many elderly people had written to her to indicate their desire to leave the building because no lifts were provided. Acquisition would not have started if it was not the case, and there were some "nail households" in the old building. Let me tell all owners of old buildings: I work for old districts and I have been serving Kowloon West for 20 years, I will not give up the rights of owners of old buildings in my district. Those "kings of nail households" will be of no concern to me.

However, Members must bear in mind that upon the passage of the law, the bargaining power of all owners will be undermined. There are such examples now. It does not matter whether or not the owner is a "nail household", and whoever it is. For all purchasers will tell owners of old buildings this: "Old lady, will you sell your flat? If not, you will be left alone later and your flat will be subject to compulsory sale." These purchasers may be clever enough to quote the remarks of his colleagues to talk the owners into selling their flats. They may say: "Do you think you can challenge the majority owner through lawsuits? You will definitely lose! Look at the Haven Court case. The price of the flat is \$8 million and \$9 million, but \$4 million is spent on lawyers' fees. Do you dare to file a lawsuit against Uncle X?" By then, the bargaining power of every owner will be undermined.

Surely, some elderly owners may tell the purchasers that they only want someone to buy their flats. Since the market value of their flats is only some \$500,000 to \$600,000, they will be more than happy if someone is willing to offer \$1 million for their flats, for they only want to lead a stable life during their retirement. They are willing to sell their flats if the purchaser offers this price. However, the owner next door, whose property is 50 years of age, may want to buy a flat of 10 years or 20 years of age of the same size. This is an acceptable request, is it not? It is only reasonable to ask for a flat of \$1 million or so or of \$2 million in exchange. However, with the enactment of the law on compulsory land sale, it will become more difficult to gather enough shares of ownership to oppose the acquisition. What then? Individual owners will easily be persuaded to accept the offer. Hence, each owner will in effect lose \$100,000 or even several hundred thousand dollars.

Deputy President, some people mentioned the issue of majority and minority. They think that the action of the majority should not be hindered by the minority. I think it depends on the nature of the issue. In the case of owners' corporations of buildings, on issues like the colour of the external walls of the building, it should be decided by the majority. For issues related to daily operation, the same rule should apply, for it is about the building itself. However, if owners in the majority tell other owners that "Sorry, since we account for 80% and we want to sell the building, you are mandated to follow the decision and sell the building", it will be a matter of fundamental property right.

Unlike issues of the management of superstructure and repairs, this should not be dictated by the preference of the majority.

The Democratic Party supports that 90% of the shares of ownership should be secured — I repeat, I support obtaining 90% of the shares of ownership, because ..... I know the issue of 90% and 10% is also mentioned in the Companies Ordinance, but it is relatively ..... Why do we support this? At that time, we understood that there were cases where some shares of ownership were unclear and a lot of problems were involved, but that would be a very extreme situation. Concerning the lowering of the threshold from 90% to 80%, the Secretary said that there were precedents, and the Provisional Legislative Council must be extremely bold to set the threshold at 80%. However, how can we be sure that the authorities will not lower the threshold from 80% to 70% and from 70% to 60% by the same logic and by the majority rule? It is adopting the practice of owners' corporation by applying the majority rule to trigger the sale of buildings and carry out compulsory land sale. Under this circumstance, we will become utterly defenceless, and we know neither its position nor its bottomline.

Deputy President, when the building you are living in is prone to collapse, this is a matter of significant public interest. For even if you are willing to continue with this worthless investment and carry out constant repairs, there is still the risk that the building may collapse. Mind you, if there is a risk that your building may collapse, it will pose a danger to the buildings in the vicinity and other people. For instance, passengers waiting at the bus stops may be killed when the building collapses. In this case, it involves significant public interest. The possible danger posed by the building to other people is regarded as affecting public interest — even the delivery staff of MacDonald's may be killed by the collapsed building. Hence, the authorities request the accumulation of 80% to 90% of the shares of ownership to effect the redevelopment, for the old building itself is posing a danger.

Deputy President, the Secretary asked Members to trust her. Earlier on, when Mrs Regina IP and I attended a radio programme, we both laughed at the remark. Mrs IP said she had made such remarks before. She said now she being a Member would too ask the public to trust her, but since she was a Member now, it was a different issue. What she meant to say was that she regretted making such remarks when she was the Director of Bureau at the time.

However, the Secretary now asks Members to trust her. Out of this trust, Deputy President, I proposed my amendment. I state in my amendment the condition that an order of repair has been issued because of the state of dilapidation of the building, which is at least an objective criterion. If no order of repair is issued, it means there is no problem with the building. If so, why should a compulsory land sale be carried out? By the same token, if the Lands Tribunal says, "Inspection has been carried out on the building, though an order of repair has not been issued, it is pointed out in the report that the building is posing a danger." If the redevelopment of the building is initiated under such circumstance, it is at least reasonable. I proposed this amendment to test the Government. The Secretary said that it is out of public safety concern that she dared to propose the lowering of the shares of ownership from 90% to 80%. She has to undertake the political responsibility. If compulsory demolition is imposed on any building in good condition, she should take the political blame and step down. Since she asked us to trust her, Deputy President, I took her words and proposed an amendment to show my trust. But she opposes the amendment now. What does she mean? She is actually telling me not to trust her. But she has all along asked me to trust her! Should I trust her, or should I not? I am at a loss.

At the Subcommittee, we passed a motion to urge the Government to withdraw the legislation, but the Government refused to do so. We pointed out that the mechanism of auction was inadequate and asked whether some improvement could be made first. In the case of an auction where one party has already acquired 90% of the shares in the lot, there will not be any competition. We have kiddingly asked whether the Land Tribunal has set the reserve prices at exorbitantly high levels, and the estate developers are indeed accepting the prices reluctantly. Is this the actual situation? Or for various reasons, no one can compete with the owners with 90% of the shares under the system? Mr Albert HO has already talked about this briefly. Some minority owners propose adopting the desperate approach of setting the price at "zero" — which means no reserve price, or setting it at "zero", "zero", "zero" — this will at least prompt every estate developer to calculate and consider the price they will offer, and there will be competition at least. But the Government dismisses this.

Mrs Sophie LEUNG and I have met with some representatives. The issue has also been discussed at the Subcommittee, and Members have proposed asking

the URA or the HS to do some computations and set a price. For instance, if the reserve price is set at \$100 million, I think they may consider buying it at \$120 million — this should be regarded as a prudent approach in spending public money. They can bid in the auction till the price reached \$120 million. This approach can at least push up the price, and a public organization has requested its surveyor to examine this option. But the Government turns down the proposal, for it considers that public money should not be used to settle disputes between private owners. Buddy, we are talking about the mechanism, a mechanism that can protect minority owners from being bullied. The Government does not allow the use of tender. In other words, no amendment can be made to the principal ordinance. Even if there are cases of owners suffering loss in the past six months or in the past year, the authorities will do nothing until the grievances have built up. By then, a review will be in order. Up to this very moment, I do not understand why the law has to be enacted at this point of time. The only possible reason is that Uncle X is eager to have the auction carried out on the lots which he has invested some \$10 billion. There is no other alternative. He can wait no more, for he wants to reap more profit.

(People on the public gallery clapped their hands)

**DEPUTY PRESIDENT** (in Cantonese): Keep quiet. People on the public gallery please keep quiet.

**MRS REGINA IP** (in Cantonese): Deputy President, I move to amend the Land (Compulsory Sale For Redevelopment) (Specification of Lower Percentage) Notice. My amendment seeks to repeal section 4(1)(a) and (b), that is, to make the lowered threshold not applicable to the remaining 10% property owners .....

**DEPUTY PRESIDENT** (in Cantonese): Mrs Regina IP, I wish to remind you that you shall not move your motion at this stage.



**MRS REGINA IP** (in Cantonese): I know, I only wanted to explain the content of my amendment. In other words, it seeks to repeal the Notice and make it not applicable to buildings with remaining 10% of minority owners opposing to the sale, as well as buildings aged 50 years or above.

Deputy President, I must first declare that I am not opposing private development, and I also admit that private developers have made contribution to the economic development of Hong Kong in the past. However, I think that the Notice involves a very important principle, that is, the importance of private ownership; to be precise, under what circumstance can the Government enact a law to seize the private property of a citizen? I think the Government can only do so under a most restrictive circumstance, that is, the Government can do so when a huge public interest is involved. In other words, I can support this only if public works such as important infrastructure is involved. If people's properties are taken away by force just for private development, I think the Government should act in a more cautious way. We should not even endorse the compulsory sale of other people's properties through auction simply because the majority of the residents considered that the shop downstairs was causing a great nuisance because of imparting a foul soy sauce odour and polluting the environment. We are living in a crowded city, so there are of course many environmental hygiene problems, but these environmental hygiene issues should be handled by the Food and Environmental Hygiene Department, and there are other laws regulating it. I have also received many complaints from the public about a restaurant upstairs being very dirty and water seeping to the lower floor. And there are also complaints about the noise of the cooked food stalls downstairs which makes sleep impossible. Can we really require someone to sell his property simply because the majority of people agree to that? Our society is not supposed to work in that way.

Of course, I have received different opinions, both types of opinions, some supporting the lowering of the threshold, while others opposing the lowering of the threshold. I have also heard the Government say that the Notice had caused certain conflicts, not a conflict between the owners and developers, nor is it between owners and the Government, but one between minority owners of smaller shares and majority owners of larger shares. In fact, this has given us a good picture of the problem caused by the Notice, just as some people pointed out in radio phone-in programmes, that it has created a conflict among people in

community. After reading letters from the public who supported lowering the threshold, I would like to say that I have great sympathy for them. Some of them said living there was very hard for them, because as they grew older, they did not want to climb up so many stairs, and they would like to move out as soon as possible. However, they failed to realize that, as some colleagues have said, lowering the threshold would actually reduce the bargaining power of minority property owners when they negotiate with the consortium intent on acquiring their properties. I need not ask the Deputy President, colleagues or the public to trust me; let us hear what the Chairman of the Richfield Group has said in a television interview. After the building collapse incident, the Richfield Group, specialized in acquiring old buildings, said that more owners of old buildings took the initiative to contact them, now that the price was more negotiable. Its Chairman, Mr AU, said owners of old buildings were not so unyielding anymore, for in the past, prices of properties in old urban areas were generally \$4,500 per sq ft, now owners are willing to sell at \$4,000, mainly because they do not want to bear those repair orders. In addition to psychological factors, there is also support in terms of policy because the Government will lower the threshold. Mr AU Wing-wah pointed out that two policies, namely, both the inspection of buildings and windows as well as lowering the threshold had boosted the effectiveness of the acquisition of old buildings. I consider it understandable for developers to seek higher profit margins, but lowering the threshold will ultimately weaken the bargaining power of minority owners.

I have received a lot of letters, Deputy President, and I would also like to talk about the aspirations of people opposing the lowering of the threshold. This is not fabricated by me; it is written by a minority owner from Kowloon City — an old urban area. He said, "At present, a developer has made a purchase offer to me. Although the price is not so satisfactory, I am prepared to negotiate with the developer with a view to closing the deal at a satisfactory price to both sides. However, the developer keeps on reminding me after the building collapse accident at Hung Hom that the Government would reduce the threshold of compulsory sale on 1 April, which had made developers smack of threatening minority owners, forcing them to accept the acquisition offer." Some of the minority owners thought that they were benefitted, but in fact their bargaining power has been reduced.

Yesterday, I also received a letter from a Shek Tong Tsui resident, Deputy President, the content of which was not fabricated by me, too. I do not know whether he is a majority or minority owner, but the content of the letter warrants audience by us. He said, "I am also one of the minority owners troubled by the developer intent on acquiring the flats. Over the years, the Richfield Group has been sending its representatives to persuade me to sell my ancestral property, so that it could resell the property to some major property developers. After I had refused its offer, it sent someone to stalk me, to flirt with my brother (I think he did not mean flirting) by offering him a under-table price, and it also asked my ex-wife, who has divorced me for 16 years, to pursue the liabilities concerning the title through lawyer, assuring her that she would be given some money in return. The most ridiculous thing was that it aided and abetted my neighbour to write a letter to Secretary Carrie LAM to complain about his age and sickness, and that he could not go up and down the stairs from his third-floor home, therefore he hoped to sell the flat to buyers in order to improve the living environment. In the past few days, he greeted me on the street when he saw me from a distance, for he thought that the value of his flat had increased substantially and that he might make more profits. So he said he was glad to see me. I could not help to give him a wry smile."

Deputy President, you can see that the Notice has given rise to a lot of social conflicts. Why should I speak for minority owners who oppose lowering the threshold? Because I consider that a lot of people do not realize that their own interests are being injured, so I think I am obliged to point it out.

In addition, I would also like to respond to the Government's argument that the Lands Tribunal could play the gatekeeping role. In fact, there are many issues that require the Lands Tribunal to assume the gatekeeping role. First, the Lands Tribunal is subject to some legislation, for example, a Court of Final Appeal judgment in 2005 mentioned a controversy concerning the property value of a compulsory sale project in Ming Yuen Western Street. What did the Court of Final Appeal say? It said, "The Tribunal is not conducting a valuation exercise. It does not need to adjudicate upon any disputes about the correct valuation principles to be applied ..... It merely needs to be satisfied that, on the evidence available, the offer falls within the range of what may broadly be regarded as fair and reasonable compensation for the interest in question."

Deputy President, you are a lawyer, so you must understand that the Lands Tribunal or the Court of Final Appeal is not a surveyor, it is impossible for them to determine the most appropriate price. It merely needs to decide, on the evidence available, that the offer is broadly fair and reasonable. Neither of them can defend the interests of minority owners hundred percent. Of course, as the Government pointed out that the price of compulsory sale was often two to three times of the current price. Even so, the gap between the compulsory sale price and the property price after redevelopment was much too wide. Deputy President, you have also mentioned this point in the Subcommittee, that is, the gap is too wide. Let us take a recent compulsory sale as an example. On 25 February this year, the property price per square foot at Kai Yuen Lane, North Point, was \$3,500, but it is also a rather good location. Even in a recent land auction at Tseung Kwan O, the price per square foot of the "flour" was \$4,628. In this regard, can the Lands Tribunal play the gatekeeping role? Even if some minority owners really want to collect the money and move out, should we consider those who are prepared to live in the old urban areas but are forced to leave their existing homes or to give up operating the businesses inherited from their forefathers? Can the compulsory sale legislation compensate for their losses?

Deputy President, I should mention one more thing, that is, I do not understand why the Government should seek to hastily pass the Notice on 1 April, especially when the Panel on Development has learnt that the Government was conducting an Urban Renewal Strategy Review, and a report concerning the renewal strategy has been submitted by the University of Hong Kong (HKU) which completed the review in 2009. The Review requires us to learn from the development experience of other regions, such as the experience of Singapore, Seoul and Tokyo. In fact, the compulsory sale legislation is modelled on a law enacted in Singapore in 1997. Of course, Singapore's legislation is more stringent than that of Hong Kong — for buildings aged less than 10 years, compulsory sale can be carried out with 90% of the shares, while for buildings aged 10 years or more, as long as 80% is secured, compulsory sale can be carried out. The Strategic Review conducted by the HKU suggested that we should draw reference from the practice of others, such as Tokyo. The characteristics of redevelopment in Tokyo is a top-down approach for planning and redevelopment, and then a bottom-up approach for detailed planning, so that after a partnership is formed between owners and the business sector, the government will provide assistance and financial assessment. Although the

Tokyo law empowers the authorities to initiate compulsory sale, it is seldom enforced for it is merely meant to induce owners and developers to work together and set up a joint venture. Although the development process involved is longer, it can take care of the interests of minority owners. As for the mode of Taipei's urban redevelopment, it is extremely similar to those of Tokyo and Seoul from the 1980s to 2002. Under the leadership of the executive officer (that is, the mayor), the government mainly plays the role of planning, supervision and facilitation, where the developers and the public launch the redevelopment while the Taiwanese Government provides subsidies to support the management, maintenance and repair of private estates which are open to the public. In other words, in these developed economies like South Korea, Taiwan and Tokyo, in order to strike a balance between development and people's livelihood, they are all prepared to choose a longer development process and to ensure the participation of minority owners in the redevelopment, with a view to benefitting all parties concerned. This model is worthy reference for us.

I am greatly surprised by one point. This Urban Renewal Strategy Review has entered the third stage and the Government has told us that the third stage would be completed by April and a consensus would then be reached. It is now 17 March, why can the Government not wait for a month or two until the completion of the Urban Renewal Strategy Review and then start to examine the compulsory sale issue? I believe the new development model is applicable to these private development projects; therefore, I am very disappointed about the approach of the Government in pushing through the legislation by force. Certainly, I also noted that the Secretary said she was fighting for the people, but I think no one can monopolize any fight for the people, right? I do not doubt the sincerity of the Government, but I wish to remind the Government of the remarks made by the Premier in a recent press conference after the two plenary sessions. He said, to this effect, "We still face the problem of unfairness in many fields, including in income distribution and administration of justice. This warrants our close attention. I once said that true economic theories and high ethical standards are not separate. In pursuing economic and social development, we should always give high priority and pay more attention to the poor people and disadvantaged groups in society, because they account for the majority of the population." For this reason, I hope the Government can pull back before it is too late, listen to the voice of the minority, and withdraw this Notice, or to express more specifically that it will support deferral of implementing the Notice

at least by one year, so that it may pause to think clearly about what proposal is in the best interest of all.

Deputy President, I so submit.

(Some people clapped their hands in the public gallery)

**DEPUTY PRESIDENT** (in Cantonese): People in the public gallery, please keep quiet. Quiet please.

**MR LEE WING-TAT** (in Cantonese): Deputy President, Mr Albert HO and Mr James TO have just elaborated very clearly on the detailed views of the Democratic Party on the Land (Compulsory Sale for Redevelopment) Ordinance (the Ordinance), and I will not repeat the relevant points here.

I just want to clearly explain one point in my speech today. It is very strange in Hong Kong society, where all anomalies will emerge whenever social policy discussions involve the land and housing issues. Why do the prolific directors of films not take this phenomenon of Hong Kong developers and the land policy distorting and violating the so-called fair and just principle in society as a theme for their movies?

The Ordinance mainly concerns old buildings in the urban areas, but there is actually a bigger issue involving huge interests, and a lot of people are eyeing this fat piece of meat menacingly. In the past, the developers mainly made profits by constructing buildings on land bought at auctions. However, for reasons unknown, they have had little interest in making applications for sale of land in recent years. I have analysed this. The reason is very simple. It is to their greatest advantage to maintain a high land price policy. Actually, the Secretary also knows that many property developers simply do not need to obtain land through auctions as they themselves have a rich reserve of land, as many as 40 million sq ft for the several large developers, and 10 to 20 million sq ft for the small ones.

Everybody knows that the method used by them is acquiring old buildings in urban areas, land exchange or modification of land leases, which together form

an important source of land for development in urban areas. Of course, I also know that the acquisition of old buildings is nothing simple as it involves a lot of processes. It takes a short span of a few years, or as long as more than 10 to 20 years to acquire a building. It is not just the case for old buildings, and the same also applies to land in the New Territories. It takes a short span of more than 10 to 20 years, or as long as tens of years to apply for a change of land use for development.

I remember that in the early 1990s, a property developer asked me to visit a lot in Nam Sang Wei, which has yet to be developed, even now. The developers are really very patient, and I suspect that the lot will still remain as it is without any development even when I pass away. To the developers, this is naturally no big deal, since they have land in reserve which can gradually be launched on the market, and so there is no need to be too anxious. They can acquire a flat in an old building A, and two flats in another old building B. What they have is a reserve of land for development and construction of buildings to make profits every year. Frankly, if we make a comparison of lifespan, we may not live as long as the developers and their companies, and most elderly living in old buildings are also not as patient as them, as shown in their development plans.

I have highlighted this phenomenon because, as Members must have seen in the past few years, there has been an increasing surge of problems relating to the consolidation and acquisition of old buildings in urban areas, which has been in part caused by the policy blunder of the Government. In 2005 when the property market began to stabilize slowly, the Government did not actively increase the supply of land on the market, and we discovered that the situation of insufficient supply had not only occurred in general land supply, but also in urban areas, thus aggravating the upward spiral of land prices. Given that man-made distortions and huge interests are involved, it has given rise to a plethora of anomalies. Who would not have attempted to get involved in view of such huge interests? More than 10 years ago, the developer acquired the lot at Cyberport without going through any tender. I remember that the Government said some four or five years ago that the developers had said that the open area could not be too small upon completion of a building, saying this is for the interest of the owners, and so they proposed that podium gardens and green balconies be added. I was convinced at that time. I must confess. I seldom trust the property developers, but I believed them that time. I thought it was not bad to add a

balcony, and the idea of having a balcony facing the South is not bad at all as people can relax and do exercise there. The policy was passed quickly, but we found two years later that the situation was entirely not the same as conceived. The result is, smart as they are, the property developers make use of this loophole to gain profits in their development, only that the so-called green balconies and hanging gardens are all empty talk.

I do not have any evidence to suspect that the Secretary may have received benefits, but I know an overwhelmingly majority of the property developers are very smart, and they will know it before the news breaks. They learn about a great deal of policies even earlier than the directors of the respective departments. Mr Albert HO has just said that perhaps they have known the policy beforehand, or just ridden with the wind. "Uncle Four" said that he had already sold shares worth more than \$10 billion as there would be no more dramatic fluctuations in the stock market, and instead he would invest the money in the acquisition of old buildings. It does not mean that he got wind of the news beforehand, but rather he was only certain that the policy would be approved as we have such a doughty government. Of course, these undertakings will bring them greater profits. Now the stock market has risen to 21 000 points, and a further rise will merely push it to the 23 000-point level with an increase of only 10% to 20% and hence not much profit.

Of course, we are very clear that the most senior officer who has formulated these policies — sorry — is not the Bureau Director, as on top of the Bureau Director there are the Secretaries of departments, the Executive Council and the Chief Executive. Must I trust them? Deputy President, sorry, I do not know why I have to trust them. Regarding the phenomena arising from most policies as in the example quoted by me just now, and even the issue of land supply that we are now discussing, I always ask why it is so difficult for the Government to implement the ABC's in economics. Increasing the land supply will ease the land and property prices. Those so-called bad distorted social phenomena will remain distorted, but they will not be as shocking as that. The interest of developers will wane if the benefits at stake are lessened.

Even now, I still fail to understand why the Government treats the problem of land and housing supply in such a careless manner. I cannot but think, when our Executive Council, Secretaries of Departments or Chief Executive said that



they are to serve the "people", which "people" are they referring to? Does it mean those 800 people or 7 million people? This term needs to be discussed indeed as the Joint Declaration stipulates that we are to be returned by election. There are many kinds of election, and so are "people". According to Marxism, not all men are "people", and "people" and "enemy" are pitched in a dichotomy. Only those referred to by the party are "people", and all people other than these are not "people". So people who are not defined as "people" will be subjected to dictatorship — that was what I learnt from the *Selected Works of MAO Zedong* at university — though I majored in Biology, not Social Sciences. As such, you should not mistake that all men are "people". I do not know whether the Secretary will treat me as one of the people in her mind, or perhaps I am one of the opponents.

What kind of people are the Executive Council, the Secretaries of Departments or the Chief Executive referring to when they said "people"? I do not know. I only know from my impression that the ordinary people (that is, the 7 million people) do not think that the Government is serving the people whenever land and housing issues are discussed in Hong Kong. If you ask the ordinary public whether there is collusion between the Government and the business — this term is most unwelcome, the majority thinks there is, but not too many, about 60% to 70% of them will think this way. Have I fabricated all this? Secretary, there are things very difficult to fabricate. This impression is not formed with an intention, but rather it is concluded from the continuous and constant deviation and tilting of policy, and even obvious assistance to developers in terms of policy. You cannot prohibit what the people think, especially thinking derived from facts.

I have said that when I joined the Housing Authority (HA) in 1992, the average living area of Hong Kong people was over 500 sq ft. Some 15 years later, if my memory is correct, the living area of Hong Kong people is still 500 to 600 sq ft, but over these 15 years, our Gross Domestic Product (GDP) has made a many-fold increase. Actually, the living area even for the middle-class people in Hong Kong is most unsatisfactory compared to the world standard, not to mention the grassroots. They do not even have a decent area to live. It is even not easy to accommodate their humble demand in Hong Kong to let their sons and daughters live in separate rooms. Why? Is it because there is no land? I do not think that it is due to a lack of land.

If you ask me whether I have any evidence to prove that the Chief Executive, the Executive Council and the Secretaries of Departments have deliberately refrained from making more land available so as to push up the property prices, I do not have much evidence on this. However, if you ask me whether I have any circumstantial evidence, I have quite much. So it is very difficult to remove these questions and doubts from the mind of the ordinary people.

Deputy President, regarding this discussion, I very much agree that it is only a very small part of urban redevelopment and renewal as a whole. Though the relevant owners opine that it concerns the whole of their properties, families or lives, there are actually many issues that require discussion in the overall urban renewal strategy. I also mentioned in the last motion debate such questions as who should play the role of taking it forward, whether the existing problems can be resolved if we move at the current speed, and whether it will involve a lot of changes if the Urban Renewal Authority (URA) is to bear on its own all the losses and profits and adopt the strategy of consolidating different lots. From a particular perspective, the changes involved may even be greater than those under the Ordinance. I find it most incomprehensible that we have to decide now on the threshold of 80% or 90% with regard to the Ordinance. Why can we not wait until a decision on an overall strategy has been made to deal with the issue? The Secretary, who was trained by the former British Government, knows very well to make flexible deployments, so why is she putting a small issue before a big one just like "putting the cart before the horse"? In fact, we also do not quite understand a point advanced by the Secretary when she addressed this issue.

Mr James TO has just mentioned a point to which I agree, that is, the Government has its bottomlines as regards certain issues, for instance there is a bottomline for democracy, as the functional constituencies must be kept. However, is there also a bottomline for tilting its policy towards the developers? Sometimes, I would also ask myself if that has a bottomline. I am not able to give myself an answer, and I do not know whether the Government can give me one. If the threshold of 80% fails to do the job satisfactorily, will it be altered to 70%? Does the Government have a clear idea about this issue so that it will not give people an impression that the Government has all along tilted its policy towards the interests of certain groups insofar as this issue is concerned? Of course, the Secretary has always said it is not done for the developers, and we are also not suspicious of her doing it for the developers. However, the Secretary

should always bear in mind that she is not a market director. As a Bureau Director, she naturally wields enormous powers, but the power of the Government in this market is only very small — very sorry indeed. Those who wield the greatest and most dominating power are still the developers in developing properties, constructing buildings, acquiring old buildings, looking for intermediary agents, and finding middlemen to nail households, and in these processes, it is still the developers who have the biggest power.

Why do I remain so hesitant about this issue, and why do I have reservation about the Secretary's proposal? I simply cannot see how the developers can be made to acquire old buildings in a fairer manner as far as this issue is concerned. So, I have to think of a lot of so-called safeguards such that the minority owners will not have to meet a more deplorable predicament in the worst situation.

We used to have a colleague called Andrew WONG, and we all know — now I am not talking about his love for the glass, but I still remember even now his expositions on matters relating to government. He said that the main function of a government is not to give good things to the people, as it is hard to define what things are good, and cash handouts are not necessarily good. The most important function of a government is not to make the situation worse off for the people, and not to cause encroachment to their personal rights and interests. I do not know whether this proposal will improve the situation of some people, but if the Government fails to protect the basic rights of the citizens and the people, we had better give some thoughts to it, some deep thoughts. Thank you, Deputy President.

**MS AUDREY EU** (in Cantonese): Deputy President, before all else, I have to talk about the Basic Law, which is very important. But many Members who have spoken today have not mentioned the Basic Law. Article 6 of the Basic Law stipulates that the right of private ownership of property is protected, and Article 105 of the Basic Law similarly provides that the property of individuals and legal persons are protected. Deputy President, why do I have to mention these provisions? Because I have read many press reports lately about our Secretary, Mrs Carrie LAM, and Deputy Secretary, Mr YUEN, stating that the objective of the Ordinance (Cap. 545) is to maintain the balance between the interest of majority owners and that of minority owners. Deputy President, I do

not agree that this is in compliance with the Basic Law, as one cannot say that one can kick away the remaining 10% or 20% of the owners only with the consent of the 80% or 90% of the owners. Many people say that the democrats support democracy, and so it follows that the minority owners should go with the majority, and you have to go if the majority agrees to oust you. This is not protecting private property, and therefore I have to make the point clear from the outset. I am not opposed to urban renewal, but the first point is that it must be done in accordance with the Basic Law, adhering to the principle of protecting private property.

Deputy President, the second point I wish to talk about is that if you have to kick some people away and deprive them of their property, be it their homes or shops passed down from their grandfathers, you have to do it on grounds of paramount public interest. Actually, this point is also mentioned in the Basic Law. Very often, when the Government needs to resume land, what are the reasons? The Government says it needs to build the Express Rail Link (XRL) or a road, or the relevant buildings are posing dangers, and therefore the land has to be resumed and the owners there have to be driven away. Deputy President, I would agree to the Government doing it on grounds of paramount public interest. However, it is open to question if it is done purely for money. The same goes for any financial reason by virtue of which it is more effective to develop a 60-storey building than to develop a six-storey building. But is this paramount public interest?

As such, when I requested the Government to explain to us why the application threshold should be lowered, I insisted that it must state in what public interests they decided to do so, and the Deputy Secretary only said that it was to facilitate the developers or redevelopment, and it was not necessarily related to paramount public interest. In many places, buildings aged 100 years are conserved instead of being demolished. The question lies not in demolishing buildings once they reach 50 years of age, but rather why they have to be demolished, and why they have to be redeveloped? If you say that there is the problem of repairs, and the owners are unable to carry out the repairs, thereby risking the lives of others and involving public interest, Deputy President, I can accept this as the reason for redevelopment since public interest is stake. This is the second point I wish to mention.

Deputy President, the third point I wish to raise is that adequate compensation has to be provided in the acquisition of the ownership of the flats or shops of others. I believe the Secretary will certainly say later in her speech that the Ordinance (Cap. 545) has already provided for the provision of adequate compensation. Deputy President, the Ordinance may have provided adequate compensation to minority owners both in letter and in its conception, for instance, Schedule 2 of the Ordinance prescribes how the reserve price is set in auction, and that the reserve price shall include the development potential, and so on. However, ever since the Ordinance has come into force in 1999, many disputes have arisen from its operation. Deputy President, these disputes have precisely shown that there were a lot of grievances from the minority owners who were subjected to compulsory land sale. They quoted the related amounts, proceeds, reserve prices, and the lack of rival bidders in the auctions to show that very big problems and unfairness have emerged in operation regardless of what the Ordinance is in letter. That is why so many minority owners have come forth to raise their opposition against the amendment proposed by the Government this time, and they also listed past examples to prove that the minority owners were simply not on an equal footing in compulsory land sale without rival bids. The Ordinance cannot genuinely protect their interests, and the amount of compensation is not enough for them to purchase flats in buildings of similar age or relocate to other districts of similar standard.

Deputy President, I have raised these three points in the first place to show that this has never been an issue of absoluteness. Very often, I hold different standpoints to those of the Government, but I do not base my opposition as a matter of principle. For example, I did not, in principle, oppose the construction of the XRL proposed by the Government earlier, but only questioned the manner of doing it. It is the same this time, as I am not opposed to redevelopment in principle, but rather to the way of doing it by publication of a notice, which has resulted in so great a division. That said, is it really in the interest of the public or consistent with paramount public interest?

As such, Deputy President, the fourth point I wish to say is that when we look at issues of public interest, or compulsory auction, or mandatory resumption of others' homes or shops, we need to give overall consideration in the context of public interest. I felt very sorry on reading the Secretary's letter addressed to me, in which she said this was not a question of building safety as it was the

responsibility of the Buildings Department (BD), and it was also not a question of town planning as it would be dealt with by the Town Planning Board (TPB), and that she was only responsible for development. I think she could not possibly tell us that she was only responsible for development as a Bureau Director, and that redevelopment, in a nutshell, is good, as it is good in terms of economic benefits.

The authorities must consider the public interest as a whole, and so I want to tell Members in the motion I proposed this time — Deputy President, of course I know I am not moving the motion now — that if the authorities have to lower the application threshold, apart from a review of the existing irregularities arising from operation, they at least need to examine the following points: first, from the safety perspective, priority should be given to dealing with certain districts or lots where owners of the buildings there are incapable of carrying out repairs, or meeting the standards specified in the repairs orders imposed on these buildings, or in such circumstances, the safety of a third party will be endangered; otherwise, naturally developers will rather select the prime Mid-Levels than these districts. Many colleagues have also mentioned just now such districts as Mid-Levels West, Causeway Bay and North Point with rich development potential, which will be selected by developers for development instead of those districts with dilapidated buildings that require redevelopment in the first place. As such, what I have raised is a consideration very obviously in public interest, and why does the Secretary not consider it in that way?

The second point I wish to say is that the Secretary for Development also needs to take care of public interest from the perspective of town planning. Deputy President, here is a very simple map, and Members can see that there are 12 Outline Zoning Plans in the area marked in orange, of which the Government has not undertaken any review. Deputy President, you may remember in the Chief Executive Election in 2007, that is the one contested by Alan LEONG and Donald TSANG, in which Donald TSANG told us that he would conduct a review of all Outline Zoning Plans of the 18 districts if we do not like the "screen-like buildings". However, half of his tenure has passed, Deputy President, a review has yet to be undertaken in many districts, which are precisely the districts where "toothpick buildings" and "screen-like buildings" can be built. So, each time when Mr YUEN attended the meetings of the Bills Committee, I would ask him whether those lots could be dealt with with priority. Deputy

President, other Secretaries like Matthew CHEUNG and Dr York CHOW will do trials in a certain district first for whatever plans they are implementing. If the Secretary needs to lower the application threshold from 90% to 80%, can trials and subsequent reviews be undertaken so that at least we will neither construct "screen-like buildings" or "toothpick buildings", nor create traffic problems and air pollution in these districts? I am not opposed to redevelopment, but we have to first undertake redevelopment in districts that are really suitable for redevelopment.

Deputy President, the first part of my motion responds to the request of the Secretary, Mrs Carrie LAM, who asked me to trust her, and so I proposed that "a lot designated by the Secretary for Development for priority redevelopment for reason of public interest ..... " so as to hand the power back to the Secretary for Development so that she can deal with the districts that need priority redevelopment in an orderly and gradual manner. Deputy President, what are the problems with this? At that time I asked what the problems with this were, and the reply of the Deputy Secretary, Mr YUEN, was that this motion could not be proposed technically as it ran beyond the scope of the Notice. However, our President, Mr TSANG, finally approved this motion, saying that it is within the scope of the Notice. Here, may I call on the Secretary, Mrs Carrie LAM, to "rein in at the brink of a precipice". I trust you, and I have responded to your request asking me to trust you. Why does it not work if the power is handed back to you? I cannot see why some districts which should be redeveloped first cannot be dealt with with priority over others in a gradual and orderly manner.

Besides, Deputy President, the other part of my motion takes care of another type of public interest. I said earlier that we cannot just say that the minority must go with the majority, as we all own our private properties. So I proposed to add a mediation mechanism, which must include an arrangement that allows an exchange of ownership rights, naturally incorporating a "flat-for-flat" or "shop-for-shop" arrangement, that is, to exchange for undivided shares with the same number of undivided shares. Deputy President, I saw in many meetings that Members of the pro-establishment camp also supported this, but they said that the Notice needed to be passed first and a review would then be conducted. Deputy President, I think this will not work as the matter will be ignored once it is passed. So at this present stage I request that such a mechanism be included.

Deputy President, now this motion as proposed is ruled by the President as consistent with the Notice, within the scope of the Notice. So here I would like to call on all Members of the pro-establishment camp to note that my motion would be the last motion to be moved and the last remaining motion if all the other motions were not passed, so I do not see any reason for your not supporting it as it has included the mediation mechanism to which you have also agreed.

Deputy President, I feel sorry about one point, that is, I am unable to incorporate the interest of tenants into the motion. We can see that the interest of tenants is also taken care of when the Urban Renewal Authority (URA) undertakes redevelopment projects. However, the arrangement this time which aims at facilitating the development by private developers has not included the interest of tenants. Of course, the tenants will be given a small amount of compensation at the time of redevelopment, which, however, is absolutely not equivalent to the redevelopment compensation provided by the URA. We have discussed the disparity between the rich and the poor, and the socially disadvantaged groups in Hong Kong, and so on, and the tenants are the most miserable group. The owners will get some compensation, but in such circumstances the tenants will be forced to find, rent and move to a similar flat, which will be much more difficult. Another point is that this time here I .....

(Mr Frederick FUNG stood up)

**DEPUTY PRESIDENT** (in Cantonese): Mr Frederick FUNG, is it a point of order?

**MR FREDERICK FUNG** (in Cantonese): Yes. I want to raise a point of order.

**DEPUTY PRESIDENT** (in Cantonese): Ms Audrey EU, please sit down. Mr Frederick FUNG, what is your point of order?



**MR FREDERICK FUNG** (in Cantonese): Can I ask Ms Audrey EU to clarify part of her speech just now?

**DEPUTY PRESIDENT** (in Cantonese): Ms Audrey EU, are you willing to clarify?

**MS AUDREY EU** (in Cantonese): Certainly, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): So, Ms Audrey EU, please sit down first. Mr Frederick FUNG, which point do you want Ms Audrey EU to clarify?

**MR FREDERICK FUNG** (in Cantonese): Yes, one of the points in Ms Audrey EU's motion is "where mediation between the majority owner and minority owner has been conducted, including ..... the majority ..... ". Is "including" necessary? If the conditions set out under "including" do not exist, then what should we do? That is, if the majority of the people are not willing to accept or do not like the arrangement of "flat-for-flat" or "foot-for-foot", do we have to go back to the arrangement stipulated in the original provision?

**MS AUDREY EU** (in Cantonese): Deputy President, I would like to thank Mr Frederick FUNG for his question. This point is necessary because the application threshold can be lowered from 90% to 80% only for lots that meet this condition. Therefore, this is one of the necessary terms. The condition is that mediation must be conducted, and the mediation process must include the proposal of "flat-for-flat" or "shop-for-shop" arrangement by the so-called majority owners or people who own more shares in the lot. Why should an equivalent number of shares be prescribed? For example, the number of shares of one unit in a five-storey building is one fifth of the total number of shares, and if a 50-storey building is to be developed on the lot in the future, then one fifth of the number of shares would be 10 storeys out of 50 storeys, and this is what equivalent means. That is, the mediation should include requiring the number of shares to be equivalent to the original one. They may put forth this request, and

as to whether or not this will be successful, it is another issue. At least, they can put forth this request. This is a very important part of my proposal, which seeks to protect minority owners.

Deputy President, just now I said I felt sorry that the issue of compensation to tenants cannot be addressed in this context because it can only be addressed under the principal Ordinance. Besides, the issue of industrial buildings cannot be addressed either. The revitalization of industrial buildings should be part of the Government's policy, and I think from the perspective of public interest, the Government should also take into consideration the fact that the present exercise to lower the application threshold will cause great concerns among tenants of industrial buildings, especially members of the cultural sector and people engaged in cultural and creative industries, because the Government's original intention was to revitalize industrial buildings, but now an opposite result is achieved.

Finally, Deputy President, I would like to talk about the timing because the Secretary said the Notice must come into operation on 1 April. As mentioned by many Honourable colleagues, the review conducted by the Urban Renewal Authority (URA) is expected to be completed soon, and the outcome of the building inspections conducted by the Government for 4 000 buildings as a result of the collapse of a building on Ma Tau Wai Road should also be available now, and thus the Government should know very clearly which buildings or districts with a large number of such buildings should be accorded priority for redevelopment. Therefore, Deputy President, if we can make the Notice ..... do not allow developers to choose only those most lucrative projects for development, but rather return the power to the Government because it has obtained adequate statistics to ascertain which districts should be given priority for redevelopment and can therefore launch the initiative or lower the application threshold for these districts first. With regard to mediation or protection of tenants, this can also allow time for the best effort to be made (*The buzzer sounded*) .....

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up.

**MS AUDREY EU** (in Cantonese): Thank you, Deputy President.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Deputy President, first of all, I wish to express my gratitude to the Legislative Council for conducting discussions on the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (the Notice). Seventeen Members joined the Subcommittee on Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (the Subcommittee), and over the short span of just several weeks from the start of the extended scrutiny period to this very day (that is, 17 March), totally seven meetings lasting 16 hours have been convened to conduct discussions. These discussions are very important because the task we are currently undertaking is most sensitive, and we can fully appreciate this point. Views on this task are sharply divided, which was why even before the commencement of discussions in the Subcommittee, when Ms Starry LEE moved the adjournment debate on 3 February on the building collapse incident, I already stated my attitude in proceeding with this matter. The reason is that the risks involved are indeed very high. I said so during the debate because at that time, several Members, including Mr Jeffrey LAM, Mr CHAN Kam-lam and Mr IP Kwok-him all remarked in their respective speeches that in order to tackle the issue of old districts in Hong Kong as a whole, we must rely on the private sector for redevelopment. I also mentioned then that I had already submitted the Notice several days before for discussions in the legislature.

Throughout the process of handling this task, many people have advised me that huge risks are involved, and that any lowering of the threshold may easily be dismissed as an attempt to facilitate acquisition by property developers and deprive minority owners of their property titles. I am convinced that at the case meetings and during the scrutiny of this subsidiary legislation later on, Members will hear similar arguments from minority owners or the coalition of minority owners. However, having conducted thorough studies on the issue and received many different opinions, we have come to the conclusion that this boils to a problem concerning majority owners and minority owners. We do realize that the issue is sensitive, but it should be tackled still.

The renewal of old districts in Hong Kong is a matter that concerns the interests of society as a whole, one which we must all seek to tackle. And, apart from tackling the problem faced by society as a whole, another reason for our

present action is to satisfy majority owners' aspiration to improve their living environment through redevelopment or by selling their old flats. Such an aspiration has served to remind us that even though the issue is sensitive, there should not be any further delay. This must be done.

My colleagues and I have been making painstaking efforts over the past few weeks to give explanations because we uphold our position not because "we have secured enough votes". If any Members think that since we have now got enough votes, we have refused to answer any questions, I must say that they have failed to appreciate our feelings in undertaking this task, and they are unfair to those Members who are going to express their support for the Government's position later today. All Members have done their utmost in scrutinizing this sensitive issue. And, they have also asked us to tell them our views. Both inside and outside the legislature, and even through the mass media, we have made explanations repeatedly. I myself, for example, have held interviews with five newspapers and spoken in three radio programmes over the past one week. The letter I sent to every Member on 11 March, which runs to as long as 11 pages, can highlight the very great importance we attach to the views of Members and the public on this sensitive issue.

Why is this issue so sensitive? I think there are several aspects.

First, as mentioned by several Members, this very issue involves the lawful deprivation of private property rights. This is precisely why the title of the Ordinance contains the word "compulsory", referring to "compulsory sale". The Chinese short form of "強拍" (which sounds like "forcible auction") frequently used by Members is not a very pleasant expression indeed, but it cannot be denied that the sense of compulsion is after all intended.

The second sensitive aspect is that property ownership rights are about the biggest assets of all people, especially in the case of Hong Kong. For this reason, the handling of private property rights is inevitably a very sensitive topic.

Third, property redevelopment ..... I am naturally talking about estate development projects ..... In Hong Kong, there is an existing perception of local property developers. I need not mention such views here again because Mr James TO and Mr LEE Wing-tat have already expressed such views. Or, they have at least reflected the social perception of property developers in Hong Kong.

Precisely because I could already see the very sensitive nature of this issue from the very beginning, I have been proceeding with great caution.

This issue was mooted in 2006. Later, in both 2008 and 2009, discussions were held with the legislature. Therefore, Ms Cyd HO's remarks just now are fairer than those made in the past. People have made various unfair comments, questioning us why we are in such a great hurry, why the commencement date is set on 1 April when the Notice was submitted only as recently as 22 January 2010. Ms HO is fairer in her remarks. She said that in June 2009, we already mentioned to the legislature that after all the mooting previously, we would submit a Notice for the implementation of the proposal. But I must add that we already initiated discussions as early as 2006. A new round of discussions was held in 2008, and still further discussions were held in 2009.

The adoption of a Notice for lowering the threshold from 90% to 80% for three classes of lots is not an approach chosen by the Government itself or the executive authorities on this occasion. Under the principal Ordinance, while an application for compulsory sale can be made when 90% of the ownership rights are obtained in the case of all land lots, there are also provisions empowering the Chief Executive in Council to lower the threshold to 80% in the case of some specific land lots. This is therefore part of the law.

I think that in order to seriously discuss and understand such a sensitive issue, we need to focus more on rational analysis, rather than allowing our emotions to overwhelm our rationality. If not, the sensitive nature of what is basically an issue involving majority owners and minority owners may easily lead to allegations about robbing people of their assets, large property developers oppressing minority owners and collusion between the Government and business.

Any serious and rational discussions on this sensitive issue must be based on our understanding of property titles in Hong Kong. Ms Audrey EU is right, and I must make it clear at the outset that we must first understand the Ordinance and property titles in Hong Kong before we know what we are discussing.

The ownership rights of individual units in a building are derived from land titles. In the case of multi-storeyed buildings, as Members all know, the matter

is mainly about floor deeds, meaning that individual owners do not directly possess the land titles granted by the Government as the master landlord. Small owners only own the undivided shares of the land lots concerned. Apart from the units exclusive to their own use, small owners must also manage other matters relating to undivided shares, such as the management of common areas, property management, security, property maintenance and even the property's eventual redevelopment if any. During the discussions on this issue, I often heard people say, "You must not rob people of their assets. Suppose I own a valuable antique or a beloved wristwatch of commemorative value, I will not allow you to take it away by talking about any 80%, 90%, majority ownership and minority ownership." Such an analogy is entirely inappropriate. The reason is that the case of an antique or a wristwatch is sole ownership, but in the case of land titles and undivided shares which I have mentioned, we are talking about the concept of joint ownership.

Therefore, the purpose of enacting this piece of legislation is to assist such owners in making joint decisions. Naturally, I must say, there must be a reasonable and practicable mechanism. When it comes to matters of common interests, society in general accepts the prevalence of the majority over the minority. But how are we going to define the majority? And, the minority, for that matter? It must depend on the circumstances of individual cases, I believe. For example, regarding decisions on forming owners' corporations or appointing management committees, only a threshold of no less than 30% of the total undivided shares is required. However, when it comes to the expropriation of property or even the eviction of property owners, which is certainly a very serious matter ..... And, also since redevelopment will involve the expropriation of private property rights, there must be a higher threshold. Therefore, when the Land (Compulsory Sale for Redevelopment) Ordinance was enacted, the threshold was set at 90%. In other words, the wish of those holding 10% of the total undivided shares must give way to that of those holding 90% of undivided shares. The purpose of the Notice is to lower the threshold to 80% for three classes of land lots. In other words, the definition of majority owners is still as high as 80%. Therefore, when it comes to property interest and the wishes of small owners in regard to property ownership, the Government cannot give sole attention to minority owners or even individual owners and neglect the wish of the majority owners. Whether it is 80% or 90%, we are still talking about the wishes of small owners.

However, even when we accept that the majority shall prevail over the minority, the Government must still ensure that minority owners can be given reasonable and fair compensation. Under the Land (Compulsory Sale for Redevelopment) Ordinance, this is already adequately dealt with. During the debate on 3 March, I already explained in detail how the law can protect the interests of minority owners, and I also said that the gatekeeping task shall be undertaken by the Judiciary, in which we take pride and trust most deeply. I do not intend to repeat all the safeguards I mentioned in the debate on 3 March, but a detailed account can be found in the letter I sent to all Members.

Next, I wish to respond to the 14 amendments proposed by the six Members. Deputy President, all the amendments are to a certain extent repetitive in terms of purpose, whether they are about repealing the Notice, deferring its commencement or making changes to the classes of lots specified. Therefore, I shall not respond to them one by one. Rather, I shall categorize the 14 amendments into five groups and reply to them one by one.

The amendments belonging to the first group seek to add extra provisions on top of the threshold. Apart from 80% of the undivided shares, there are also other provisions. Most of these provisions relate to building safety, public safety and public interests. When attending meetings of the Subcommittee, Deputy Secretary Tommy YUEN already clarified that the Notice was not directly related to building safety. Mr YUEN has since been under some sort of pressure, and his words were even been cited in an advertisement, but what he said is correct. As the Secretary for Development, right here, I must stand behind my Deputy Secretary. He is correct. From the initial enactment of the Ordinance to the Notice today, we never said that the lowering of the threshold from 90% to 80% in the Notice was intended to deal with building safety or dangerous buildings (We have checked all the relevant documents time and again to see if we have ever misled Members), contrary to the remark made by Ms Cyd HO. We have never said so. We did clearly explain the intent of the legislation, saying that it was meant to give room to private property owners for redevelopment, and that in this way, the problem of buildings in disrepair in Hong Kong could be dealt with and the environment in old districts improved. Therefore, in the broad sense, it is related to building safety in Hong Kong. But in the narrow sense, the purpose is not to lower the threshold to 80% to facilitate redevelopment, so that all dangerous buildings in Hong Kong can be demolished. This is not the intent.

As a matter of fact, as explained in my letter to Members, if after the lowering of the threshold for compulsory sale to 80%, buildings are to be subject to Mr James TO's amendment, that is, if the threshold can be met in cases where the Building Authority (the Authority) has issued a written order under section 26 or section 26A of the Buildings Ordinance (Section 26 is about dangerous buildings, and section 26A is about defective buildings), then I must, first, say that this is not the intent of the original motion. Actually, Mr TO, if section 26 has to be invoked in respect of a building, that building must be in very acute conditions. Section 26 provides that where in the opinion of the Authority any building has been rendered dangerous or liable to become dangerous by fire, wind, rain, dilapidation, use, lack of fire escapes or any other cause, the Authority may serve a written order on the owner (commonly referred to as building repair order), requiring immediate rectification. Therefore, if section 26 is to be used as an extra provision for circumventing the threshold, I must then refer to what Mr TO said in another session of discussions. Section 40C of the Buildings Ordinance provides for the mandatory establishment of owners' corporation on the condition that a building is under immediate danger. Mr TO said at that time that this would be a distant source of water that could not put out the nearby fire. I hold the same view today. It is appropriate to include section 26 as a condition of circumventing the threshold, to ask the Lands Tribunal (the Tribunal) to decide whether to approve an application on the basis of these two reasons. This is exactly like the case of a distant source of water being unable to put out the nearby fire as described by him. This cannot deal with buildings with the dangers or immediate dangers that I have read out just now.

Section 26A is about the other side of the issue. It is about defective buildings. A written order issued under section 26A is actually just an inspection order requiring the owners to inspect their own buildings and make rectification. In many cases, as rightly pointed out by Mr James TO, the Director of Buildings will inform an owner that an aluminum window frame has loosened and must be inspected and fixed to prevent its falling down. But this cannot be regarded as the threshold of redevelopment because it is just a building defect that can be rectified very easily. Therefore, the conditions set out in these two sections should not be linked with redevelopment. And, I am rather worried that if the motion is really passed, if someone seriously acts according to Mr TO's amendment, and if he yearns for redevelopment, he may no longer want to repair his building. This may end up in the opposite result. This is not conducive to



the policy objective of facilitating building repair in Hong Kong and runs counter to our preventive efforts in building safety.

Some Members argue that the Notice must also take account of public safety and public interest. As I said at the outset, this is impossible because the legislation is only about the making of a joint decision by the respective owners of the buildings on a land lot. It cannot be argued that since a third party or fourth party has expressed on views on a certain lot, their opinions must also be considered.

In actual practice, one of the applications rejected by the Tribunal was about a building aged 47 years. The applicant, that is, the majority owners, requested the Tribunal judge to consider two other factors (namely, the much higher financial value of the land lot after redevelopment and the improvement brought about by redevelopment to the neighbourhood environment) as a basis of approving the application, but the Tribunal simply dismissed the request, deeming that these two factors were simply not the factors it should consider. The reason is that under the principal legislation, the Tribunal is empowered to consider only two factors: first, the building age or whether redevelopment is justified by the state of repairs; and, second, whether or not the applicant (majority owners) has employed lawful means to acquire the land lot concerned. There are no third and fourth factors to consider. Therefore, it is inappropriate to add any provisions on public safety and public interests.

Members' amendments belonging to the second category are very interesting. They propose that in cases where the above-mentioned objective criteria do not apply and there is no repair order from the Buildings Department or any other provision, other additional reasons may be cited to satisfy the Tribunal, or I as Secretary for Development may specify that approval be granted for various reasons, such as the need for redevelopment, other public considerations and public interest. In regard to the former, that is, the Tribunal's being satisfied with other reasons, I think this is a superfluous step. The entire Ordinance is premised on the rationale that if the threshold is somehow met, the Tribunal shall turn to professional advice. There is also a surveying professional on the Tribunal to deal with such applications. The surveying professional will study the valuation report and the report of building conditions before making a decision. Therefore, to require the Tribunal to play the role of the gatekeeper again on the issue of threshold is a repetitive step. I do not see any merit in this

proposal. As for the proposal of empowering the Secretary for Development to make a decision in the absence of any objective criteria, I must say that it is the same as asking me to handle private property by exercising personal discretion and judgment. I must say that Members really think too highly of me. I think this will give a government official too much power, and this reminds me of Members' comments on various occasions that we must trust the system, not any individuals. They say that we must trust the system.

At this juncture, please allow me to make a clarification. Since I asked Members on 3 March to trust me, there have been some reverberations. I know that some of my colleagues were also derided at the meetings of the Subcommittee. This is what I said on that day, and I have asked my colleagues to listen to the tape-recording once again. That day, I said sincerely, "I must therefore ask Members with all sincerity of purpose whether they can believe, just for once, that this time around, we are truly working for public interests and the protection of individual property owners, rather than funnelling any benefits." How can I be so stupid as to ask Members to trust me personally? I only hope that they can trust the Government of the Special Administrative Region (SAR). When handling such a sensitive issue, the SAR Government will certainly give priority to the interest of the general public. However, if Members now ask me, just as Mr James TO said earlier that some may feel sorry or regret for their words, do I have any regret? No. Because ..... Members and I have been working together for a long time, and they have asked me many questions. They all know that I seldom read from any prepared script. Why? The reason is that I respect Members, so I always jot down Members' points before giving a reply. People may therefore find my speeches quite lively or spontaneous. To put it a bit more crudely, I am a bit "brainless". But I do think that these days, public officers are required to have sincere communications with Members and the general public. Therefore, if my appeal for "trust" has somehow found its way into Members' amendments, I must tender my apologies here.

Regarding the third category of amendments, I must give a more detailed explanation because I find it most difficult to comprehend such amendments. I know that Mr James TO aside, Mr LEE Wing-tat has also put forward such an amendment, that is, an amendment that fetches beyond the threshold — while the majority owner must own 80% of the undivided shares, the undivided shares must also be no less than 80% of the market value of all the properties mentioned in the

valuation report. In other words, there are two thresholds of 80% each. I can understand this point.

First, in many land title cases, the undivided shares attached to a ground-level shop are just the same as those attached to each unit upstairs. In stocks jargons, there is an equal share for everybody. Therefore, under equitable, reasonable and lawful circumstances, it is only fair to ask for equal shares from all when tackling problems. The computations of management fees or the handling of other problems are usually based on the number of shares held. As I have mentioned, the formation of owners' corporations and the appointment of management companies are all based on the number of shares held, that is, equal shares from all.

I can give an example, an actual example. There is this old building, and on the ground level, there is a shop. But upstairs, there are seven residential units. This building is not equipped with any lifts, nor are there any management and maintenance, I am afraid, as it is, the respective owners of the ground-level shop and residential units each has one eighth of the say in deciding how the building should be repaired or even redeveloped. Members should know that in old districts, ground-level shops are more valuable than residential units due to heavy flows of people. Let me also assume that in the property valuation report submitted to the Tribunal, each residential unit upstairs is worth \$1 million. Actually, it is possible that the higher is the floor, the lower will be its value because there are seven flights of stairs to climb. Therefore, a higher-floor unit may well worth less than \$1 million. However, to make things simple, I assume that all residential units upstairs are worth \$1 million each, and the ground-level shop is worth \$3 million. This is actually a very conservative estimation. Usually, the value of such a shop is more than three times the value of a residential unit. Mr James TO's proposal of using property value rather than the number of shares as the basis in effect means that the owner of the ground-level shop will have a say which is three times bigger than the say enjoyed by each residential unit owner. In that case, if all the seven owners upstairs come to an agreement, they will hold 87.5% in terms of undivided shares. But this is not yet as high as the current threshold, which is 90%. In terms of market value, they will only hold 70%, and a compulsory sale cannot be proceeded with even after the commencement of the Notice.

Can Members offer any justifications for (or, can they convince me of the necessity of) giving a 300% say to the owner of the ground-level shop on the basis of the number of undivided shares he or she holds? The shop-owner carries on his business day after day, and he does not need to climb the stairs, nor does he have to face any fire hazards or similar problems. Why should we sacrifice the common wish of all the seven small owners upstairs and hinder them from improving their living environment through redevelopment or acquisition by property developers? I find it most difficult to understand this point because I have always respected Mr James TO for his sense of righteousness, his dedication to justice and his concern about old districts. Precisely for this reason, I did not have the slightest hesitation to officiate at the opening ceremony of Mr James TO's office in an old district. I think it is the best place to serve the people.

The amendments belonging to the fourth category relate to the addition of extra provisions requiring written proof of an application having undergone mediation. The proposed contents of mediation cover the suggestion made by Ms Audrey EU and the clarification sought by Mr Frederick FUNG — compensation arrangements. One proposal, for example, is that due consideration must be given to the number of undivided shares held by minority owners in the course of mediation, and the same number of undivided shares must be given to them in the new development project. When Ms Audrey EU was explaining her example, Members should actually realize that her proposal would not work. If the minority owners of a lot own one fifth of the undivided shares and were to be given the same number of undivided shares after redevelopment, how could there be any business opportunities or incentives for commercial redevelopment? All will just come to a standstill.

However, if Members are just talking about "a flat for a flat", rather than the number of undivided shares, then there is a chance of success because there was the example of Lai Shing Court in the past. But I still have some reservation about this point, and I do not think we can render our support at this present stage. The reason is that Hong Kong as a whole has not yet formed such a perception of mediation. The merit of mediation is that all parties can swiftly resolve their disputes, thus saving their time and expenses on litigation, reducing the risks associated with litigation, upholding dignity, reducing pressure and maintaining good relationship. I suppose all these are the merits that have induced Mr WONG Kwok-hing to doggedly request me to do a good job in respect of mediation. I am convinced that a skilful mediator can in many cases

succeed in bringing forth an outcome acceptable to both parties, and both parties will be able to reach an amicable settlement and draw up the most satisfactory terms and conditions to resolve their disputes.

However, as pointed out in the report published in February by the cross-sector Working Group on Mediation under the leadership of the Secretary for Justice, we should not introduce any compulsory mediation at this stage. In Chapter 7 of the report, it is reasoned that since mediation is still at a relatively early stage of development in Hong Kong, the introduction of mandatory mediation must be preceded by the provision of sufficient support and resources. The Working Group does not recommend the introduction of mandatory mediation at this stage, but it advises that further studies can be conducted when mediation reaches a more advanced stage of development in Hong Kong in the future. Therefore, in regard to the proposal of using this present motion to change the approach of enacting legislation, making mediation mandatory or turning it into a requisite attached to the threshold of making an application to the Tribunal, we cannot render our support. However, we think that active efforts can be made to introduce a mediation mechanism for the purpose of assisting the two sides involved in a compulsory sale in resolving their disputes. In the handling of another type of cases about building management, the Tribunal has already implemented a pilot mediation scheme. This pilot scheme is generally considered effective. For this reason, we will promptly start the preparatory work for the implementation of a pilot mediation scheme for this type of disputes, in the hope that with the mechanism, the need for applying to the Tribunal for a judgment will be obviated.

Regarding the design, mode and details of the mediation scheme, I undertake that we will definitely take on board Members' advice. For example, as I mentioned just now, we hope that in the end, mediation can bring forth an outcome that is satisfactory to both parties. In addition to the present arrangement of cash compensation in general, we will surely consider whether "an outcome satisfactory to both parties" can in fact include Members' proposal on "a flat for a flat" or a certain number of undivided shares in exchange for a certain number of undivided shares. But if the numbers of undivided shares are going to be exactly the same, I do not think that there can be any redevelopment at all. Therefore, when it comes to mediation, I do not support the idea of writing this into the law as a mandatory arrangement. The reason is that basically, Hong Kong has not yet reached such a stage. That said, I must add

that in terms of actual details, my views are not very much different from those of Members. We will do our very best.

The fifth category of amendments, that is, the last category of amendments, is about doing away with the three classes of lots or two of such classes. This means excluding industrial lots, or deferring implementation for one year.

During the earlier motion debate on 3 March, I already foresaw that some Members might ask me to withdraw the Notice. That was why I made a very long explanation at that time. After three years of efforts, fermentation, discussions and revisions, we came to the view that if we still do not make a decision, we will be rather irresolute. I also think that as a responsible government official, I need to make our position on some key issues very clear. My remarks about "Three Nos" have led to extensive media coverage. Those remarks are in fact nothing new at all. I have mentioned them all before. There will be no withdrawal of the Notice and no amendments of the Notice. And, I have also said that if Members still vote it down after serious discussions and debates, there will be no further attempts to deal with the issue during my term of office. I must stress that I am only talking about my own tenure. I am not saying that the Government will never raise this issue again. I have explained the reasons. And, these days, one incident has made me realize the difference between being a political officer and a career civil servant. A career civil servant is in a way "mobile", not knowing where he or she will work the next day because of the "being posted" arrangement. And, he or she will not know the views of his or her new supervisor on the issue concerned either. But as an accountability official, I must say that this present issue is within my portfolio, and I am capable of imparting a clearer message to society because property development is indeed a very sensitive issue. Seeing that there are signs of the threshold being lowered to 80%, some may take preparatory actions. But this certainly has nothing with any property developers being "tipped off", as alleged by Mr LEE and Mr TO. Since discussions were initiated as early as 2006, there is indeed nothing wrong with their taking preparatory actions. The most important things are the Government's position on this issue and whose interests are accorded priority.

Therefore, these are no hard-line talks. I only hope Members will understand that I have been tortured for a very long time by the image of "the best fighting general". If I may say so today, I really want to tell everybody that I am not "the best fighting general". And, I am not a hard-liner either. Sometimes,

Members may hear a change in my voice in the course of a delivery. This is because I am not such a hard-liner. But I am on the other hand a very "passionate" person. Precisely for this reason, my remarks are sometimes quite impassioned. If Mr Alan LEONG is present today, he will surely say to me, "Why always be so impassioned?" However, there is nothing I can do, for this is my principle of getting things done. I am only saying that during my term of office, I will not raise this issue again, because if we do a little bit of computation, we will see that there is simply insufficient time for mooting, discussions and also consultation. Ms HO, this is simply impossible. Therefore, I must say that I do not mean this as an impulsive rebuttal, still less a threat. I hope Members can understand this point.

Several Members said that we are doing lots of work, so they wondered why we do not wait a little while. They said that we are conducting many reviews relating to the Urban Renewal Strategy, the setting of height restrictions in Outline Zoning Plans, "inflated floor area", and so on. They therefore wondered why we do not wait a little while. The reason for not waiting any longer is that this legislation actually aims to foster the amassing of property titles by property developers as a means of tackling the problem of old districts in Hong Kong. It bears little direct relevance to the several reviews mentioned above. I cannot say that they are totally unrelated, but if we are to wait for the completion of such reviews one by one, I am afraid we may not be able to proceed, and our work may come to a complete standstill.

More importantly, I must say that we cannot wait any longer because many small owners have told me that they have waited for much too long. I have started to wait only since 22 January, and today is already the day of voting. In contrast, these small owners have been waiting for a very long time. One of them said, "I am on tenterhooks. I always toss and turn in bed. Every single second, I am worried about my family members' safety, fearing that my building may collapse and kill them all." He is so very worried because he is living in a dilapidated building. He also knows that someone wants to acquire the building, but the acquisition has been unsuccessful because some small owners are very adamant about their asking prices. It is a 51-year-old building. In view of the aspiration of such small owners, I think that since the discussions on this issue have reached this present stage, we should not wait any longer. But this does not mean that we will refrain from doing other tasks well. Many Members have mentioned the Urban Renewal Strategy review. The Urban Renewal Strategy gives the Urban Renewal Authority (URA) a strategy of work. But it is not a

comprehensive Urban Renewal Strategy. The URA will be given a new urban renewal strategy, a new orientation and a new mode of operation, but at the end of the day, the support of private-sector development is still required. I believe no Members here will think that we can rely totally on a public organization, the URA, as an agent to tackle the problem of old districts in Hong Kong.

Finally, let me go back to the first point, the point that this is a very sensitive issue. I believe that even if it is discussed for one more year or so, the disputes will remain unresolved all the same. Views will still be divided. For this reason, I have been asking myself whether I have done the right things on this issue. This morning, I received an email. Please allow me to spend half a minute more on this email. The sender wrote me this email, intending to boost my morale. He told me a fable. One day, Emperor Qianlong asked his able minister, Ji Xiaolan, "As an official, you are commended by many, but your critics also abound. Why?" In response, Ji Xiaolan replied, "Rains in spring are sleek like oil, liked by peasants for their moistening effect, but abhorred by wayfarers for turning footpaths muddy and difficult to tread; the moon is bright and clear, liked by scholarly wits as an object of appreciation, but detested by thugs for the brightness that hinders burglary. Even Heaven cannot please all. So, can your humble servant be an exception?" Emperor Qianlong was very satisfied with Ji Xiaolan's reply. The sender of the email advised me that as long as one has a clear conscience, one can always live happily. I look upon this advice as an encouragement. I implore Members to oppose the various motions, so that the proposal can be implemented early to allay the anxieties of the majority of small owners in old districts.

Thank you, Deputy President.

**MR CHAN KAM-LAM** (in Cantonese): Deputy President, I am Chairman of the Subcommittee on Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (the Subcommittee). The Subcommittee has altogether held seven meetings, and in one of these we met with the representatives of 18 deputations. Up to now, the Subcommittee has received 68 submissions in total. Deputy President, I submitted a detailed report of the Subcommittee to the House Committee on 5 March, so I am not going to repeat the contents of the report here.



Deputy President, I would like to talk about the views of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) in this regard. The DAB supports this Notice introduced by the Government with regard to the lowering of the threshold for compulsory sale of land from 90% to 80%. I have received many phone calls, letters and emails from members of the public since the formation of the Subcommittee. Owners of old buildings generally indicate that old buildings are fraught with problems after wear and tear for dozens of years, such as spalled concrete, exposed steel bars, abject dilapidation, extremely poor environmental hygiene, clogged pipes, and burst pipes are common scenes. There are no security guards, and trespassers can enter and leave these buildings freely. Some buildings are even devoid of management, and discarded syringes, garbage, and even faeces are found all over the staircases. It is difficult to find someone to fix the broken light bulbs, or to collect the monthly garbage collection fees of tens of dollars per household. Many tenement buildings simply have no lifts, causing inconvenience to some elderly occupants and compelling them to stay indoor all year round. Some owners said that the only fate of such property is acquisition and redevelopment; if there is no redevelopment, people may not necessarily accept it even if you give it to them. These properties are simply worthless, and cannot be sold. Yes, the small owners are right in saying all these, and the dilapidated buildings will .....

(Noises came from the public gallery)

**DEPUTY PRESIDENT** (in Cantonese): Please be quiet.

**MR CHAN KAM-LAM** (in Cantonese): ..... show their potential development value only when they are redeveloped, and it is the time when prices exceed the existing value.

In recent years, there are many voices in society, which are pleasant to the ear, such as those demanding that the old buildings not be demolished for conservation purposes; they be kept to relish the collective memory; the building height be lowered and "screen-like buildings" not be constructed; and development density be reduced. Ms Cyd HO has just said that the plot ratio should not be used to the maximum. Frankly, these slogans, though one-sided, are nice to hear. However, strictly speaking, they are injuring the interests of the

owners of old buildings, as these suggestions will greatly reduce the potential value in the redevelopment of these old buildings.

Mrs Regina IP said that each of the small owners of the old buildings has a lamb, and please do not take it away. I very much agree to it, and I also sympathize with it. Nevertheless, I also need to tell you not to fleece these lambs. As we can clearly see that the lambs owned by these small owners of old buildings are actually inflicted with illness, and many small owners do not very much want to own these lambs.

Deputy President, the amendments proposed in the Notice today are not intended to make adjustments to the threshold for redevelopment to 80% of the ownership rights as a whole, but rather to lower the threshold ownership rights for specified lots to a certain extent, including those lots with units each of which accounts for more than 10% of the ownership rights in the lot, or with all buildings aged 50 years or above, or with all industrial buildings aged 30 years or above not located within an industrial zone. It can be said that these three conditions are rigorous restrictions. Many small owners simply know nothing and are not clear about the amendments proposed in this Notice today, and on hearing what people have said, they think that all owners will be affected. For this reason, it is understandable that they feel worried and upset.

Frankly speaking, the restricted coverage of this Notice even excludes the many "seawater buildings" built in the 1960s, which I had initially requested to be included. Certainly, we are somewhat disappointed, but we can see that the Government has actually considered the views of all sides, and tried all means to balance the interests and needs of different owners.

Buildings in Hong Kong are ageing at a very fast rate with an addition of more than 500 buildings aged 50 years every year, and the threshold of 90% for compulsory sale can no longer address the ageing problem of urban areas, and hence requires change. The three classes of lots for which the threshold is proposed to be lowered to 80% as presently set out in the Notice are decided after extensive consultations and opinion surveys, which are practical and worth our support. As regards the accusation by some owners that compulsory sale is tantamount to robbing people's assets, I think this is unfair. Insofar as the conditions for compulsory sale are concerned, the consent ratio of ownership rights is very high, and actually accounts for the vast majority, not the simple

majority, of the ownership rights of a building, be it 80% or 90%. We can make reference to the conditions for private redevelopment of buildings in other countries, which are not stringent as far as the conditions for compulsory auction is concerned.

Of course, we agree that the interest of minority owners should be respected, and so we also have to take care of their interest in the whole process of compulsory sale. Is it really the case that the small owners do not get any benefits out of compulsory sale? Let us look at the most controversial case concerning Haven Street. Some owners have moved to and live contentedly in Taikoo Shing, Hang Fa Chuen, Kornhill, or places with better environment in North Point with the proceeds obtained from the sale of their flats in the old buildings.

Deputy President, for those owners of old buildings who are unwilling to sell their flats, we have tried to understand their situation, and learnt that some of them simply do not live in the relevant properties, and so they have no feeling of the hardship of living in old buildings. There was an incident of burst pipes on the upper floor of a building without anyone knowing it, and as a result the water seeped down to the lower floors, and the whereabouts of the owner was not known. It was only through the real estate agent on the ground floor that the owner was found, and several days had passed since. Let us imagine how painful the tenants living there were under such circumstances.

Moreover, it is not the case that the ownership rights of small owners are trampled upon at will and get no protection whatsoever in the process of compulsory sale. The legislation provides that an application for an order for compulsory sale must be dealt with by the Lands Tribunal. Hong Kong enjoys independence of the Judiciary with a sound legal system, and we should not cast doubts over the impartiality of the Tribunal, which is a Court. It is required that the Tribunal shall not make an order for sale unless and until it is satisfied that the redevelopment is justified due to the age or state of repair of the existing development and that the majority owner has taken reasonable steps to acquire all the undivided shares in the lot. Regarding the disputes over the evaluation of the property, it is also the Tribunal that conducts hearings and makes decisions. If the developer has adopted inappropriate and improper means in the process of acquisition of the ownership rights, the small owners can also lodge their cases with the Tribunal or a Court for adjudication.

Deputy President, in the hearing of a compulsory sale case by the Tribunal, there must be an experienced surveyor who will deal with the case in his capacity as a member of the Tribunal together with its Presiding Officer, so that very high quality professional support can be provided to the Tribunal, be it legal or surveying support, in its handling of the case.

Some people have spoken of the possible impact brought about by redevelopment on the surrounding environment, and said that ancillary facilities or relevant transport arrangements should be put in place, which are also understandable. However, currently urban renewal is subject to the terms of the land lease, town planning, and the Buildings Ordinance. Detailed Outline Zoning Plans for all districts in Hong Kong are prepared by the Planning Department, which have laid down stringent plot ratio requirements for various districts, so as to effectively adjust the density of buildings.

That some owners of shops have opined that their interests would be jeopardized in the process of compulsory sale, and that some elderly owners do not want to be relocated out of the old district, all this we fully appreciate. In fact, the shop owners will suffer the greatest loss in the whole process of acquisition and redevelopment, about which I have been very much concerned ever since I was appointed a member of the Urban Renewal Authority (URA). Therefore, we have stressed all along that the Government should discuss with the parties concerned on whether "shop-for-shop" or "flat-for-flat" arrangements should be considered, so that more people will understand what is meant by "flat for flat" or "shop for shop", and more people will accept the relevant compensation mechanism.

In conclusion, we think that the lowering of the threshold for compulsory sale to 80% is consistent with public opinions, as it will help expedite the redevelopment of old districts, improve the living environment of the owners of old buildings, and prevent the recurrence of incidents similar to the one on Ma Tau Wai Road. Thank you, Deputy President.

**MR CHIM PUI-CHUNG** (in Cantonese): Deputy President, just now I have listened to the Secretary's speech attentively for almost 36 minutes in which the Secretary has stated her position on behalf of the Government. I only want to ask the Secretary this question. Regarding the example she has just cited about a six-storey old building, the interest of the street-level shop valued at \$3 million

triples that of the flats upstairs, why? Are they being levied the same amount of rates? If not, the Secretary should ask the Government to elaborate this before giving us an explanation. I personally hold that the proposal tabled by the Secretary today undermines the communication between the executive and the legislature.

(Some people in the public gallery clapped their hands)

(THE PRESIDENT resumed the Chair)

**PRESIDENT** (in Cantonese): Persons in the public gallery, please observe the rules. If you make any further interruptions to the proceedings of the meeting, I can only ask you to leave the Chamber.

**MR CHIM PUI-CHUNG** (in Cantonese): President, the Chief Executive has emphasized again that the Executive Council should be responsible for seeking consensus in the Legislative Council. Why? Regarding political views, I have never found this necessary as it is already very hard to make everyone satisfied politically. Our ideologies are not going to change suddenly after hearing a debate speech or without any conditions.

However, when it comes to upholding the overall interest of Hong Kong, I believe that as Council members, we should work together. After all, we share a common goal which is based on the interest of Hong Kong people, that is, to indirectly assist the SAR Government in governance and enhance its credibility. On this issue, I have once asked the Secretary the reason for deliberately arranging for the legislation to be passed before 1 April. I conjecture that as the by-election will only be held on 16 May, there will only be 18 votes before that. Add to this the possibility that two or three Members may be swayed, there will be some 20 votes at most, still 33 or 34 votes will remain. My guess, though not right on the bull's eye, is very close. If the Government is that efficient, why is it being considered a lame government? It should have won public support long ago. Anyway, I hope the Government can really show its sincerity.

President, we understand that recently the Premier pointed out that there are deep-rooted conflicts in Hong Kong. The Government should note that some of the deep-rooted conflicts are caused by the Crown Lands Resumption Ordinance and the Lands Resumption Ordinance invoked by the former Land Development Corporation (LDC). Yes, people in the community always grumble that the thin welfare they get is inadequate to meet their expenses. However, we have to be understanding, yes, we should take care of the disadvantaged through social welfare, yet we cannot provide hundred percent coverage. Hong Kong people are jealous of their Macao compatriots who have been granted \$6,000 each, and some of them are even granted an additional \$5,000 as old age allowance. In this respect, they receive a lot more than us in Hong Kong. But we must not forget that Macao's population is only 500 000 at most. As we would know by doing a simple calculation — \$6,000 times 500 000 is \$3 billion, an amount that the Macao Government can easily cope. Yet the amount we need for Hong Kong would be far more than that, albeit the imminent Budget may be able to do so, only marginally.

President, in my view, the former Government winked at the LDC's doings, but now, when the Urban Renewal Authority acquires properties from the public, they even resort to compulsory auction. The former LDC could only resume land for one of the following reasons: firstly, war; secondly, the location of the property obstructs renewal development; thirdly, the property poses a threat to hygiene and environment, and fourthly, the land resumption is consistent with public interest. The LDC's practices were criticized by many, but the compulsory auction now does not even need to take these conditions into account.

Alright, let us do a rational analysis. As a colleague has just pointed out, to date we have 21 cases of compulsory auction since 1999, of which 17 cases were acquired by owners with over 90% of interest through auctions. President, I must ask, has the Government done any survey? Has the Government conducted any review on whether this compulsory auction mechanism is consistent with overall interest, including that of the owners of the 10% interest who are obliged to accept the compulsory auction? If the authorities' reply is no or they have no idea all along, what are the reasons for that?

As pointed out by a colleague just now, one of the compulsory auction cases has achieved desirable results. Though the Government has mentioned it,

why has it not learnt from it? Given it is something beneficial to the public, why is it not given any publicity push? What secrets or intentions are the authorities trying to hold back so as to benefit certain people? President, when interest is involved, doubt is easily aroused; but if no interest is involved, what is the point of doubting? Hence, has our Government, make up of thought about achieving this in its policies?

Some of the minority owners of Kam Kwok Building, Wan Chai who have lodged complaints with me said that over 90% of interest in the building were acquired by the majority owner at very low prices. The flats were sold at low prices due to different reasons, such as SARS or other reasons. The majority owner must be smiling because of all these good bargains, but for others who can hardly smile, they can only grumble. Therefore, against this backdrop, if the Government is so righteous, it should think and take the circumstances into consideration instead of accusing those who reproach the Government without any thought. The Government serves the people, but it is not sacrosanct, nor is it immune to criticisms. I have empathy for and support the Secretary's devotion to work and public service as a whole. But she should not portray herself as someone excessively wise and brilliant. She can only win public support if she really acts or handles social issues with fair justifications.

President, from this incident we can see the Government's practices. More than a decade ago, the Legislative Council insisted on passing a motion to resume the ownership of Wong Wai Tsak Tong on Cheung Chau. At that time, the Legislative Council pressurized the Government to pledge that reasonable compensation would be provided. Subsequently, the Government brought an action to Court in connection with this issue. As a result, the victims who were unable to afford the litigation fees could only conclude the issue with loose ends. President, I have cited this case without any interest at stake. Certainly, I will make a declaration if any interest is involved. Though I have mentioned that the LDC had once resumed my property, I was the victim. If I had pocketed a big sum of money in this connection, then I should declare my interest. However, as I was the aggrieved victim of deprivation at that time, I believe there is no need to make a declaration, for I am only mentioning it in passing.

President, therefore we have to look at the Government's policies. The Legislative Council has basically passed the legislation to require the Government to do so, but still the Government has not done that. Hence, we should review

the past compulsory auction cases to see if both majority and minority owners were satisfied with the 90% threshold. Also, we should find out if the minority owners could gain a lot because, given the crucial 10% interest in hand, they can force the remaining 90% owners to give in. Is this the reason for the present need to change the percentage of interest to 20% so as to reduce their influence? This is not the case, in fact, those 10% owners are forced against their will.

Under this circumstance, just now some colleagues have requested the Government to conduct studies, but has the Government ever conducted any? Is there really no violation of the Basic Law? And of course, which article is contravened? In the Basic Law, something the Government urges the people to learn thoroughly, it is clearly stated that the lives and property, including the interest in property, of the people should be protected. However, to indirectly draw up a piece of legislation in this way is a reversal of the Basic Law. In this connection, I have to cite the remark made by Chairman WU Bangguo (Certainly, you can say there is another saying in the Basic Law). He said that among the laws of Hong Kong, those with authorization from the Central Government is power granted, while those without is granted. As I have said, when it benefits you, you call it "基本法" (phonetic translation: geil<sup>1</sup> bun<sup>2</sup> faat<sup>3</sup>, meaning the Basic Law); when it has no benefit to you, you call it "劉皇發" (phonetic translation: lau<sup>4</sup> wong<sup>4</sup> faat<sup>3</sup>, meaning LAU Wong-fat) (*Laughter*) .....

(Some people in the public gallery clapped their hands again)

**PRESIDENT** (in Cantonese): Mr CHIM, please pause for a while. The people in the public gallery, I say this once again, you must not shout loudly in the public gallery as this will affect the proceedings of the meeting. If you break the order again, I will immediately remove you from the public gallery without giving any warning. Mr CHIM, please continue.

**MR CHIM PUI-CHUNG** (in Cantonese): President, originally, the Government made all possible efforts to stress that compulsory auction will benefit the renewal of old districts and the overall redevelopment of affected areas in Hong Kong. This idea and its design in itself give no cause for strong criticism, yet it must win the support of the Legislative Council in general. However, has the



Government gone through each item in detail during the process? If yes, please don't be biased.

President, in the past, there were problems with compulsory auctions conducted without consent from the 10% owners. If the percentage is lowered to 20%, which means a 80% shares of ownership will be enough for a compulsory auction, I can tell you, social conflicts are set to intensify and continue. This is not about who should be held responsible. The policy of high land prices in Hong Kong has already benefited the property developers hugely, but they are insatiable. I am not saying that they are wrong, for it is natural for businessmen to seek to make money. Nevertheless, if the Government still winks at them and in particular, protects them by way of law, the consequence can be very, very dangerous. The Government asks the property developers to exercise self-discipline and limit their earnings, this is totally absurd. Therefore, the Government should strike a balance through its own efforts or by means of a suitable mechanism, otherwise I am deeply worried and concerned about the development of the situation.

President, in connection with the several points I have just raised, what review and preventive measures will the Government take? Even if the legislation is passed today, still the Government has to set up some hurdles to reduce the impact of the provisions under this legislation. Or else the community will have to pay an even bigger price for the passage of this legislation when the Secretary enforces the policy in future (Undeniably, this legislation will definitely be passed today). Therefore, under this circumstance, by making use of the institutions and resources of Hong Kong as a whole, the Secretary should examine how follow-up work should be taken forward in different aspects, particularly the infringement on the interest of small owners. Upon the passage of this legislation, many old buildings, in particular those in Western District, will be bought out. Many property developers or businessmen will focus on acquiring old buildings in that area because of the Mass Transit Railway extension that is due to complete in the future. This will definitely create social inequalities and may spark off conflicts. Therefore, the Government should take appropriate actions immediately after the passage of the legislation.

**MR RONNY TONG** (in Cantonese): President, for reasons unknown, it is easy for crooked reasoning to prevail in societies devoid of democracy. Some accountable officials have narrow vision, perhaps, because they have not gone

through the election process. Still, this cannot explain why sometimes their remarks will put the cart before the horse.

President, two days ago, I was driving and when I heard the Secretary, who was then on a radio programme, say she had a feeling of fighting for the interest of the people, I almost had a car crash.

President, I then realized that in the Government's eyes, a small group of minority owners were exerting pressure on some big developers and majority owners, and that is why the Government needs to fight for the interest of the people and oppress the minority owners in return. Certainly, President, from another angle, the developers and property companies literally are part of the public, therefore striving for the interest of major developers and property companies can marginally be called fighting for the interest of the people. The majority owners are also members of the public, so the authorities' offering help to them can also be called fighting for the interest of the people.

President, some may even say that the spirit of democracy is about the minority submitting to the majority. As a Member believing in democracy, why should I object to this? President, if all disputable social issues can be resolved by the simple rule of the minority submitting to the majority, President, this is ochlocracy, not democracy.

A fundamental essence of democracy is justice should prevail in everything and the rights of the minorities must be respected. President, the simplest example is discrimination. What is the definition of discrimination? Discrimination means the majority treats the minority, particularly the disadvantaged, with unfair attitudes and unjust acts. Would there be no discrimination in a democratic society? As the minority has to submit the majority, they should put up with the discrimination. President, certainly the answer is no.

On this issue, indeed we are handling the conflict of interests between two different groups of people. As stated clearly by Premier Wen a few days ago, these are deep-rooted conflicts. Nevertheless, not only has the Government turned a blind eye to this, it has played the role of an accomplice.

President, to put it in simple terms, most owners, in particular those who would like to sell their flats, have done nothing wrong. But their motives and

interest are in conflict with the minority owners who do not wish to sell their properties. Those owners who would like to sell their homes aim for higher prices. Let us be frank, even if the compulsory sale mechanism is not in place, they still have opportunities to sell their flats, only that the prices may not meet their expectations. However, those owners who do not wish to sell their properties care not merely about money. President, they are concerned if they lose their present homes, will they be able to find homes equal in terms of living environment in other places with that sum of money? Many people object to the compulsory sale because they are unable to buy such flats.

President, we have a recent example. In February, the compulsory auction prices for a building in North Point were some \$3,000 per sq ft. President, what kind of flats can they get at a price of \$3,000 per sq ft? Even if they manage to buy one, it would probably be inside a forty or fifty-year-old building. Maybe one or a half year later, another developer may trigger a compulsory sale for that building, which may force these owners into a corner again. Therefore, the problem they face are totally different from that faced by the majority of owners who are prepared and wish to sell their flats, or those who wish to sell their flats at better prices.

Hence, if the Government only help the developers and this group of majority owners and forget about the difficulties faced by the minority owners, sorry, this is not fighting for the interest of the people, President, this is being an accomplice of capitalism in oppressing the disadvantaged. The Secretary cannot say in this Council that she is acting justifiably and righteously.

President, afterall unfairness is unfairness. We have to take into consideration both sides instead of one side. President, there are many arguments in support of compulsory sale, yet today I will not be able to comment on them one by one. But we must not forget those facts that are clearly accepted and recognized by the public. Take the valuation report as an example, is it impartial and fair? President, I have heard a joke: other than lawyers, the persons whom one can trust least are valuers. Their valuation hinges on how much you pay them. Like lawyers, they can say one thing to one party and say another to another party, depending on how much you pay them.

President, what I have said just now is the best example. Two months ago, an old building with a history of several decades was sold at \$3,000 per sq ft

by compulsory sale. Compared to a lot in Tseung Kwan O that was sold at some \$4,000 per sq ft three days ago, there is a difference of one third, which one is credible? As for the valuers, I really do not want to insult them, but we note that the prices based on their valuation are often close to the prices offered by the developers, and rarely close to the amount asked by minority owners.

Another argument is, you should believe in the judicial system of Hong Kong, for we have Judges to deal with this. President, have you heard the complaints that the small owners lodged with us? They said, "We have to face financial punishment for defending in Court. If the case is lost, we have to pay hundreds of thousands of dollars to the developers as compensation for the cost, how can we afford that?" Indeed they are not given opportunities to pursue social justice through this so-called impartial judicial system. Under this circumstance, the responsibility lies in the Government instead of the Magistrate or the judicial system.

Besides, talking about repairs and maintenance, President, the conditions of maintenance are at all times under your control when you have the majority shares of ownership of a building. Just now outside the Legislative Council Building, I met a group of minority owners who said they were the 20% owners against an auction. They complained to me that they are subject to oppression with respect to the daily maintenance, management and utilization of some of the basic facilities of the building. Water supply is sometimes suspended on Saturdays due to clogging of water pipes; the metal gate of the main entrance has to be replaced due to complaints of no reason; the owners are suddenly asked to raise money for roof maintenance works that costs hundreds of thousands of dollars. All these tactics can easily be heard of in almost all old buildings. Therefore, is repairs and maintenance a form of protection for the small owners? Certainly not, President.

President, I tell you another example. Last week, I went with many colleagues of the Legislative Council to Lek Yuen Estate in Sha Tin, which has been our concern for years. President, we hope to strive for the redevelopment of Lek Yuen Estate as it is the oldest public housing estate in both Hong Kong and Sha Tin. However, what did the Government say? It sent an architect to tell us that nowadays Hong Kong people are very good at constructing buildings of top quality, so with only some simple maintenance works, a building can

remain habitable for more than a century. This is what the Government's expert told us. Moreover, President, when now our colleagues suggest using the structural safety of buildings as a criterion, the Government finds it totally irrelevant. For it is only a question of how the majority owners and developers can get rich. President, a genuinely fair and just arrangement, and also the simplest one, is to provide a reasonable rehousing option for those being forced to sell their flats, those being made homeless and have no other options for home. This has nothing to do with money, it is about their relocation.

President, the Secretary has said that the "flat-for-flat" option is not feasible, not a solution. President, if the Government is to submit this proposal to the Legislative Council, my view is that it should link up the policy with the resumption of constructing Home Ownership Scheme (HOS) flats. This is the minimum responsibility that it should assume. They should supply the lower-class small owners with HOS flats or other relocation options before coming to this Council, telling us that it wants the compulsory sale.

President, regrettably, I cannot propose an amendment as a request like this relates to the housing policy in general. I find the Secretary's vision so narrow, for in her eyes, there is nothing but development and profit. However, this is a housing issue of society as a whole. Therefore, I implore the Secretary to withdraw this legislation. Come here and talk to us again when the Government has made up its mind to build more HOS flats in response to the request from the public at large.

President, we have many motions that seek to amend the Notice today. In fact, the motion to repeal this order is the only motion I find acceptable. Other than that, all motions are unacceptable to me, including Ms Audrey EU's motion (the Chairman of my party) as it fails to address the problem at its core and cannot resolve the deep-rooted conflicts mentioned by me just now. However, unfortunately, under such an imbalanced system, this may be the only motion that we can propose. Weighing the two, I would rather go for some motions like these. In fact, the most humble request is Mr James TO's demand for a one-year delay. Honestly, if he is not my colleague in the democratic camp, I really want to scold him. What is the point of a one-year delay? Right? The Federation of Trade Unions has been so nice in saying that they have considered this for a long while — that is what they told me outside just now — and that they may support him at the vote, but there are still not enough votes. President, what is the point of a one-year delay? Will the problem vanish just by delaying it for

one year? No, that problem would only grow bigger and bigger like a snowball. Even if the proposal I have just made is adopted and the Government intends to link up a policy like this with the resumption of HOS development, assuming that the construction works commence right away, the supply of HOS flats will come on stream only three years later at the soonest. What is the point of a one-year delay?

Therefore, President, I find it difficult to support all these motions, including Ms Audrey EU's motion. If eventually I have to weigh the two, I have no choice but to give my support. However, if the Government can genuinely fight for the interest of the people, think for the people sitting up there and listening to the Government's speeches, think for the people outside the Legislative Council Building and those watching in front of the television sets, assess our core values, contemplate what the so-called social justice is about and question its own conscience, that would be the best solution. If the Government finds this right and worthy of consideration, may it withdraw this legislation and try to convince our Chief Executive Donald TSANG that he should come back and talk to us when they have policies in place to resume the construction of HOS flats and develop more public housing.

President, if obliged, I will vote for all the motions. But I am afraid I am only talking to myself today. With enough votes, the Government needs not listen to reasoning and it may find its arguments flawless. But the problem is, the Government will always and only look at things from one perspective which blinds it to a farther and wider vision. More importantly, it is blind to the difficulties faced by the disadvantaged social groups. That the minority should submit to the majority appears to it justifiable due to that blindness.

President, on this issue, the minority should not submit to the majority. The majority should not oppress the minority with their overbearing and advantageous position. President, I oppose this legislation and hope the Secretary would take it back.

**MR FREDERICK FUNG** (in Cantonese): President, before I come to the thrust of my speech, I wish to analyse and comment on a few viewpoints advanced by the Secretary and some Members. I hold that what certain Members have said is not irrelevant, but if their views are adopted, it will lead to serious consequences.

Mr CHAN Kam-lam said just now that many people had relayed to him that, for instance, old buildings should be acquired if they defy repairs. And hygiene problems or faeces have also become the reasons for acquisition. How ridiculous that is. Please do not find this funny. You may really find faeces at every storey of these tenement buildings in Sham Shui Po which do not have any building management. But then should all of the 3 000 tenement buildings in Sham Shui Po be acquired? This is ridiculous.

First, will there really be proposals for acquisition of these buildings? Second, are the owners willing to let you acquire their flats? Is it really so simple that hygiene problems can become a reason for acquisition? At any rate, I think these are management problems. The Hong Kong Association for Democracy and People's Livelihood has advocated small district administration since 10 years ago. If the Government finds this unfeasible, it has to find another way out; if it cannot find any solution, it can even resort to legislation. But to date, the Government is still unwilling to heed our advice to address these problems by small district administration.

These are not acquisition problems. The Secretary has also made it clear today that this is for the sake of development, not because of maintenance and management problems. What did she mean by development? She meant redevelopment. If the Government and the Urban Renewal Authority are really unable to undertake redevelopment, it is hoped that some incentive can be provided to attract private developers or majority owners to start the redevelopment. This is precisely what today's topic is about. Today's topic is not about maintenance, hygiene or management problem. Just now, someone mentioned the collapse of the tenement building at Ma Tau Wai Road. In fact, as I pointed out in the last debate, to date, there is yet any evidence to prove that the building collapse incident at 45J Ma Tau Wai Road is caused by maintenance problems or that the building is a dangerous building. I believe that even now ..... I believe the Secretary will also clarify this later ..... there is not any building in Hong Kong which is listed as dangerous by the Government, and neither is there any building which has been compulsorily sold because it is listed as a dangerous building by the Government. This is not true.

Given this, how should we address the issue of development? The Secretary said just now that the minority has to submit to the majority ..... I will also say more on this in my speech later, but I will now briefly explain it first

..... I hold that there are matters which cannot be quantified, especially matters with a value. Some matters are quantitative, that is, they can be quantified, while some are qualitative which involve quality. Of course, as to what should be interpreted in terms of quantity and what should be interpreted by quality, the answer may be different subject to different types of society, eras, values, political parties or even different administrations.

President, I trust you support the Basic Law which is the mini constitution of Hong Kong; and the 11 Articles stipulated under General Principles first and foremost are enshrined as the most precious and important principles in the legislation and constitution of Hong Kong. For instance, Article 6 provides that "The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law". Hence, private property right is a very important principle and it has an important value. To me, this is about quality, not quantity. If you possess private property right, which cannot be quantified, your right cannot be taken away, nor can you be suddenly given this right. Both are impossible. Second, I have not read many books, but as far as my understanding goes, private property right is one of the essence, spirit or cornerstones of capitalist society. To my understanding, the "two systems" of "one country, two systems" means that the capitalist system shall continue to be practiced in Hong Kong and the socialist system shall be practiced on the Mainland. This is my understanding and we are now undermining the cornerstone, spirit and value of the capitalist system.

President, on the other hand, the Mainland now starts to legislate on the possession of private property right. To me, it is impossible to quantify what is a reasonable percentage. If 80% is a reasonable percentage, then why not 79%? If 79% is a reasonable percentage, then why not 78%? If we keep lowering the percentage, it will develop into a situation like that described by Mr CHAN Kam-lam. He opined that the present development shows that keeping the threshold at 90% is impracticable and it should be lowered to 80%; and if 80% still not works, it should be further lowered to 70% until reaching 51%. Once the percentage is lowered, it can be further lowered ..... as long as it remains a majority percentage. I thus hold that we cannot give in to lowering the percentage.

Let me cite another example. What else can we not give in? I will not go into any detail because this is unrelated to the topic. Mr Ronny TONG mentioned just now that we cannot give in to discrimination. According to the



four ordinances related to discrimination, people with disability should not be discriminated against, not because they are large in number, but because they are the minority. Moreover, another example is human lives. We cannot take others' lives just because the majority supports it. This is impossible. Especially in Hong Kong, we do not support a life for a life even if the case in point is a murderer. This is because life is about quality. We seek to ..... Even the spirit of the laws of Hong Kong does not advocate taking others' lives. But if you take away others' private property, it is no different from taking their lives.

President, I hold that there must be a basis for any discussion on this topic, which is how we are going to look at private property right. If this question is not answered, and if only the basis provided by the Government is adopted for discussion, I believe every government proposal tabled before the Legislative Council will be disputed. Only private property right, which is not quantified by a percentage, is something that cannot be taken away. This is indisputable. But then does this mean that nothing can be done? No. In countries such as the United Kingdom, the United States and Japan, there are laws and mechanisms in place to acquire private property right, but it has to satisfy two explicit conditions. First, there must be a clear public interest. The Secretary said just now that public interest cannot be adopted as a condition because previous court cases have dismissing this. In that case, Hong Kong does not give weight to private property right, which is practically a violation of the spirit of capitalism.

Hence, my understanding of public interest is that there must be an overwhelming public interest. For example, an old building is so dilapidated that it has to be demolished, or it will seriously endanger the residents and pedestrians in the vicinity. Second, redeveloping the old building is beneficial to the entire community. And third, there has to be a comprehensive redevelopment mechanism which can balance the interests of all stakeholders, and the mechanism must be fair and just, underpinned by a set of legally binding compensation guidelines. The so-called public interest and compensation guidelines are two different matters. First, there has to be a public interest; and then, the compensation has to be reasonable. What is reasonable? We would again have to debate it. But turning it into a mechanism requires legislation, rather than mere words. Thus, I do not agree with some motions to be moved later which propose to empower the Secretary to make the decision. Why does the power have to be given to the Secretary? The Secretary here today is Mrs

Carrie LAM. I can trust her, but I can choose not to trust the Secretary CHAN, Secretary CHEUNG or Secretary TSANG in future. The incumbent Secretary LAM is, perhaps, an impartial person, but what about the Secretaries in future? I thus do not support the proposal of handing the decision making authority over to the Secretary.

Hence, it is on this basis that I look at this debate and this incident. What is this incident then? According to the Secretary, it is really about inducing more developers to participate in the redevelopment of private buildings in old districts. The process in fact involves a transfer of interest, that is, from minority owners to majority owners, or even to the developers. The question is: Is the transfer reasonable? Is it reasonable in terms of "quality" as well as "quantity"? What is "quantity"? It is the consideration. What is the consideration? It is the compensation. How much is the compensation reasonable? During the time when the 90% threshold is in effect, there have been 21 compulsory sales of lots in which 17 were sold at the reserve price.

President, I will try to cite an example to illustrate how this "quantity" is calculated overseas and the example is for reference only. In Tokyo and Taipei, arrangements are in place to let owners participate in the redevelopment and acquisition. Under the model adopted in Tokyo, the private developer pays for the planning and construction costs; the original landowners will contribute their land or buildings in return for a new plot of land, building or floor rights after the redevelopment; and the local government will provide some subsidies or financial incentives. In Taipei, the developers are required to set up urban renewal companies limited by shares with the participation of owners. This has become a system to quantify money and interest. Both Japan and Taipei have managed to do so, but what have we done?

President, what about "quality"? Let me make a brief explanation by quoting some conclusions as this may not be related to today's topic. Forgive me for always using Sham Shui Po as an example. According to the Census and Statistics Department, Sham Shui Po is the poorest district which has the largest number of elderly among the 18 districts in the territory. According to a recent survey conducted by the School of Public Health under the Faculty of Medicine of the University of Hong Kong, people living in Sham Shui Po have the poorest health in Hong Kong, but their neighbourhood relations is the second best in Hong Kong. Sham Shui Po is the happiest district in Hong Kong. Why?

Despite the fact that people living in Sham Shui Po are poor, old and have the poorest health, they are happy. This is the "quality" that society pursues. After the old buildings are demolished and redeveloped, what kinds of "quality" can the authorities offer to the small owners? In Tokyo, people are allowed to go back to their district to live; and in Taipei, people are allowed to share the interests generated in the redevelopment process. What about Hong Kong? Once you are compensated, you have to go. Or, you will not be given your compensation until your property is auctioned. This is far different from a "quality" treatment. What we are talking about here is only "quantity", not "quality". President, I wish to tell the Secretary through you that this legislation is about the fight for interests between people. I hold that the Government should not intervene. It should not use the law to force and coerce people.

There is not much time left, but I have only stated my principles in this regard. Certainly, for a discussion like this, it can take days to finish. Members may know that I have been very emotional at the meetings of the Subcommittee. But I will try my best to be calm and rational in stating my logics and telling Members my values.

Finally, I wish to share with you my view on today's votes. I estimate that today's votes will fall into three groups. The first group is those who would support the Secretary without hesitation; the second group is those who would without hesitation support all motions proposed by the five pan-democratic Members. President, I belong to the third group. I agree unreservedly with Mr Ronny TONG's comments just now, but my conclusion is different from his. Precisely because I will stand by the principles I mentioned just now, I will support the motions which are in any way related to my principles and oppose those which are unrelated to or violate the principles I just mentioned.

I can only agree with three of the 14 motions. They are the motions proposed by Ms Cyd HO and Mr Albert HO, as set out in Appendixes 1 and 2, to repeal this Notice. And the third motion which I can support is Ms Audrey EU's motion. She proposed that owners should be compensated in a "flat-for-flat", "house-for-house" or "foot-for-foot" manner after redevelopment. This is the principle adopted in Tokyo, which I mentioned just now. As for the other motions which propose to postpone the effective date to a year later, or to authorize the Secretary, the Tribunal or some other persons to make the decision

or impose more thresholds, they all support the 80% threshold for compulsory sale of buildings aged 50 years or above. In my principle, I cannot accept exchanging "quality" with "quantity". I will thus oppose those motions.

President, I wish to mention one last point. In fact, in the past few years, I have used much less drafted speeches in debates. I find it unnecessary. The same is true for the Secretary. This is because there is really something in your heart you wish to say. Members may find that I may be emotional when I speak. I, Frederick FUNG, am actually not an emotional person. I am a man of compassion (*Laughter*), not a man of emotions. But the problem is, more and more government policies show that the Government only considers the market, the interests, the statistics and the quantity in its policies and administration. Never would it consider the human factor, the "quality" of the people, the "quality" of living and the "quality" of human relationship. When a network is built between people, through the network ..... when the network is broken ..... What is the function of this network? It should not be used for transferring money. It should be used for communicating emotions and bringing warmth, mutual support, care and love to a place. This shows the strong resilience of the place. This comes not from me, but Dr LAM Tai-hing. He said that if the people in a district are happy, the district has strong resilience; although they are poor, old and unhealthy, they will live happily. This is the kind of society, the kind of Hong Kong we wish to see. Thank you, President.

(Mr CHAN Kam-lam stood up)

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, what is your point?

**MR CHAN KAM-LAM** (in Cantonese): President, Mr Frederick FUNG has misunderstood my remarks just now. He claimed that what I had said was irrelevant to the debate. I wish to repeat the two points misunderstood by him.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, I hold that what Mr Fredericak FUNG said just now was his comment on your remarks. I have listened to it very carefully and I do not think he has any misunderstanding. If

you do not agree with Mr Frederick FUNG's judgment, other Members who hold the same views as yours may later respond to his comments.

**MR CHAN KAM-LAM** (in Cantonese): I will not have any chance to respond to him later.

**PRESIDENT** (in Cantonese): This is the rule of our debate and I do not think there is any misunderstanding. Members may certainly have opinions about what the preceding Members have said and Members who have already spoken may not agree with such opinions. If Members are allowed to keep on making responses, the debate will never end. And this is also not in order.

**MR ANDREW LEUNG** (in Cantonese): President, as the urban area ages, the number of old buildings in Hong Kong will inevitably increase. At present, there are 4 000 buildings which exceed 50 years of age; and in the coming 10 years, there will be another 500 such buildings each year. This is a very large percentage compared with the 41 000 buildings in total in the territory now. I hold that we should not rely on the Government alone to improve such a vast area of urban environment, because the Urban Renewal Authority simply cannot handle so many developments in time. Hence, private participation is necessary and should be vigorously encouraged. But now developers are often forced to abandon their acquisition and redevelopment plans because they cannot get in touch with a couple of owners of the building, or because the owners do not accept the acquisition price offered by developers, thereby dashing the hope of a group of old building owners in improving their living conditions through acquisition and redevelopment.

During the scrutiny of this Government Notice, Members have different views on its proposal of lowering the threshold for making compulsory sale application in respect of certain classes of lot. The majority of Members and I wish that the Notice can expedite the redevelopment of old districts and directly help owners, especially those who live in old and dilapidated buildings and do not have the means to carry out renovation and redevelopment.

As a member of the commercial and industrial sectors, I, like everyone in society, attach great importance to private property rights. Any discussion on acquisition has to be conducted in an equal and fair manner, and the price has to be reasonable and consistent with the interests of title/property owners. Only if these conditions are met will they accept the acquisition offer. However, when a developer intends to acquire a dilapidated building for redevelopment and 80% of the owners have accepted the developer's offer to sell their flats at market price or at a price higher than the market price, the acquisition may still fall through if one or two flat owners refuse to accept the acquisition offer (the reasons may be that they are unwilling to sell their ancestral home or property, or that they are the "nail households" who wish to seek a price a few times higher than the market price). As a result, the other 80% of owners are deprived of the opportunity and right to sell their property for a better living environment.

Just as an old building owner said in a full-page advertisement he placed in the *Sing Tao Daily* yesterday, (I quote)"We have all along paid close attention to the market price of old buildings in our own interest. We thus will not sell our home until the price offered by buyers can enable us to buy a newer and better home. We are not idiots." (End of quote) As Members, we are duty-bound to protect the interests that may be generated from the property of the majority owners (that is 80% of the owners); we have the responsibility to protect people's assets so that they can have the power and opportunity to sell their flats for a better living environment.

In case a consensus cannot be reached among the owners, owners who own 90% of the shares (or 80% after the amendment) in a lot may still apply to the Lands Tribunal (the Tribunal) for compulsory sale of the lot. But the Tribunal as the gatekeeper also has a high standard and it does not give a green light to all applications. According to the information provided by the Tribunal, since the ordinance on compulsory sale was came into effect in 1999, the Tribunal has received 64 applications, of which it has only approved 21 after considering the age and condition of the buildings. I know that in considering whether or not to make a compulsory sale order and approve a reserve price for the auction, the Tribunal will draw reference from the valuation reports on the redevelopment of the lot submitted by both parties as well as the independent valuation report on the lot and building conducted by its professional valuer. Having considered all the reports, the Judge will make a fair and impartial judgment on the reserve price. Hence, the reserve price is already an accurate reflection of the

redevelopment potential of the lot and its value after redevelopment. We should have faith in the Judiciary and professionals in Hong Kong that they are impartial in handling each case.

Just as what the small owner of the old building has said in the advertisement, "the existing ordinance and operating mechanism already serve to protect and look after the rights and interests of both the minority owners and developers; and in the event of dispute, the Court should be the final place for settlement", and "in all past cases of compulsory sale applications, the Tribunal has taken into account the age, state of repairs, market value (including the level of rents) and redevelopment value of the buildings before handing down its judgment. Thus, we have faith in this mechanism and the Tribunal as the gatekeeper". I hope the Secretary can confirm this point when she speaks later.

The Government should step up the publicity on compulsory sale of lot. Now when we leaf through the newspaper, we may often find small owners who conduct the auction themselves post a quarter-page advertisement on the auction of the entire building, while the Tribunal only posts a tiny and inconspicuous advertisement for such an auction. I believe with more publicity, more developers, including those small and medium developers, can be attracted to participate in the bidding. This can help lift the auction price and thereby increase the proceeds for the owners.

Many old building owners have recently reflected to us that they themselves and their relatives have obtained enough money through acquisition and redevelopment by developers to buy new and better homes. Some of them could even have money left as savings.

President, property is the most important investment in life to many people in Hong Kong. Many people (especially those small owners of old buildings affected by this legislative amendment) are thus very concerned that whether the Legislative Council will endorse the motion to lower the threshold to 80%. I believe the Secretary and Members have received many letters from the public in the past two weeks, just like me, which are about this Notice. Most of them hope that this Notice tabled by the Government can pass through the Legislative Council and that the "senile" property they now live in can be chosen by private developers for acquisition; they particularly hope that they can leave the old and dilapidated buildings and change to a new and better living environment. One

flat owner of a tenement building at 43 Ma Tau Wai Road has even urged Members not to deprive the people of the chance to fight for the 80% threshold and the chance to change to a new environment.

I hold that the Notice has already upheld the rights and interests of the majority and minority owners; it is conducive to urban renewal in Hong Kong; and it has balanced the interests of three parties. As a Member of the Legislative Council, I will join force with other colleagues to monitor the situation after the Notice has come into effect. And the Government should also regularly brief us on the figures of compulsory sale so that the Legislative Council and the community can monitor the enforcement of this ordinance together.

President, I so submit.

**MR CHEUNG HOK-MING** (in Cantonese): President, there are about 4 000 buildings in Hong Kong that are 50 years of age. According to information provided by the authorities, the number of buildings aged 50 or above in the territory will have more than doubled to 9 500 by 2019. If appropriate measures are not taken now to expedite redevelopment, the problem of urban decay will then become irremediable. The problem of ageing buildings is an important issue related to the safety of each and every citizen in Hong Kong. A balance must be struck among the property owners, redevelopers and safety of the public.

Irrespective of the cause of the building collapse on Ma Tau Wai Road early this year, the people of Hong Kong today are still haunted by the casualties and trauma caused by the incident. I believe Members sitting here must have received many letters from the public during this period of time just like I do. Many of the letters come from residents in old districts, in which they relay to us their worries about the building collapse incident. For example, an owner-occupier of a tenement building in Stone Nullah Lane, Wan Chai said in his letter, "The living conditions and hygiene of our old building are very poor. We are very concerned about its structure, not sure if it is safe. Recently, we are 'happy to learn' that the authorities intend to lower the threshold for acquisition of old buildings from 90% to 80% of the shares ..... ". President, this member of the public used "happy to learn" to describe his feeling, showing that small



owners in old districts have great expectation of redevelopment of old buildings as a means to improve their living environment.

President, another example is a resident living in a 50-odd-year-old tenement building. He said, "The building is dilapidated due to lack of repairs, but I can do nothing but continue to put up with it as I cannot afford the expensive maintenance cost, nor can I move to a new home. However, since the recent building collapse incident in To Kwa Wan, my families and I have been very worried. We live in fear every day ..... " (End of quote) If we can put ourselves in their shoes and feel as they feel, I believe members of the public will not oppose the implementation of measures conducive to improving the living conditions of old building residents and building safety, nor will they wish to see another building-collapse tragedy happen.

Regarding the motions of repealing the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (the Notice) proposed by some Members today, the DAB and I oppose these motions. In the past few years, the Urban Renewal Authority (URA) has made little progress with its urban renewal endeavours; and among the redevelopment projects conducted by private developers, some have fallen through. These cases might involve buildings with very few flat owners, such that as long as one owner rejected the acquisition, the entire redevelopment project would fall through, dashing the hope of other small owners who wished to improve their living environment through redevelopment. The Notice seeks to lower the existing threshold for compulsory sale applications made to the Lands Tribunal from 90% to 80% for three designated classes of lot. This can help expedite urban renewal and ameliorate building safety problems.

President, many small owners living in dilapidated buildings hope that their buildings can be acquired and their living conditions improved with the help of the financial compensation. President, I wish to talk about the survey conducted by the DAB last year. We interviewed 600 residents living in different old districts in Hong Kong. The survey findings indicate that over 60% of the interviewees living in old districts hold that the present threshold of 90% of the shares in a lot is too high; and among them, over half hold that it is reasonable to lower the threshold to 80%. Some 70% of the interviewees support lowering the compulsory sale threshold to 80% and imposing a limitation on the building age

at the same time. Moreover, over 70% of the interviewees agree that if there is only one flat left unacquired in a building, the majority owner can apply for compulsory sale of the property as long as he has gathered 80% of the shares of the building. This shows that residents in old districts generally support the Notice.

Members who have participated in the discussion held during the last-term Legislative Council on the joint redevelopment project at Cherry Street, Tai Kok Tsui between the Nan Fung Group and the URA, or those who have assisted the small owners of Hoi Ming Court should still remember that in the acquisition proposal offered by the developer to the owners of Hoi Ming Court which is adjacent to the redevelopment site, some owners asked a very high price and only five owners objected to the sale of the building. As these five owners accounted for 12% of the shares of the building, the majority owners were unable to reach the 90% threshold for compulsory sale of the building and the developer ultimately had to revise its plan and abandon the acquisition proposal. In 2005, the small owners of Hoi Ming Court petitioned the Legislative Council for inclusion of Hoi Ming Court in the redevelopment zone, but their efforts were in vain. Eventually, Hoi Ming Court was surrounded by construction sites from the start of the redevelopment works during the several years before completion of the works. The residents had a hard time during the construction period when a lot of dust was raised by the works.

From this example in which the acquisition proposal for the whole building was hold up because of a few flat owners had upped the ante, we can see that none of the four parties (that is, the majority owners, the few owners who upped the ante, the developer and the public) has any gain and they all become losers.

President, apart from ageing buildings, society has to face the problem of wall effect caused by buildings under the completed redevelopment projects of the URA in recent years. There are strong concerns in society about the various problems brought by screen-like buildings. Hence, the authorities should definitely not take the problem of screen-like buildings caused by urban redevelopment lightly. They must expeditiously review the Outline Zoning Plans and impose restrictions on the height and density of developments, so as not to create more environmental problems in the course of speeding up the progress of urban renewal.

The authorities have pointed out that the Notice does not make any amendment to the policy and procedures of urban planning, land leases and vetting and approving of building plans. But we hold that the authorities can simultaneously lower the application threshold for the three designated classes of lot and review the Outline Zoning Plans and impose restrictions on the height and density of developments. There is no contradiction or conflict between these two tasks. The authorities should heed public opinion and minimize the wall effect created by redevelopment projects as well as new development projects.

President, the DAB has submitted proposals and views to the Government on many occasions on protecting the interests of small owners and tenants. For instance, the Government should draw reference from the practice of the URA to employ a number of professional valuers to submit valuation reports, consider adopting the "flat-for-flat" approach as a compensation option, ensure that tenants would not be unreasonably forced to move out and that qualified tenants should be allocated public housing as soon as possible. I hope that the authorities can give careful consideration to these proposals so as to assure the rights and interests of the affected people.

President, I so submit.

**DR PAN PEY-CHYOU** (in Cantonese): I have heard many comments on the Secretary's motive in handling this matter, or speculations of all kinds. Having been a full-time psychiatric doctor for 29 years, I actually judge people I come into contact in my daily work from their talk, facial expressions and emotions. I very much believe the Secretary is very sincere and eager to get the job done. However, I have to say that the subject under discussion today really has significant implications, involving many of our so-called underlying values, which are taken for granted in our daily life.

Just now Ms Audrey EU mentioned in her speech the Basic Law, which is exactly what I am thinking about. Article 6 of the Basic Law is about property rights. A very important point is also mentioned in Article 5. According to this provision, "the previous capitalist system and way of life shall remain unchanged for 50 years" in Hong Kong. However, this point might be neglected by many people. What do the capitalist system and way of life mean? If we

believe in and abide by the Basic Law, we have to take this provision seriously, too.

One of the core values of capitalism is to protect property rights, or to ensure that a person's rights and properties will not be deprived of for no reason. The capitalist system also protects a person's free conveyance of property on the market. These two points are the core values of capitalism. This explains why I think that a person's property and legitimate rights should not be trampled upon unless there is no option.

Just now the Secretary mentioned that she was aware that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (the Notice) had indeed infringed private properties and interests. It then begs this question. Is the Government compelled to do what it is doing?

We are clearly aware that the buildings under discussion now are not dangerous buildings which will suddenly pose dangers to the personal safety of people living there and people in the vicinity, such as the one which collapsed lately. This is because in the event of such incidents, other laws can be invoked, so that the Government can take prompt actions to keep things in check and adopt appropriate measures.

Furthermore, we have to further examine if significant public interests are directly involved. On the surface of it, the answer is in the negative. However, it appeared to us during our deliberation of the matter that it was not absolutely necessary to do so. However, on the other hand, we can see that the conditions of the people being affected indeed warrant our concern.

First of all, we have to look at the current conditions of the old buildings. The conditions of old buildings vary greatly. Some of them, such as those described by me just now, are in a terrible state. However, some of them, which can be found in premier districts, are in excellent condition. As the residents of these buildings are relatively well-off, they can carry out regular repairs and maintenance to their buildings. I have lived in such old buildings before. Although they were aged over 50 years, they were in perfect condition. Members will find that their values are still extremely high should they make

enquiries with real estate agencies. But what happens to the other old buildings, which are in the majority? What are the problems with these buildings?

The first problem concerns poor maintenance. Due to the lack of regular paintwork, seepage of rainwater into concrete has caused rusting of reinforcements, spalling off of concrete, and exposure of reinforcements. As the windows and concrete gaps of these buildings might suffer from water seepage, the buildings might experience water leakage during rainy days. Such condition is really deplorable.

The second problem concerns poor facilities in these old buildings. When I was young, I lived in the "13 Streets" in To Kwa Wan. Although the buildings there were either seven or eight storeys tall, they were not equipped with elevators, which meant that residents living on the top floor would have to climb seven or eight flights of stairs. While people in those days might be physically fitter, I believe people nowadays find climbing seven or eight flights of stairs every day hardly acceptable.

Poor management is also a common phenomenon in old buildings, with some of them even being devoid of management. For instance, we learn from some recent cases of bottle of corrosive acid thrown from old buildings that some of these buildings do not even have gates and caretakers, and many of them simply do not have owners' corporations to take charge of management. As a result, these buildings are in a terrible mess. Some "junkies" or people engaging in illegal acts can even be found hiding in some dark corners of old buildings doing illegal things.

Furthermore, there are problems of unauthorized building works and conversion. Recently, we have heard a lot of problems relating to "partitioned flats". After conversion, these buildings have become structurally unsafe, and there is no way to tell when they will be in trouble. In short, they are in a terrible mess and the facilities inside are plagued with problems such as rusting, water leakage, and so on.

Ageing residents are also another common phenomenon. When they were young and strong, they used their savings to buy properties or pay mortgages. Now, they are as old as the buildings in which they live, with their faces full of wrinkles. When they were young, they had no problem climbing up seven or

eight flights of stairs, and they could even treat it as an exercise. Once they turn old, they might suffer from heart failure, unable to walk properly. Let us imagine the enormous burden they have to bear! They must take some rest half way up a flight of stairs. Even going to the market for groceries or doing some simple chores can become an enormous burden for them. In fact, these residents will become increasingly poor. Not only are they old, they also have no income. They can only live off the money saved when they were young. "Partitioned rooms", as mentioned by me just now, are another cause of poverty. The extremely small size has made the living conditions of the tenants, who are unable to afford better housing, extremely deplorable. The tenants are simply forced to accept the deplorable living environment. Therefore, impoverishment poses a very serious problem to people living in these old buildings, whether the buildings are leased, borrowed or owned by them.

Therefore, we have seen a large number of people like these. But, on the other hand, we have also seen some owners who are reluctant to sell their properties or who will not sell their properties until they are satisfied with the prices offered because of many reasons, such as sentimental reasons because the properties belong to their ancestors, or they believe the prices of their properties are higher than the prices offered by estate developers — this is commonly found in street-level shops — or they have really seen some people "nailed households", or those professional "nail households". These people have indeed posed obstacles to those residents mentioned above. Therefore, these two groups of people do exist. We must examine whether the justifications held by some of the minority owners are adequate. In my opinion, they do have some justifications. But generally speaking, the number of the former is larger, while the latter is in the minority.

Besides, we must take public interest into account. In my opinion, for the greater benefit of the public, redeveloping old districts can increase the supply of properties. Under the present circumstances where it is so difficult to purchase properties and property values are so high, increasing the supply of flats can indeed ease and stabilize property prices. At the same time, the Government can boost its revenue. For Hong Kong, where the tax rate is so low, this can allow the Government to maintain the provision of adequate public services. From this angle, the public will stand to benefit. Furthermore, when the property market becomes more robust with the supply of more flats, society as a whole can become more stable, and the public will be benefited as well. But of course,

there will be some disadvantages. For instance, new buildings will occupy public space and aggravate the wall and heat island effects, thereby affecting the public and sacrificing our collective memories.

However, generally speaking, I think the benefits to be gained by the public from these developments are greater than the losses. So, how should we consider this issue? This is quite complicated. Like the words of JI Xiaolan quoted by the Secretary just now, I think that we must, on the one hand, consider how to protect the interest of the majority so as to improve the livelihood of the majority residents but also, on the other, take care of the minority. They insist on not selling their flats probably because they consider the prices offered not high enough. So, have their interests been treated fairly? We must consider these two aspects at the same time. While it is wrong to focus merely on the interests of the majority, it is also wrong to merely take care of the interests of the minority. We must put them on a scale to ensure fairness.

We must examine this question: Under the existing system, can the interests of these two groups of people be protected even if the threshold of compulsory sale is set at 90%? I think that our present proposal of lowering the threshold to 80% can promote the interests of the majority owners. I believe the old owners and residents living in buildings with poor conditions can thus have an opportunity to improve their living environment and a greater opportunity to move to buildings with better conditions. On the other hand, however, as in the numerous examples cited by many colleagues just now, especially the recent examples involving auctions, we see that the interests of a small number of owners who were unwilling to accept offers from developers and were later forced to have their buildings put up for compulsory sale were not protected, with their buildings mostly sold at reserve prices. In the example cited by Mrs Regina IP just now, the property was sold at just more than \$3,000 per sq ft. Was the property located in Wan Chai or North Point? Nowadays, it is hard to imagine a building in North Point could have been sold at just more than \$3,000 per sq ft. What sort of buildings can be bought at this price? This is a case in point which shows that owners indeed do not enjoy any protection. Given such circumstances, the Hong Kong Federation of Trade Unions (FTU) considers that the mechanism should be improved, or we will consider the current situation hardly acceptable.

Mr WONG Kwok-hing, a colleague belonging to the FTU, has joined the Subcommittee. He is strongly supportive of establishing a mediation mechanism. The mechanism is a good proposal *per se* because it can facilitate the two parties in reaching a consensus in the hope of striving to create a win-win situation. Furthermore, the outcome of mediation can be submitted to the Lands Tribunal for consideration. In considering whether a compulsory sale application should be approved, the Lands Tribunal will consider whether both parties ..... For instance, are the prices offered by the developer reasonable? Have small owners been given an opportunity to accept a reasonable ..... or have they made an unreasonable demand? Under such circumstances, mediation is actually a good mechanism, but it takes time to set up. Therefore, insofar as residential units are concerned, if a one-year postponement can be allowed — this is also part of the Notice — we find this reasonable as this can allow the mediation mechanism to be established.

In fact, we know that it is difficult to balance interests in public administration. Just as in the story told by the Secretary earlier, as a doctor, I feel very much the same way because very often, doctors' prescriptions for patients are part of the treatment, but many side-effects can also be brought as a result. How can the two be balanced? Of course, we hope the smaller the side-effect, the greater the efficacy the better.

President, I so submit.

**MR WONG KWOK-HING** (in Cantonese): President, Echoes of the Rainbow<sup>(1)</sup>, a recently shown movie which is centred around the lives of the grassroots in Hong Kong back in the 1960s, has become a focus of attention recently because of its reminiscences of the people, character, street scenes and feelings of society back then. In fact, the thief of time has shortened not only our lives, but also the lives of buildings. Subsequent to attack by the elements over the decades, a tenement building, which was originally in good condition, might have now become dilapidated, with its facilities and structure turning aged. Therefore, society and the residents living in old buildings, particularly tenement buildings built four or five decades ago, should decide whether these buildings should be preserved or demolished for redevelopment. Should they opt for

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(1) The Chinese title of "Echoes of the Rainbow" is "歲月神偷", which literally means the "thief of time".



redevelopment, what approach should be adopted to deal with and balance the interests of and compensation for the affected residents? This is not an easy task because the residents might have lived and carried on businesses in the units to be torn down for redevelopment for decades. These units might also be their only assets. Moreover, the actual interests and values involving redevelopment might involve intricate and interrelated issues. This has also made the Notice concerning compulsory sale today highly controversial.

President, over the past several months, both the Secretary and I have received letters from residents of tenement buildings. Some of these residents support the legislation, but others oppose it. I have just received a telephone call from a Mr TANG, a veteran member of the Tram Workers Union, who is living somewhere near 500 Lockhart Road. He called on the FTU to support the lowering of the compulsory sale threshold on the ground that there are plenty of similar cases. We can see from the letters written by people in support of the legislation their deplorable living conditions and the seriously dilapidated state of their buildings. This explains why they hope the law can be enacted expeditiously so that they can have an opportunity to improve their living environment. However, President, there is also a group of people pointing out in their letters how this piece of legislation will injure their interests, how the mechanism will deny them due protection, and how the legislation will force them out of their communities. In the end, only the major consortia and property developers will be benefited. Frankly speaking, it is indeed not easy at all to promote redevelopment of old districts in the face of polarized opinions, conflicts between tenants living on upper floors and street-level shops and conflicting interests between different stakeholders because it is not simply a matter of right and wrong. Instead, different interests and values are involved.

President, I think the key to tackling the redevelopment of old buildings is not to determine whether the threshold should be set at 80% or 90%. Instead, a platform must be put in place to allow direct negotiations among stakeholders. This is why in the Subcommittee on Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (the Subcommittee), I took the lead in proposing resolving the conflicts among different stakeholders by way of mediation to allow majority owners, minority owners, flat owners and street-level shopowners to discuss face-to-face under a mediation mechanism so as to minimize differences in pursuit of the greatest consensus and a multi-win

situation, rather than bringing their disputes to Court right at the beginning. This mediation mechanism might function like the first stage of the Labour Tribunal, which is responsible for dealing with labour disputes. Before cases are brought to Court or the Labour Tribunal, a mediation mechanism will be there to strive to encourage various parties to reach a consensus in order that the problem can be resolved after negotiation. Although the problem might not be resolved after mediation, the objective facts can still be recorded during this course to enable future Judges or adjudicators to gain a good understanding of the interests, positions, bottomlines and goals of various parties before making the final judgments. As this will help the Judiciary make fair, objective and impartial judgments more accurately, the mediation mechanism is helpful and effective.

This mediation mechanism precisely begins with the institution and seeks to shorten the gap between disputes, with the result that mutual understanding and accommodation can be promoted between conflicting parties. Not only is it a proactive proposal for achieving conciliation and resolving disputes, it can also hopefully reduce the number of lawsuits. President, I am very pleased that this proposal of mine, which was raised in the Subcommittee, has received a positive response from the Bureau concerned and an undertakings has been given that a mediation mechanism will be put in place and implemented expeditiously. In a paper issued on 1 March, the Development Bureau responded in unequivocal terms that a mediation mechanism should be established and it read (and I quote), "can and should proceed in parallel as they complement each other" (end of quote). Subsequently, the Secretary also further added in a regular meeting of the Legislative Council that the establishment of a mediation mechanism had gained support from relevant department heads. According to the Secretary's latest elaboration, a trial scheme will be launched immediately and that outcomes that may satisfy both parties can include cash, "flat-for-flat" compensation options, or "shares for shares". I am very pleased to hear this latest elaboration made by the Secretary. As the Government has taken on board our proposal of establishing a mediation mechanism, Members belonging to the FTU support in principle lowering the threshold to 80% as proposed in the Notice.

President, as suggested by me in the Subcommittee, I hope the mediation mechanism can be launched with the Notice concurrently. I have also called for the authorities concerned to specify clearly the content and details of mediation

and its role as part of the mechanism. For instance, the mediation mechanism to be established in the future should be taken as one of factors for consideration by the Lands Tribunal in determining whether compulsory sale applications should be accepted. If the majority owners act half-heartedly or the minority owners simply make excessive demands during the mediation, the Lands Tribunal should consider whether compulsory sale applications should be accepted. Alternatively, when a mediation offer is rejected, Judges of the Lands Tribunal should take this into account in invoking compulsory sale mediation or mediation as one of the factors in considering whether compulsory sale applications should be accepted. I earnestly hope that the authorities concerned and the Judiciary can actively discuss these details to let owners know the relevant developments at an early date. If the mediation mechanism can be implemented concurrently with the lowering of the threshold, I believe the confidence of small owners will thus be boosted, and the number of litigations arising from redevelopment should also be reduced.

President, some people think that small owners should have the right to choose when faced with redevelopment. For instance, they can opt for "shop for shop", "flat for flat" or even participation in future redevelopment. I think that all these views should be respected because, in some cases, the owners involved have slowly become the last remaining 10% as the units occupied by them are their ancestors' properties or they are unwilling to move out of their communities. These people will become victims once compulsory sale is agreed by the majority owners there. In my personal opinion, mediation can encourage owners holding different shares to come to the negotiation table, so that they might have an opportunity to compromise or even make decisions on "shop for shop" or "flat for flat" after discussion. In processing compulsory sale applications in the future, the Lands Tribunal will also have an idea of the real aspirations and views of different share holders in relation to their interests and thus be able to make a more comprehensive consideration and decision.

President, I affirm and support the statement made by the Secretary today that her position is to "fight for the people" and that she will handle this matter wholeheartedly and assist the majority of old building owners in resolving the problem of redevelopment so as to improve their living environment. However, I also hope that the authorities concerned can defend the remaining 10% to 20% of small owners while assisting 80% to 90% of the residents. Should the prices

of compulsory sale reach an unreasonably low level with the assets of the remaining small owners being exploited in future, the Administration will be duty-bound to review the mechanism implemented immediately to ensure that all owners, regardless of the number of shares they hold, receive reasonable and legitimate protection. This is also the key to whether this piece of legislation can function fairly and impartially.

President, one of the highlights of the amendments to the Notice is to complement the implementation of the policy of revitalizing factory buildings. However, as the redevelopment of factory buildings and resultant release of land can enable the conversion of factory buildings into hotels, commercial buildings, and so on, rents will continue to be pushed up. In fact, the rents of factory buildings have now been pushed up by 20% to 60%. As a result, the development of industries originally conceived to be operated in factory buildings, such as creative and cultural industries, is impeded. Hence, I wish to call on the Government here to pay attention to the negative problems and results arising from the redevelopment of factory buildings to prevent factory buildings from being redeveloped merely into shopping arcades, residential buildings and hotels in taking forward the redevelopment of factory buildings. At the same time, the Government should adopt appropriate measures to induce factory buildings to perform their role of helping creative industries that have development opportunities, so as to turn factory buildings into a cradle for industries with an edge.

Lastly, President, regarding the motions proposed by other Members today, the FTU will only support Mr James TO's motion of amending the effective date of the Notice to 2011. The reasons for us to support postponing the effective date of the Notice for one year are as follows: First of all, we consider that the principle of amending the legislation will not be affected as a result. Moreover, the amendment can achieve a soft landing so that we can fight for more time and space to allow the Bureau concerned and the relevant government departments, especially the Secretary for Justice and the Judiciary Administrator, to make proper administrative arrangements for the implementation of the mediation mechanism in concrete terms. At the same time, this will give the community at large more time and space to hold discussions in a more objective manner and pursue greater consensus in society, so that the public will not have the impression that the Government is acting hastily. For instance, the Government can fine-tune the mediation mechanism and make proper arrangements for publicity during the interim to keep the affected residents informed of the impact

of this piece of legislation on them and the support and protection they might receive. At the same time, the authorities concerned can also perfect the measures for assisting small owners. For these reasons, the FTU supports postponing the implementation of sections 4(1)(a) and (1)(b). President, the Government has pointed out in the Subcommittee that some of the other amendments, such as the proposed amendment concerning 80% of existing use value, are infeasible. Furthermore, the Notice, even if repealed, can still not answer the aspiration of small owners who hope to expedite redevelopment. Hence, we, Members from the FTU, can hardly support this.

Lastly, President, I would like to say something to the Secretary here. I have learnt from the press that the beloved mother of Secretary Carrie LAM has passed away recently. I would like to express my deepest condolences and appreciation to the Secretary for carrying on with her work despite her grief. I so submit. Thank you, President.

**MR KAM NAI-WAI** (in Cantonese): President, just now, Mr WONG Kwok-hing talked about the movie "Echoes of the Rainbow" right from the very beginning. Insofar as redevelopment is concerned, I think there is no doubt that this movie has lately become talk of the town, especially when the Urban Renewal Authority (URA) has just announced that the 12 blocks in Wing Lee Street would not be demolished. However, we are still discussing today how to speed up redevelopment, and I wonder if the two are contradictory to each other. I hope Secretary Carrie LAM would respond to this point later because I found that it has been asked in an editorial in a newspaper today if the decision to retain these 12 blocks in Wing Lee Street is an act out of the "will of the officialdom". We, among those who would like to preserve these blocks, will certainly clap our hands in celebration, and we think that the Government's decision can keep abreast of the times and answer people's sentiments.

Nevertheless, I think that the Chairman of the URA is very pitiable as the present situation is tantamount to denying today one's words said yesterday. Some time ago, URA staff explained matters to us in the District Council and pledged to us in all sincerity that nine of the 12 blocks were dangerous buildings with safety problems that must be demolished. Yet, they changed their line not long ago and remarked that some more money could be spent to repair these

buildings. That is why the authorities' action is criticized as the "will of the officialdom" in the editorial, questioning whether it has been scientifically expounded and proved or whether it is consistent with the established procedures. These questions are precisely about Secretary Carrie LAM's idea of the development of Hong Kong society. What exactly is the general direction of the Government? As we all know, if the compulsory sale threshold is lowered, the Central and Western District will obviously be the hardest hit; Mr CHIM Pui-chung has referred to the Western District a short while ago. Hong Kong Island will certainly be the hardest hit as it was in the past. As we have all noticed, among the more than 20 cases of compulsory sale for redevelopment, an absolute majority of the buildings are on Hong Kong Island where many old buildings will be demolished for redevelopment. Actually, most of the buildings in Wing Lee Street to be retained by the authorities concerned will soon be demolished, and that is going to happen really quickly. Are there conflicts in the Government's policies? Or, is the Government in a hurry to announce this, as some have said that the Secretary had to put up a show before today, to tell the public that the Government is very much concerned about and respects the popular will, that it is fighting for the people?

Regarding these policy changes of the Government, I consider the situation of the royalists most pitiable for they have to get wind of what the Government is going to do. So, are they for or against it? They do not know the Secretary's temperament very well. Insofar as the preservation of Wing Lee Street is concerned, we always hope that the buildings can be preserved but the royalist members in the district dare not express their views. They will leave it to the Government to decide whether it will demolish the buildings or not. I really want to know what the Government's basic ideas are in this connection.

Many Honourable colleagues including Members from the FTU and DAB have earlier said that improvements should be made to the provisions in law, for example, a mediation mechanism should be established, and the residents should be allowed to opt for "flat for flat" or "shop for shop"; and I have also expressed my views. As Members are aware, there are no such provisions in the existing laws. If the Notice is endorsed, nothing can be done and these proposals will not be implemented at all. In that case, why should we endorse the Notice?

I will go hiking every Saturday and I will see a building when I pass by the Mid-Levels — we all know that the buildings at the Mid-Levels cost a lot — a very large banner is hung on its external wall, on which it is written that a developer thanks the owners for selling most of the flats. This means that the developer has already acquired a large percentage of the shares of the building, and it is actually playing a psychological game because we believe some owners have still not sold their flats. We often find similar cases in the communities, and Mr Ronny TONG has just mentioned some common cases. I have come across such an example: a developer acquired more than 5% of the shares of a building and thus has control of its owners' corporation. Soon afterwards, the owners' corporation returned to the residents all management fee surpluses and only provided the most basic management services, with a view to forcing the residents to move out. One example is that there are three elevators but only one is in operation now. They want to make it inconvenient to the residents and force those owners who are unwilling to sell their flats to move out by these practices.

Furthermore, on radio programmes or in newspapers, it has recently been reported that an owner of Feng Fong Building in Caine Road receives calls from estate agents every day, enquiring after his well-being. Of course, their ultimately aim is to ask him if he will sell his flat. This is some sort of nuisance to the owner. I believe the Secretary hopes to expedite the renewal process by lowering the compulsory sale threshold. Yet, once the Notice is endorsed, there will certainly be a surge in cases where similar practices are adopted to achieve compulsory sales. There were only 21 cases in the past, but I believe there may be dozens of such cases in the coming half year.

As a matter of fact, among those people living in these old buildings, there are certainly some owners who want to sell their flats in order to improve the bad living conditions. However, this will bring very painful experiences to those owners who do not want to move out. What will the Secretary do to help these owners? Nothing; as there are no relevant provisions in the Ordinance. Even though the URA has a people-oriented Urban Renewal Strategy, this Ordinance is different; it is not people-oriented but money-oriented and it focuses on land acquisition, not bothering about those affected at all.

I have carefully read the Secretary's letter to us once again, which comprises 11 pages. In her letter, the Secretary restated the objective of the

Ordinance for the avoidance of misunderstanding. It is stated that the objectives of the Ordinance are, "on the one hand, to facilitate urban renewal in respect of old and dilapidated buildings by assisting majority owners to consolidate the fragmented ownership in the building where they together already own at least 90% of the lot in question and by preventing the indefinite obstruction of a redevelopment by any minority owner who may seek to extract a wholly unreasonable price or "ransom" for permitting the redevelopment to proceed". Those are the objectives of the Ordinance according to the Secretary. Certainly, the Secretary has restated again earlier that the Ordinance has nothing to do with building safety. I hope the Secretary would clarify the situation again later.

This legislation is not people-oriented and its objective is just to expedite urban renewal. How exactly can it protect minority owners who are unwilling to sell their flats? Let us leave prices aside for the time being. In fact, we have discussed prices just now; in several auctions in the past, for example, the price of a flat in North Point was over \$3,000 per sq ft — May I also like to ask the Secretary to respond to this point later? Was the price reasonable? Nowadays, if the property price in North Point is some \$3,000 per sq ft, I would like to ask the Secretary to respond to this point later: How can such a price be considered reasonable? I remember that a Deputy Secretary of the Development Bureau once said, and the Secretary also mentioned in her letter to us that, the ultimate selling price of a property put up for auction will basically be more than doubled. But, why is there such a case in North Point? Can the Secretary give a response in relation to this specific case?

In this specific case, not only the interests of those minority owners whose buildings are put up for forced auction are not protected, even the entitlement of tenants to reside in their flats will be affected and they will also be constantly harassed. Some Honourable colleagues have earlier talked about the tenants. Actually, some associations of tenants frequently seek help from us in connection with the redevelopment projects in certain old districts. According to the housing policy of the Government, tenants affected by the redevelopment of old districts will not be given priority to move into public housing flats; needless to say, they are not given any compensation. If Members still recall, the Government adopted the familiar "7531" compensation package in the past, under which the compensation is calculated on the basis of 7 531 times of the rateable value. For one thing, the approach has now been changed; and for another, the tenants do not have the rights to move into public housing flats, and they will not



be given priority in housing allocation. Let me cite an example in the Western District. A tenant could originally rent a flat in the Western District at a monthly rent of slightly more than \$3,000, but he has to move out because the old building will be demolished. If the tenant wants to move elsewhere, he has to apply for interim housing; but interim housing flats are usually located in such areas as the New Territories and Kwai Chung. However, he works at the Yau Ma Tei Fruit Market and he goes to work at around 3 am to 4 am every morning. What should the tenants in these old buildings do?

There are neither policies or laws to deal with these situations. As Mr Ronny TONG said earlier, the Development Bureau is only responsible for development matters and what it does is not consistent with the overall housing policy. Caught between two stools, how can the interests of the tenants be protected? The current proposal fails to protect owners and tenants, and it will just lower the compulsory sale threshold. I think the Secretary is not fighting for the people, but she is conversely making life difficult for some owners and tenants of old buildings. I believe there will be more arguments between these owners and tenants in the days to come. As I just said, we now find that the owners who are prepared to sell their flats and those who are unwilling to do so will engage in heated arguments very often. In this process, the Government has even upset the relation among neighbours in the community. Some neighbours who used to greet one another when they met have now become strangers. Does this mean that this piece of legislation has not catered for the realistic situations in the community at all?

An Honourable colleague has mentioned a while ago that we strongly insist on one principle, one which I have strongly insisted all along, that is, Hong Kong is a capitalist society implementing "one country, two systems", and attaching great importance to private property rights. As regards the protection of private property rights, some may say that, though certain owners have asked for exorbitant or unreasonable prices, they are still unwilling to sell their flats; why should their private property rights be protected? Yet, that is the case in Hong Kong: when a thing is scarce, it is precious, and the remaining portion may be the most valuable. If we do not insist on this point, how different we are from the communists? If a person was a landlord or capitalist back then, the communists would let the proletariat criticize and denounce him. Is this method of class struggle going to be adopted? Can the Secretary tell us if that is going to be the case? Is that method going to be adopted in Hong Kong? I personally consider

the protection of private property rights very important, nevertheless, has the Secretary given up the original core values? As this is a very important point, the Secretary must respond to it.

A lot of Honourable colleagues have just said that they have received some letters. In fact, all of us have received many similar letters lately. Some of the owners actually want to sell their flats but they have a lot of questions about how their interests can be protected in the course of such sale. For instance, I have received a letter from a resident living in an old building in Mong Kok in which he has raised more than 10 questions. Certainly, it is impossible for me to read aloud all his questions now. It is not the case that this owner does not want to sell his flat, but he said that almost all minority occupier-owners want improvements to their living conditions, local rehousing, and additional investment returns. It is just because the acquisition offers are unattractive for developers operate 100% according to commercial principles and they aim at reaping the highest profits. They will never consider sharing the fruits with minority occupier-owners who have lived in their flats for a long time. These are the views of some owners. Thus, it is very important to protect private property rights. The Secretary has told us that, if this piece of legislation is not passed, she will not reintroduce it again within her tenure. Of course, I guess that, within her tenure, she will not lower the compulsory sale threshold further from 80% to another percentage again as I trust that she does not have the courage to do so. Nonetheless, if she makes a precedent in this regard within her tenure, and lowers the compulsory sale threshold from 90% to 80%; and if 80% is still not very effective — as Mr Frederick FUNG has just asked — what exactly will the Government do? Will it lower it further to 75%? Or, will it lower it further to 70%? Will the ultimate percentage be 51%?

As a matter of fact, why did Honourable colleagues support the original legislation back then? If somebody asks me when I will support a compulsory sale, I will say that I will do so when a building is really very old and dilapidated, and only the remaining 10% ownership of the building has not been acquired, or the owners are not in Hong Kong or untraceable. In that case, I think it is reasonable to do so because the problems of the building concerned must be tackled. Yet, that is not the case now. The Secretary and the officials have made it clear from the very beginning that this piece of legislation has nothing to do with building safety, and it is merely intended to facilitate urban renewal.

Hence, based on the above points, I hope the Secretary will tell us later when she gives an overall response how those residents living in old buildings whose flats have not yet been sold would be protected. My office frequently receives similar cases seeking assistance. How exactly will the Secretary help these people? Even though the Government already has got enough votes such that this piece of legislation will certainly be passed, it does not mean that the problems will be solved. On the contrary, after the passage of the legislation, the Bureau and our Members' offices will receive more cases seeking assistance. How exactly will the authorities concerned deal with the cases where the residents have been harrassed, and the disputes between owners and tenants? Will the Secretary handle these cases in special ways? Now that the Secretary has established the Development Opportunities Office, will she establish "an office for handling old building disputes" to handle this kind of problems? While the Secretary is a strong leader of her Bureau and departments, I hope she can concurrently adopt a "people-oriented" approach. "People" as I just said do not only refer to the majority owners whom the Secretary has mentioned, but also the minority owners. Thank you, President.

**MR JEFFREY LAM** (in Cantonese): President, Hong Kong is highly urbanized and an important element in its development is improving the conditions of old districts and repairing old buildings. The Government has proposed to lower the compulsory sale application threshold for old buildings situated within certain land lots from requiring the consent of 90% of the owners to 80%. I believe this can effectively speed up redevelopment, add value to these lots and look after the interests of minority owners.

President, there are now around 41 000 buildings throughout the territory, among which 4 000 are aged 50 years or above. As estimated by the authorities concerned, by 2019, the number of buildings aged over 50 years will have substantially increased to around 9 500. Recently, we have seen on television and read in newspapers many reports about some dilapidated buildings with concrete cracks and plaster spalling off. The residents do not need to sprinkle pepper when they eat, and their buildings have very serious problems like exposed steel reinforcements, leaking ceilings and cracks all over the walls. Some residents have even said that they feel the old buildings shaking sometimes that they feel very unsafe, and these buildings pose dangers to the public. The

tragedy in Ma Tau Wai Road in which the whole building collapsed remains fresh in our memory. I believe nobody would like similar incidents to recur in Hong Kong.

For an old building that has reached the end of its service life, demolition for redevelopment is the only option. But the redevelopment of old residential and commercial buildings faces the same problem in most cases, that is, as a result of the fragmented ownership, redevelopment is often an outstanding issue that will be delayed again and again; thus the owners can just patch up these buildings. However, even if renovation is carried out to many buildings, the conditions after renovation can hardly be satisfactory. Many minority owners or tenants have told me that they are in a state of anxiety every day, and they have even said that no tonic works for them. They want to move out but they lack the money, so they cannot improve their living conditions.

For this reason, I agree to lowering the compulsory sale threshold to 80% as this can more effectively secure the consent of the majority shares owners and prevent the obstruction of a redevelopment by any minority owner who may seek to extort an unreasonable price. We found a lot of similar examples in the past; although most of the owners agreed to sell their flats, one or two owners disagreed to do so because they wanted higher returns, thus obstructing the redevelopment of the whole building or dangerous building. This is the last thing we would wish to see. Information shows that there is a need to obtain the consent of 90% of the owners in Hong Kong, and the percentage is the highest among six Asian cities. In Singapore, the development of buildings aged 10 years or above only requires the consent of 80% of the owners; and in Tokyo, only the consent of two thirds of the owners is required.

President, in my opinion, lowering the threshold is a proposal for the good of minority owners, and these owners will certainly assess the values of their flats before deciding whether or not to sell their ownership rights. How will they become little lambs to be slaughtered at any time? Also, quite a number of the minority owners of old buildings are elderly people who need to bear repair expenses endlessly. But some old buildings will become even more dilapidated after numerous repairs. Is this a long-term solution?

Even one incident involving dilapidated old buildings endangering public safety is already too many. Lowering the compulsory sale application threshold

and allowing minority owners to sell their assets will turn old assets into new assets that are more valuable, and this can also expedite urban renewal, releasing more old building lots. This is the best solution for the good of minority owners that will add value to land lots.

In addition, I believe the Lands Tribunal will do a good job of gatekeeping and it will only make a ruling on the cases after taking the age and maintenance conditions of buildings into full account. I also think that the authorities concerned can proactively consider introducing a mediation mechanism to avoid unnecessary disputes.

With the relocation of the local industries outside Hong Kong, we have noticed that there are more and more vacant old industrial buildings. After lowering the compulsory sale threshold, the redevelopment of these industrial buildings with relatively low utilization rates, which may also be vacant, can be speeded up, to provide more land with a view to co-ordinating the proposals on consolidating the four pillar industries and developing six key industries, as well as creating more job opportunities to give a new impetus to Hong Kong.

President, I so submit.

**DR JOSEPH LEE** (in Cantonese): President, I am actually a layman as far as this subject is concerned. As I have heard, whatever is going to be discussed in this Chamber, all of us must have our individual positions before entering it and we all know how we are going to vote. All Honourable colleagues know that I belong to the pan-democratic camp and I will certainly vote in support of the pan-democratic camp on all occasions. I have never behaved so well, President, I must apologize that, throughout the years, I have never behaved this well; I have been sitting here today, listening to the remarks made by all Honourable colleagues. Although I have not sat here all along, I also kept my ear on the debate when I was outside. I tried my best to start listening from the very beginning (except your introduction as I was having lunch then), that is, from the time Ms Cyd HO and the Secretary spoke, and I have been listening to what Members said all along.

I can set down the baggage of position on me. In fact, the easiest option is to follow what the others do no matter what, and then go away for the meal. I can always do so. But, as a Legislative Council Member, I try to look at the

matter from the perspective of an ordinary man today. Frankly, I know nothing about compulsory auctions and I am only a layman. If it is a discussion about hospitals, health care or other issues, then I will know these topics very well. After listening to Members' remarks, I find it most interesting that both sides have different views and I am especially touched by the Secretary's remarks.

When I was listening outside, I heard Secretary Carrie LAM analyse the matter rationally. I am not a member of the relevant Subcommittee, so there is not any conflict of interest or any baggage on me. However, after listening to the Secretary's speech lasting a little less than 20 minutes, I fully understand that the Government wants to deal with this sensitive matter in a very rational manner. There are a lot of different examples, but I do not intend to dwell on them as Honourable colleagues have already said quite a lot. This debate started at 1.30 pm and it is now 5.40 pm, so we have had a lengthy discussion. I was really touched by the Secretary's remarks for she had very clearly and rationally stated the Government's position, that is, the Government wants to deal with this matter from a rational angle. Of course, I think that the Government, especially when the SAR Government is not formed by any political party or elected by the people, it would be safer for it to deal with matters from a rational rather than scientific angle. Otherwise, there may be troubles especially when many colleagues were former officials. It would be easier for the Government to handle matters or govern Hong Kong this way. After the Secretary had finished speaking, I thought about whether I should change my position and give up toeing the line; and whether I should consider supporting the Government instead. I have really considered all this.

Having listened to the various remarks of other Honourable colleagues, I find that, on the whole — let me cite the Secretary's remark — the Government actually wants to balance the interests of the majority and the minority, but the question is: Should the Government cater for the interest of the minority while respecting the interest of the majority? This is a rather sensitive issue. What is the majority interest? If the Government excessively respects the interest of the majority and fails to cater for the interest of the minority, people will say that the Government bullied and oppressed the minority; the disadvantaged groups voice their views and a lot of Honourable colleagues will be dissatisfied. If the Government only looks after the minority, the majority will have their views to express. What should actually be done? President, you may think that I have

digressed from the question under debate, but I am just looking at this issue from the perspective of an ordinary man, trying to balance interests.

I appreciate that Secretary Carrie LAM has tried to rationally analyse from this angle how the Government can play the role of balancing different viewpoints, and I fully understand that. As regards the 14 motions proposed by six Members to amend the Notice, I thank the Secretary a lot for categorizing them into five groups just like what we do in the course of teaching. Categorizing these motions makes it easier for me to understand them and allows me to analyse one by one how they are feasible or unfeasible, thus giving me a better understanding of the whole matter. If I am asked what I think at this stage, having listened to the remarks given by Honourable colleagues, I would like the Secretary to answer more questions later. In fact, the Government has not really specifically told us how the interest of the minority would be protected.

Why am I saying this? Let me talk about a paragraph in the editorial of *Ming Pao* yesterday: The law requires acquired properties to be sold by auction, and the original intention may be to fully reflect their market value during the tendering process involving different participants, and give other developers the opportunity to participate in the auction. The open and transparent process can also protect the interest of title holders in the compulsory auction. But the reality tells us that this is just wishful thinking. The reality is that if a developer has successfully acquired 90% of the ownership rights of a building (as proposed by the Government, it will be 80% in the future), other developers will sensibly withdraw automatically lest that developer should meet with obstruction. This phenomenon gives people an impression that some sort of consensus has been reached among developers acquiring old buildings, that they will look for targets separately and a developer will not snatch from another the fat piece of meat that is almost loaded in its mouth. Whoever manages to acquire 90% of the ownership rights first will have the meat in his mouth. Hence, compulsory auction becomes compulsory acquisition, and the minority owners are like pork on a chopper while the law has become an accomplice in robbing people of their assets.

After reading this paragraph, I wonder if the existing law and the mechanism mentioned by the Secretary can sufficiently protect the so-called minority owners. Will we see other examples similar to the ones just cited? For instance, my colleague has prepared for me a few pages of information on

such issues as how \$3,000 per sq ft can be offered. I am really worried that these situations may arise. Under this principle, the Government is duty-bound to balance the different interests of both parties in a very rational manner. However, the Secretary cannot tell us at this stage that there is a comprehensive mechanism to include the interests of the minority in the scope of protection. Certainly, the Secretary may say that the Lands Tribunal can or cannot do a lot of things according to certain principles, but when we find that the reality is different from what we think, can the Secretary tell us when she gives us a reply later on if there is a comprehensive mechanism to protect the interest of minority owners? This is an issue of grave concern to us ordinary people.

Regarding the resolutions of other Honourable colleagues, for example, Ms Audrey EU's resolution — Sorry, I have also heard Mr Frederick FUNG ask her whether there will be a "shares-for-shares" arrangement; I am really worried because it is really going to be a big deal. When a person had one share of ownership of a seven-storey building before, it will really be a big deal if he still has one share of ownership when the redeveloped building is 50 storeys tall. Therefore, I have reservation about this. Other Honourable colleagues have mentioned such issues as 80% of the market value and even empowering the Secretary to make a decision, about which I also have reservations. Hence, I will not support these resolutions.

My principal consideration is: if the Secretary still fails to give us a better reply when she responds to this later, and fails to tell us how the minority owners will be specifically protected, I will be inclined towards supporting the resolutions of Ms Cyd HO and Mr Albert HO to repeal the Notice.

Regarding Mrs Regina IP's proposal on retaining the provision on industrial buildings, I would like to make another point, that is, having listened for so long, it seems to me that nobody bothers about these industrial buildings. All Honourable colleagues have talked about private buildings though I have heard that the Government would like to revitalize industrial buildings. Now, we find that some industrial buildings in many areas are left vacant or not put to optimum use. I agree that these industrial buildings should be put to optimum use, however, if these industrial buildings aged 30 years or above are included in the scope under this system, how can we ensure that the minority owners engaging in creative industries or the handcrafters enjoy fair protection? I think the Government needs to account for this clearly. Thus, I am sorry that I have



some reservations and am inclined towards not supporting Mrs Regina IP who has not elaborated her point on industrial buildings.

An Honourable colleague said that we might as well settle for the second best and implement the proposal a year later and see what the situation will be at that time. This is actually feasible; if the Secretary agrees to formulating a very good mechanism within a year to protect the interests of the minority owners of these private or industrial buildings, why can this not be done? If the Secretary says that we want to buy time to improve this part because we are now in too great a hurry, I will support this resolution. Otherwise, I believe the Secretary should consider carefully if implementing these measures at this time can really balance the interests of both parties rationally. Furthermore, can the Government very specifically protect the minority owners of those private or industrial buildings, or the disadvantaged groups? I believe we should consider these points carefully.

Having discussed the subject for so long, and as Mr Frederick FUNG has just said that three types of persons will state their positions; I think that I tend to belong to the third type, that is, I will not support all the resolutions. Yet, I would like to explicitly say that, having weighed the overall interest, I agree to the Government's handling the matter in a rational manner or from a rational angle. Nonetheless, while balancing the interests of the two parties, I hope that the interest of the minority owners will not be sacrificed. Thank you, President.

**MS MIRIAM LAU** (in Cantonese): President, a friend from a foreign country recently came to Hong Kong and visited me, and he asked me why Hong Kong as a cosmopolitan city still had so many dilapidated old buildings in various parts of the territory. When I told him that an incident had taken place in Ma Tau Wai Road in which the whole building had collapsed in broad daylight, he really considered it as inconceivable. In fact, the problem of old buildings in Hong Kong is a long story. These old buildings are not only eyesores, but they also affect foreign tourists' impressions of Hong Kong. And, worn out by the elements throughout the years, buildings in disrepair have become a commonplace. According to government statistics, there are a few thousand old buildings in Hong Kong aged 50 years or above, and in the future, a few hundred buildings will reach the age of 50 years each year. Although many old buildings have yet to become dangerous buildings, ordinary buildings in Hong Kong,

especially those completed in the 1950s and 1960s, have a designed life of 50 years. The buildings will see a large number of problems surface when their age exceeds 50 years.

When buildings aged 50 years or above have been properly maintained for many years, the building conditions will certainly still be satisfactory. Nevertheless, not all old buildings are just like the King Yin Lei Mansion. Actually, many old buildings are seriously dilapidated and the owners have to pay for their repairs over a long period of time. But some owners would delay payment, and some elderly owners may not have the money needed for the repairs. Even though some owners are willing to pay, they regard it as a heavy burden, so many buildings are seriously dilapidated. Not only the external walls but also the internal facilities are seriously dilapidated. If we allow these buildings to become dilapidated in the course of time, they will become bombs planted in various places in Hong Kong. Even though not all of these bombs will immediately explode, the one in Ma Tau Wai Road has already exploded. Yet, had anyone said that the building in Ma Tau Wai Road was a dangerous building before the bomb exploded? Were we aware that the building needed repairs? Nobody did so, and there was not any indication. In my opinion, to solve the many problems with the old buildings in Hong Kong in a more comprehensive manner and prevent further urban ageing, the most direct and effective solution is to promote the redevelopment of old buildings.

As a matter of fact, Hong Kong has already had a law on the compulsory auction of old buildings for redevelopment for many years, why are there so many old buildings still? Certainly, one of the reasons is that, as stipulated in the law, a person who owns not less than 90% of the undivided shares in a lot may apply to the Lands Tribunal for an order for compulsory sale. In other words, so long as a person holds 11% of the ownership rights of a building, even if the owners concerned already hold 89%, the redevelopment of the old building cannot be carried out. Large buildings may involve a large number of units, but some single-block residential buildings in Sham Shui Po and To Kwa Wan, for example — these buildings may be seven to eight storeys tall — if only the owner of one of the units is unwilling to sell, redevelopment cannot be carried out; this also explains why ..... especially in Sham Shui Po, developers will hardly be willing to redevelop those old buildings because even though they have acquired

most ownership shares of these buildings — over 80%, redevelopment cannot be carried out when a nail is driven into the building.

Let us compare the percentage in Hong Kong with those in other places. In fact, an Honourable colleague has done so earlier, perhaps I should elaborate this point fully. What is the statutory threshold for the compulsory sale of land for redevelopment in foreign countries? It is 66.7% in Tokyo, Japan, that is, two thirds; 66.7% in Seoul, Korea, that is, also two thirds; 50% to 66.7% in Taipei, Taiwan, that is, a half or two thirds; 66.7% in Shanghai and Guangzhou in China, that is, two thirds; and 80% in Singapore. This also applies to buildings aged above 10 years; that means buildings aged above 10 years can be put up for auction after 80% of the ownership rights have been acquired while buildings aged below 10 years can only be put up for auction after 90% of the ownership rights have been acquired. So, the percentage in Hong Kong may be relatively higher.

Since the commencement of the principal legislation entitled the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545), only a small number of cases have actually reached the 90% application threshold, thus we face difficulties when we want to invoke this legislation in connection with the redevelopment of old buildings. Lowering the threshold to 80% will enable more old buildings to meet the requirement so that applications for compulsory sale can be filed. Is 80% as I have proposed right or wrong? Is it right or wrong to lower the threshold from 90% to 80%? Actually, people with different interests will think differently. The majority owners and minority owners will have different views, but they will only consider their own interests. Surely, their differing views can only serve as reference. What are the opinions of the public at large? The Government conducted two surveys in 2006 and 2008; one of them had more than 1 000 respondents while the other one had more than 900 respondents. The two surveys asked people if they supported lowering the threshold, and more than 60% of the respondents supported the proposal. When the first survey was conducted in 2006, the Government still asked the public whether they agreed to lowering the threshold in respect of buildings aged 40 years. It then adjusted the figure to 50 years in 2008. Yet, both surveys indicated that quite a lot of respondents supported the proposal.

This time, the Government proposes lowering the threshold by way of the Notice, which will apply to three classes of lot — Honourable colleagues are so

familiar with them that I need not elaborate — and about these three classes of lot, it has actually not been specified that the buildings must be dilapidated. For this reason, many Honourable colleagues have recently told the media that some developers may choose the better deals after the enactment of the legislation, and put up for auction certain buildings in expensive areas in a good state of repairs that meet the above conditions about the classes of lot, or put buildings aged eight to 10 years up for auction. So long as the buildings meet one of the conditions in (a) to (c), they can be put up for compulsory auction. However, I have a different view. The Ordinance and the Notice should not make it easier for those owners to trigger the compulsory sale of buildings of lower age or still in a good state of repair.

Actually, section 4(2) of the principal legislation has clearly specified that the Lands Tribunal shall not make an order for sale unless it is satisfied that two conditions have been met. These are two very important conditions: first, the redevelopment of the lot is justified due to the age or state of repair of the buildings; and the second main point is that the majority owner has taken reasonable steps to acquire all the undivided shares in the lot.

The phrase "the age or state of repair" is used in the Ordinance, and I was once worried about whether the Lands Tribunal would only consider the age or state of repair. I have gone through the records of 11 cases handled by the Lands Tribunal (we have just obtained the records of 11 cases) and found that in each of the cases, the Lands Tribunal considered very carefully these two factors, that is, the age and the state of repair. A sale order will only be granted after it has been confirmed that the two explicit conditions specified by the Lands Tribunal have been met. In a number of cases, it is stated very clearly the principles adopted by the Lands Tribunal in considering these conditions, thus specifying some guidelines for decision making by the Lands Tribunal in this connection in the future.

Certainly, I think it would be most satisfactory if amendments can really be made in respect of such factors as the age or state of repair in the principal legislation, and the Government has also said ..... Secretary Carrie LAM has promised that, when a review is conducted of this Ordinance in the future, she will specify clearly that the "state of repair" will be a prerequisite to be considered by the Lands Tribunal. I hope the Government will conduct a review and amend the Ordinance as soon as possible. Another point is about the developer of the

proposed development; it must have offered the minority owners fair and reasonable compensations before the Lands Tribunal would be ready to grant a sale order. In other words, it has to pay generally fair and reasonable compensations — as just mentioned by Mrs Regina IP — it is certainly impossible for the Lands Tribunal to say that the compensations are absolutely fair and reasonable, but they are generally fair and reasonable compensations. When these compensations are rejected, the Lands Tribunal can then grant a sale order.

I also understand the concerns of some Honourable colleagues about the rights of those minority owners who are unwilling to sell their flats or who have failed to negotiate desirable considerations. I hope that a mediation mechanism would give these minority owners another channel to protect their interests. In fact, the merits of mediation services are that the parties concerned need not appear before the Court, that is, they can avoid paying high litigation fees and they need not engage experts or submit a number of reports which would make the readers feel dizzy. Instead, it is a solution with a human touch; given mutual understanding and accommodation, the parties would be able to agree upon desirable prices. Actually, the mediation services in Hong Kong are fairly mature. I think the Government has not asserted that mediation will certainly be conducted because the resources are not yet available. I hope the Secretary would strive for the relevant resources as quickly as possible to facilitate the introduction of such a mechanism, such that mediation services can be provided in parallel with lowering the threshold in order to quicken the redevelopment of old districts.

The Liberal Party also understands that some minority owners who have been living in the buildings for dozens of years do not want to move out and they have also said that they would like to live in the original districts. We understand the feelings of these minority owners and that they are not "nail households" with bad intentions who deliberately seek to extract wholly unreasonable prices. Therefore, the Liberal Party suggests that we should actively consider allowing some minority owners to participate in the redevelopment of buildings. Also, we should make reference to the approaches adopted in Tokyo and consider if they can be introduced to Hong Kong. Why? Even if we lower the threshold now, we are not sure how many old buildings will be redeveloped. If the minority owners have the opportunities to participate in the redevelopment, or ..... participating in the redevelopment through the

"flat-for-flat" or "foot-for-foot" arrangement would make these owners feel that they have certain parts to play in the redevelopment, they will then be much more willing to take part.

Furthermore, we have made a proposal in the hope that the Government could consider the idea of allowing participation by the minority owners so that they can hand over their flats to the developers through auction and the compulsory sale mechanism, and after redevelopment, the developers — during this process, the developers have to promise to share a certain percentage of their profits, say 3% to 5%, with the original owners. This will give the original owners the impression that they have a part to play in the development project; at least, they will feel that they have a role to play.

In making the proposal, we mainly hope that the threshold could be lowered for an effective result; we also hope that the redevelopment of old buildings could be speeded up. Actually, it is difficult for us to support some of the motions such as the ones seeking the repeal of the Notice. We have already discussed the proposal on lowering the threshold for many years, and as I mentioned a short while ago, the Government conducted opinion polls in 2006 and 2008, and extensively consulted the public. If the redevelopment is postponed for another year or the Notice is repealed, are there any substitutes? Will any effects be produced? We are not sure. Thus, we think that there is no point in doing so.

In addition, a motion proposes that the Notice should be restricted to industrial buildings. How many industrial buildings are built on land not for industrial use? We do not know the answer. Nevertheless, the number will at least not be sizeable. The scope of redevelopment will be too narrow if it is restricted to industrial buildings. Can it accelerate the redevelopment of old districts?

Another motion mentions that the majority owner should own 80% of the market value of the buildings. This morning, that is, a few hours ago, I listened to the explanation given by the Secretary and I strongly agree with her. The valuation of the market value by different valuers will be different. Nobody really knows what exactly 80% of the market value is.

Lastly, I would like to talk about Ms Audrey EU's motion. I really support a mediation mechanism, but I can hardly support her motion because it

involves a "share-for-share" arrangement. If there is a "share-for-share" arrangement, for the moment, let me leave aside whether she has said that this is feasible from a commercial angle; but, if the minority owners can exchange one fifth of the ownership rights for one fifth of the ownership rights after redevelopment, the redevelopment of such buildings will never be realized as all the owners will become "nail households", that is, the last one fifth, because they want to strive for one fifth of the ownership rights of the whole development project. Hence, this is unfeasible. If there is such a plan to implement this proposal, all buildings cannot be redeveloped by means of this mechanism.

President, I so submit.

**DR LEUNG KA-LAU** (in Cantonese): President, in the past few days, I have received calls from many colleagues in my profession and amongst them, there are people from the post-50s generation, the post-60s generation, the post-70s generation, the post-80s generation, the pro-establishment camp and even the new democratic camp. And they actually all conveyed the same message: asking me to use my vote to highlight the need to protect the interest of small owners. Regardless of whether these colleagues in my profession have been influenced by various media or some other people, the current mechanism gives people the impression that it cannot protect the interest of small owners.

I concur with the views raised by the Secretary and many Honourable colleagues earlier, that there is now a need to expedite redevelopment, ensure participation of private developers and strike a balance among interests. But the most important point is how to balance the interest of various stakeholders.

We can see from previous examples or examples widely reported that there are cases where there is a huge difference between the prices of a property at initial valuation and after redevelopment, and this has made the small owners suffer losses. The Government relies heavily on the Lands Tribunal (the Tribunal) as the gatekeeper but with time, I know from experience that justice does exist but not necessarily so.

After all, major developers possess an enormous amount of financial resources which enable them to employ many lawyers and surveyors to argue for their cases. The minority owners will undoubtedly stand at an unfavourable

position in Court. The Government has previously indicated that it is hopeful of a mediation mechanism. I have also discussed with the Secretary and her subordinates whether it is possible for the Tribunal, in determining an application for compulsory sale, to include the consideration on the validity of the demands put forward by both sides during the mediation process. The Government has replied that details of the mediation mechanism are still under discussion and it is uncertain how the actual arrangements will be made. Moreover, compulsory mediation will not be introduced for the time being. Simply put, we should not have any high hopes on the mediation mechanism for the time being.

I have heard the speeches of Honourable colleagues just now and it seems that ultimately, many have accepted the arrangement of "flat for flat" and "shop for shop". The Secretary explained earlier why she did not consider the suggestion from many colleagues feasible. Regarding the arrangement of "flat for flat" and "shop for shop", if I have not mistaken, the Secretary was saying that because the principal legislation has not provided for this arrangement previously and the present Notice is just intended to lower the threshold for compulsory sale, it is thus very difficult to implement the arrangement of "flat for flat" and "shop for shop" at the present stage.

But I hold a different view. Under the existing legal framework, as many colleagues have pointed out, there are several factors which the Tribunal has to consider when determining an application for compulsory sale, including *inter alia*, the age and state of repair of the existing building as well as whether the majority owner has made the best effort to offer fair and reasonable terms to acquire the remaining shares. I think that under such terms, it could at least include whether an arrangement of "flat for flat" and "shop for shop" has been offered if possible.

I am aware that the plot ratio of a lot may be subject to certain restrictions on redevelopment and there are many different scenarios. But in some cases, it is obvious that the floor area of a lot could increase by threefold or even fourfold after redevelopment. If a minority owner cannot reach an agreement with the majority owner in terms of monetary compensation, the simple solution is to ask for a flat or shop of the same floor area in exchange — not in terms of undivided shares, but floor area, which is really not asking too much — this is in fact a feasible and reasonable request. Moreover, there are precedents for this



arrangement. I think the principal legislation can be construed to mean that such an arrangement has already been provided therein, that is, the consideration as to whether the developer holding the majority undivided shares has made the best effort — I stress, best effort — to offer fair and reasonable terms to acquire the minority undivided shares. I think the principal legislation can be interpreted in this way.

What are the workings of our executive, judicial and legislative systems? Legal provisions made by the Government or the Legislative Council are applied by the Court and many a time, it is difficult to specify every detail in some legislation. Both the Legislative Council and the Government would have certain expectation on a piece of legislation, hoping that it can achieve specific results. However, when it comes down to actual implementation and application by the Court, the judgments handed down by the Court would sometimes invariably deviate from the original intent. That is when we have to amend the relevant legislation.

I am more familiar with labour issues. In a precedent case, the Court ruled that commission would not be included in the calculation of holiday pay. To this, the Labour Department has indicated that it is at variance with the original intent of the Government and legislative amendments have been introduced accordingly. Regarding today's situation, if the Government and the Secretary consider that a reasonable and feasible arrangement of "flat for flat" and "shop for shop" should be provided for under the principal legislation, that is, the consideration as to whether the majority owner has offered fair and reasonable terms to acquire the undivided shares of minority owners can be used as a minimum requirement — if the Government has this understanding, please tell me and I will support the Government's proposal. It is because if the Court fails to draw the same conclusion when applying this law in the future, it would mean that the Court's understanding is different from ours and we can then seek legislative amendments right away. It is as simple as that.

But if the Government says this is not what it is thinking, then I would say both the existing legislation and mechanism are flawed because we can see in some cases that the precedent cannot protect the interest of small owners. If that is the case, I would find it difficult to explain the whole thing to friends in my profession. How can I use my vote to demonstrate my hope that the interest of small owners can be protected?

As there are so many motions, I am a bit lost and I have called my assistant to help me out. I would also consider carefully later on how I am going to vote because my initial reaction is that if the Government is seeking to lower the threshold for compulsory sale even when the existing legislation is flawed, it will certainly cause severe repercussions. If the Government does not accept the understanding I mentioned just now, I would vote in favour of repealing the Notice for the time being or deferring its commencement for one year so that the Government be given more time to introduce a motion for improving the legislation.

Let me explain a bit more. Many Honourable colleagues have talked about the need for redevelopment just now because many old buildings are in extremely poor conditions and the owners are waiting for redevelopment. If this is the reason for lowering the threshold for compulsory sale, there is really no need to wait until the buildings are 50 years old. If a building is 10 years old and in a dilapidated state, and if 80% of the undivided shares have been aggregated instantly, the compulsory sale can then proceed right away. Therefore, I concur with the need to redevelop those dilapidated buildings and it has nothing to do with whether the buildings in question are 30 or 50 years old.

Furthermore, some Members have said just now that in the past decade or so, there are only some 20 cases of compulsory land sale. What are the reasons cited then? But of course, those are mere conjectures. Some say that it is because the threshold is too high; but it could be because in many cases, an agreement has been reached and there is no need to take it to the Court. Or maybe it is because the developers have a lot of land in reserve and there is no need for them to be so aggressive or active in acquiring old buildings. This can also explain why private developers are not actively seeking to trigger the sale of Government land under the Application List system because they have already acquired many buildings or lots and hence, the number of such applications is also not high. Therefore, I think it is difficult to determine whether the 90% threshold is too high on the basis of this figure. And it is also difficult to say whether the situation could be improved by lowering the threshold to 80%.

Just now, the Secretary said that we should not treat the matter as a duel between a major developer and a small owner. Instead, both parties should be treated as small owners. But there are more small owners on one side, and fewer on the other.

Theoretically, this statement is correct. But in reality, the majority owner who holds a greater number of shares is invariably backed by a major developer. I can bet you \$10 that the major developers behind the majority owners would stand to gain a lot more than most of the minority owners from the sale proceeds of the redeveloped units. I strongly believe that the major developers will reap enormous profits out of the redevelopment sites they selected. That is why they are the richest people in the region and even manage to rank high in the Forbes Rich List. These people have the means to make a reasonable and fair offer — the arrangement for "flat for flat" and "shop for shop", to say the least — to the small owners. It should not be a problem for them to do so really.

Many friends have told me that there are practical difficulties with such an arrangement because sometimes when a new building is constructed, its development would be hindered if some space has to be reserved for certain purposes. But a few days ago, I went to Langham Place and the Langham Place Hotel in Mong Kok. I wonder if Members have found it strange that its podium is located on the fourth floor. Do you know what its second and third floors are used for? If you go to Portland Street on the other side, you will see that there is a market and a minibus terminus on the second and third floors. I think it is because there used to be a market and a minibus terminus. Considering the architectural design and planning now, it would not be a problem to meet any requirements from the Government or small owners as long as they have made known their requests. If the developers are willing, there would be a way.

Here, I hope the Secretary can respond to my view that according to her understanding of this legislation under the existing framework, the majority owner should come up with fair and reasonable terms and make the best effort — I stress, best effort — to provide the minority owners with a fair and reasonable acquisition offer which is not limited to monetary terms. Or this understanding can be taken to mean that the majority owner should offer the minority owners with an option of "flat for flat" and "shop for shop" where possible, such as when a large plot ratio has been granted, because this arrangement is less controversial and can protect the interest of small owners.

Thank you, President.

**DR PRISCILLA LEUNG** (in Cantonese): President, while I have not sat on the Subcommittee formed to study the Notice in relation to compulsory land sale, I am a member of the Panel on Development. That is why I have participated in the discussion on the issue on various different occasions. All along, I have listened carefully to the views presented by both sides and I believe that lowering the threshold for compulsory land sale can be a rapier that can bring benefits to both sides. I think the question itself has already created many different kinds of dispute in various districts incessantly. While some owners would consider a sale in order, some would not and this has put the two sides in opposition. I was involved in a case where most of the small owners would like to sell their properties but some owners did not want to. Both sides argued and argued, and finally, I think the case ended in tragedy because someone got divorced because of the case.

My stance in this matter is that I have always wanted to know why the Government has to implement the lower threshold for compulsory sale this year. It was not until I saw the Ma Tau Wai Road building collapse incident that my views began to changed. I support that the threshold for compulsory sale can be lowered, but this support does not mean that I concur with the Government rushing through the whole thing without first answering the many questions from the people and its insistence that the legislative amendment must be implemented immediately at the present stage.

I have received many letters. Basically, the ratio of letters in my file supporting early auctions of old buildings and those with a strong opposition view is about 8:2. I have also spoken to the Secretary about the case of the "Sport Shoes Street". I think the owners of ground floor shops are the most affected. They are affected not simply in terms of the monetary value of their properties. Instead, if their businesses are moved to another area, their turnover would certainly be affected. That is why I am very sympathetic towards this group of shop owners. I believe they are not simply ..... Among them, many are not asking for sky-high prices, and they would really want an opportunity to continue their businesses.

However, if we are to look at these old buildings, particularly in West Kowloon, from the 13 streets in To Kwa Wan to Tai Kok Tsui, I always feel very frightened when I see these old buildings. The Ma Tau Wai Road building collapse incident has once again aroused the special concern in the community

about these old buildings. Once you have seen the outlook of those old buildings in Tai Kok Tsui, you would probably never want to walk under them because there is always a spectre over you. That is why I have always supported redevelopment.

However, I believe the legal disputes caused by redevelopment would be far more severe than any legal problems we have encountered arising out of property disputes because the amount of money involved would be much greater and the impact of redevelopment on the affected owners, their families, their homes and their lives would be more serious. The legal cost of a minor property dispute case adjudicated by the Lands Tribunal (the Tribunal) would only be some tens of thousand dollars. If both sides still fail to reach an agreement, the case can be fought all the way up to the Court of Final Appeal. In the case I just mentioned, the family was finally broken up because one member did not want to continue with the litigation while the other member had insisted on selling the property and continuing with the litigation. Finally, one family member suffered from mental illness, and this is a live example.

Therefore, I always have reservation about resolving these disputes in the Tribunal because the Tribunal's decision is appellable. If a case goes through one appeal after another, it would incur an enormous amount of legal costs which an ordinary family could hardly afford. Hence, I think it would be almost impossible for anyone who wants to seek justice through the judicial system in respect of property disputes, particularly for the minority owners. Moreover, I believe for most of these so-called minority owners or tenants, it would not be possible for them to obtain legal aid because the asset limit for legal aid applicants is \$175,000. As such, they would have to use their own money to pay for the legal costs. I have witnessed many cases where the concerned parties have taken the first step, but only to give up finally. Why are there so few proceedings of this type? Because one of the party simply cannot afford to fight a costly and time-consuming legal battle against a big corporation with enormous financial resources. Therefore, Secretary, I have always considered that you must think of a way out if these so-called redevelopment disputes are to be adjudicated by the Tribunal.

The proposal of setting up a mediation mechanism was raised in the Panel before and by many colleagues just now, and I do not oppose this direction. But I have been involved in mediation cases and mediation basically has no binding

effect. It was mentioned earlier that it could serve as reference, but this is not mandatory. Mediation does not necessarily resolve the disputes of all parties concerned, but it can really take the first step forward. I think consideration should be given to how further steps can be taken in future so that these disputes involving large sums of money in relation to the assessment of redevelopment value can be settled by arbitration.

As a matter of fact, adjudication by the Tribunal ..... As I have great respect for professional surveyors, I cannot agree with the comment made by Mr Ronny TONG just now about surveyors and lawyers would only work for those who pay them. Sorry, I definitely do not agree with that comment. I think we are working on principles. When I was in an arbitration or mediation case, I would remain impartial to both parties, and I have also made awards against big businesses. Therefore, in the present case, the mechanism to be implemented must be completely acceptable to the parties on both sides.

Let us not talk about the property developers first. Now, there are some small owners who want to sell their properties on the one hand, and others who are unwilling to sell on the other. It would be most difficult to arrive at a consensus when calculating the value of their properties as well as their losses. If a consensus is to be reached through mediation, I think the mostly likely outcome would be something similar to the redevelopment of Lai Sing Court, Tai Hang. I believe it is something that the small owners will accept. For many of those who may be involved in future mediation cases or the Tribunal, I believe it is a model worth consideration. On top of that, I hope very much that an arbitration mechanism can be set up. In this connection, we are now scrutinizing the amendment to the Arbitration Ordinance.

The difference between arbitration and mediation is that mediation is in effect non-binding and voluntary, whereas arbitration is an authoritative means to settle the amount under dispute once and for under a more or less fixed costs scenario. In this connection, the arbitration centre in Hong Kong has in fact made significant contribution towards the resolution of some major economic and trade disputes. I would also like to tell Honourable colleagues (those belonging to the Professionals Forum) that there should be a great number of property dispute cases pending resolution. Considering the enormous amount of money involved in a redevelopment project, if we simply rely on the first step of mediation and the case has to be submitted to the Tribunal for a decision

thereafter, and if one party still has a lot of contention, he can still fight for his case. Therefore, I think that if a small owner does not agree to the amount under dispute, he would still face the same situation as I have just described — that is, he is powerless financially and legally to settle these questions through a relatively fairer mechanism.

I think if we are to resolve these disputes, we should not preclude the remaining options: firstly, the arrangement of "flat for flat"; and secondly, the consideration of their livelihood needs, that is, for those who want to continue with their businesses, whether it is possible to arrange for "shop for shop" in the nearby districts. However, I do not agree that the legislation should specify these arrangements rigidly because if the same have been expressly provided, many things would not be achieved. We should place our trust in a third-party mechanism. We should also trust that the best judgment would be made by these professionals or third parties in settling the disputes. If everything is to be provided for rigidly, it might create a deadlock where no further steps can be taken and nothing will be achieved ultimately.

Under the circumstances, I think the Government should also answer the questions raised in the community as to why there are so many previous auctions with just a single bidder, and why the auction prices are so unitary. Is there serious collusive bidding involved? I have received quite a number of letters and I would only talk about those letters on my file. I also hope that the Secretary can provide us with better statistics. She has mentioned so many housing estates in the old districts, which indicates her wish to see those old buildings being given the opportunity of redevelopment. Under the circumstances, the Government should explain itself more clearly to the community and provide us with data showing that its proposal is not solely intended to benefit those developers who have already acquired interests in certain sites. For those people who can quickly consolidate as much as 85% of the undivided shares, they would of course like to see the immediate passage of the legislation so that it can be implemented right away. The authorities must really refrain from giving the public such an impression.

On account of this premise, I think ..... At present, the public still has this concern about the proposal. But the Government has also demonstrated its sincerity, evident in its hope to take the first step towards setting up a mediation mechanism. Just now, I have formally suggested to the Secretary that perhaps

consideration could be given to resolving these major property disputes by arbitration because both parties must accept the arbitration award ultimately and it would prevent the occurrence of endless litigation. Under the circumstances, I would support deferring the commencement of the Notice for one year, which is the amendment motion proposed by Mr James TO. On the premise of my supporting this amendment, I hope that the Government can make good use of these 12 months to work out mechanisms for dispute resolution and valuation that are more readily acceptable to all parties concerned amicably.

I think the small owners are not holding dissenting views against anything in particular. Instead, they are just not sure whether their interest has been protected. The fact is flat owners of old buildings, including the business operators whom I have met with, are not absolutely against relocation. Of course, they want to get some more options, such as if there are suitable shop spaces in the new development, they might be willing to accept the option if they are allowed to move in first. Or maybe as some developers have already considered, the option of "flat to flat" can be made available to the small owners where possible, as in the case of Lai Sing Court. I think the Government can also consider these scenarios in detail and explain them to the public so as to allay the worries of all parties concerned, regardless of whether they are majority or small owners, about the possible impact on their property rights.

Therefore, I think the matter does not involve whether there is a breach of the Basic Law. Honestly, I think the matter is about how to resolve the disputes, how to handle the cases in a fair manner, and how to ensure reasonable rehousing and valuation arrangements for those affected by a *bona fide* redevelopment project. This is a problem the Secretary must resolve indeed. Otherwise, big trouble might be created if there are many litigations arising from this matter. Therefore, on this premise, I would support the amendment proposed by Mr James TO.

(Mr Ronny TONG stood up)

**PRESIDENT** (in Cantonese): Mr Ronny TONG, what is your point?



**MR RONNY TONG** (in Cantonese): Just now, Dr Priscilla LEUNG has misunderstood my speech. I was not saying that I myself concurred with the view that lawyers and surveyors would give different opinions depending on whose money they received. I was just saying that someone had said so. I hope Dr LEUNG will see my point.

**PRESIDENT** (in Cantonese): You have already clarified your point.

**MR ABRAHAM SHEK** (in Cantonese): President, I am very delighted to hear the speeches made by a number of Honourable Members on the subject of urban renewal today. Although the Notice only involves lowering the threshold of compulsory sale from 90% to 80%, many Members did spend much time and effort to do something for the public in the past month or so.

President, this issue has been with us for 25 years. As the saying goes, "Though a belated measure, it is better than nothing". I wish to ask Honourable colleagues if they have kept a keen interest in the living conditions of residents in old districts at all. Have they ever been to some old districts? Some of them have visited these districts before. However, have they made any genuine effort to understand the daily life of small property owners and tenants in old districts? How can they live in tenement buildings in such a hot weather of over 30°C?

Take the case of a small property owner aged 80-odd years as an example. He owns one single unit and has to rent it out to earn a living, as a result he can only keep a bedspace for himself. President, is such a situation romantic? No. Do Honourable colleagues understand this at all? What are they striving for for small property owners? Let me cite a story in the *Bible* as a metaphor. Now, it looks as though Moses is leading this group of small property owners to cross the Red Sea. But some Members simply regard these owners as little lambs, saying that they are facing the fate of theft and robbery. President, I hope they can be fairer. In case a lamb has fallen sick and other lambs are infected, it is meaningless for us to hold it desperately as we can neither feed it nor give it any treatment. Eventually, who will rescue these lambs? Will the Government do so?

President, regarding the Notice introduced this time, although I represent the real estate sector, I have been putting in enormous efforts and time on urban renewal for 14 years already. President, as far as the subject of urban renewal is concerned, I know better than many Honourable Members here. President, I have striven for the interests of many small property owners and a better living environment for many tenants, especially the elderly, in the old districts. Many buildings in the old districts can hardly be preserved and it is necessary to expedite urban renewal.

Today, this Notice proposes to lower the threshold of compulsory sale from 90% to 80%. Many Honourable Members have also put forth very good opinions. For example, the entire process should be conducted in a fair, open, just and impartial manner. However, if we do not endorse this Notice today, the pace of urban renewal will be slowed down. And eventually, who will suffer? They are those little and lean lambs. President, this is the responsibility that Members should bear. This is the first point.

Secondly, I hope Honourable Members can understand and explain clearly to owners in the old districts that it does not matter to developers even if the Government fails to lower the threshold of compulsory sale from 90% to 80%. They do not mind at all. As there are still plenty of lots on the Application List, they are not eager to develop these lands. Moreover, many agricultural lands can also be changed to residential lots for developers to acquire. As a matter of fact, buildings sold each year are mainly located in new development areas rather than old districts.

As mentioned by Dr LEUNG Ka-lau just now, most of the small property owners are backed up by developers. He is right. If they are not backed up by any developer, they have to wait. This does not matter because it is not the case that every developer can make a fortune. They have no intention to exploit people. Rather, they have to meet the costs and bear the risks. Many developers will also run into bankruptcy. Take a look at the prevailing situation in the United States, and we will realize that it is not the case that every developer will make a fortune and exploit people. Being real estate developers, they also hope that the city can have prosperous development.

The problem of urban renewal we are talking about today is a deep-rooted social conflict concerning the disparity between the rich and the poor in old

districts. I wonder if Members have imagined that the Government's proposal can enable residents in old districts to change their current living conditions, so that they can have a better living environment. Fine, perhaps someone may argue that it does not matter even if developers do not acquire their properties, because the Urban Renewal Authority (URA) can do so instead. However, have Honourable Members ever explained to those little lambs, small property owners, how the compensation will be calculated if acquisition is conducted by the URA? In case properties are not sold with vacant possession, it is impossible for them to get a compensation taking the price of a building aged seven years as reference, not to mention that of 2.5 or three times of the market value at present. Even if properties are sold with vacant possession, as shown in 20 previous cases, the amount taking the price of a building aged seven years as the standard of compensation is much less than the auction price. Are Members striving for the interests for small property owners? Will Members be responsible for solving the problem on such discrepancy for them as well? President, the Notice we are discussing today is about urban renewal, which is also about how to solve the redevelopment problem in old districts as well as the problem faced by residents living there who are not capable of buying their own flats.

Even we construct more public housing, we may not necessarily be able to ensure a better living environment for residents in old districts. It is common to see that "some flats are left vacant while some people have no flats to live". Those people living in old districts are mainly new immigrants with three or four children. President, have you ever seen that 29 households are living in a unit of an area of 800 sq ft? President, I have seen it before and offered assistance to rehouse them. Have Members ever visited them to show their care and concern? As for many elected Members from Kwun Tong, Central District or Sham Shui Po, have they offered small property owners a helping hand when the latter seek assistance from them? Have they helped them to solve their problems? Now, these Members say that they wish to solve "some" more problems. There is no solution at all as we can hardly come up with a perfect proposal.

President, the Secretary is now doing her utmost, but she is not helping developers. Rather, she is helping these small property owners, with a view to finding a way out for them. We should not criticize her because she, at least, has the guts to do so. Although this matter may not be politically correct — otherwise, she will win big hands from every one of us today — she has really

done it for society. I think she has the guts to do it and will not be scared after doing so. She has no intention to become the Chief Executive or the CS, only that she wishes to get it done within her existing scope of purview, so as to solve the problems in the old districts now.

After witnessing residents run for their lives in the building collapse incident at Ma Tau Wai Road, what shall we do to solve their problems? Who will offer them a helping hand? Who will rehouse them? President, if public officers have the guts to do something, we have to encourage them. Also, it is necessary for us to criticize and rectify them. Very simple, the Urban Renewal Strategy is a mistake. As mentioned by Ms Miriam LAU and Ms Audrey EU just now, the correct direction is that we should encourage small property owners to participate in the urban renewal programme. Of course, the compensation of "flat for flat, house for house, shop for shop" can hardly be offered. How can an old shop be exchanged for a new one? Is it the case that developers need not bear the costs and spend money on construction? Time is money, isn't it? All these are related to money. However, small property owners can participate in it, provided that they are willing to take the risks. Therefore, the Government also agrees to include a mediation mechanism now, with a view to inviting small property owners to participate and negotiate with developers in an open manner. This is feasible. Come to think about this. A developer, no matter it has acquired 80% or 90% of the titles, has already made a huge investment and it does not mind paying a little bit more. In fact, the rationale is very simple. Similar to the project currently being implemented at Tai Hang Road, the Hongkong Land has also offered the compensation of "flat for flat" as it is feasible to do so at this location. However, what we are discussing are districts like Sham Shui Po. President, it is very hard to do so. As Sham Shui Po is densely populated, what shall we do in order to rehouse residents living there, show them our concern and offer them a fair proposal and a better living environment? No matter what the arrangement is, it may not be able to make every one of them happy. But most importantly, we can give an account to these residents.

Therefore, urban renewal is not about making money, or a lot of money. Rather, it should be people-oriented. We should put in our efforts sincerely to conduct it and help the majority who are in need of help, thereby improving their living environment and solving the social problem of disparity between the rich and the poor.

I sincerely hope that elected Members in this Council can visit their districts more frequently. Residents living there are their electors, not mine. My electors are those developers. But they are very willing to conduct urban renewal and pay more for that. President, I very much hope that our elected Members can visit their districts more frequently. At present, there are a lot of old buildings in Kwun Tung, Gough Street and Sham Shui Po as well as in Mr Frederick FUNG's constituency. President, eight owners came over here last week as there was no channel for them to lodge complaints. I said that it might not be the most desirable way for them to seek help from a representative of the real estate sector. Rather, they should approach their elected representatives. However, they indicated that they had already done so, only that their elected representatives simply turned a deaf ear to them. These owners said, "Mr SHEK, please kindly help us. You have experience in this." I responded to them that I had experience of being a "bandit". But they said, "We prefer to seek help from a bandit, as it is fairer than being exploited by others."

President, I have no intention to sing my own praises. However, I have really spent 14 years to help rehouse these residents and provide them with a better living environment. I dare to stand up here and make this statement to the public in Hong Kong. President, urban renewal is a difficult task. In case only the Government can do so, it has identified this most simple way out for them. If it really does not work, we can review it again then. We still have to conduct a review of the Urban Renewal Strategy. Thirty years have already passed, but we have yet come up with an overall Urban Renewal Strategy. It is really time to introduce this strategy now. Secretary, we cannot afford any further delay.

In fact, we have raised a number of questions in the Legislative Council before, urging for the authorities to provide the figures and the profits made in each redevelopment project. After taking a look at these figures, if some more money is required than taking the price of a building aged seven years as the standard of compensation, it does not matter as we can simply follow it. In this way, we can foster harmony in society. In a harmonious society, all of us can live and work in peace and contentment.

We do not wish to see caged homes in the old districts anymore, nor do we wish to see some newly arrived widows who have to take care of three children. Very often, their husbands have passed away because of poor health, leaving

them to take care of several children in Hong Kong. They are not eligible to apply for public housing. What can they do then? Let us ask Donald. When acting as the CS, he had tackled such problems. At that time, he had visited those districts and I was the one who accompanied him. He had done so before.

President, urban renewal is not a simple issue. We cannot solve it simply by saying that it is a matter of justice or "my lamb has been stolen". There is no way to rescue that lamb. If we insist on rescuing it, we have to solve the problem for it, right? Of course, we cannot seize their properties. We should conduct it in a fair manner. If small property owners cannot wait for developers to offer them assistance, they had better turn to the URA for help. By that time, they can only obtain compensation taking the price of a building aged seven years as reference. In that event, it will give rise to other problems.

Regarding this point, we should have a very clear understanding that .....

(Mr Albert HO stood up)

**PRESIDENT** (in Cantonese): Mr Abraham SHEK, please pause for a while. Mr Albert HO, is it a point of order?

**MR ALBERT HO** (in Cantonese): I wish to seek an elucidation from Mr Abraham SHEK. I have listened to him very carefully. I wonder if he can clarify a point that he has just made. He has been saying that those people, who are living in poor environment and dire straits, need rehousing. Seemingly, he holds that if this legislation is passed, they can be rehoused after their properties are auctioned according to the threshold which is set at 80% of the shares. Is it what he meant? If so, such practice is similar to that of the URA. Does he mean that these people can be rehoused?

**PRESIDENT** (in Cantonese): Mr Albert HO, please sit down. Mr Abraham SHEK, you may continue.

**MR ABRAHAM SHEK** (in Cantonese): President, I think I need not answer Mr Albert HO's question. It is because even the Government fails to rehouse them. Regarding urban redevelopment projects currently being conducted by the URA, rehousing is not offered by it. Rather, it is the Housing Authority which offers rehousing. The Government is duty-bound to rehouse these people. However, many of them are currently not eligible for public housing. But these two things should be considered separately. As these are private properties, they cannot request private rehousing. At present, there are a lot of such old buildings. Because of low rentals, many people have moved into them. I would like to ask Mr HO to grasp the whole picture first. In fact, the rentals of these units are not cheap at all. President, the rental of a bedspace is \$2,000. But these residents are not eligible for public housing, thus they are living in great plight. They are not rich at all. Many poor people are also living in these old buildings. Therefore, we should understand the whole matter.

However, some people wish to inflate the problem and create conflicts, social conflicts, thereby dividing our society. They criticize the unholy alliance of developers and the Government. I wish to ask why they have such criticism. President, developers have no intention to force the Government to do so, only that they wish to help urban renewal and provide one more option, so that more lands can be made available for urban renewal. In this way, this problem can be settled expeditiously. This is a win-win-win proposal, President.

Therefore, as Mr Albert HO has just mentioned, in order to solve this problem, we should ask the URA to expedite its urban redevelopment projects in the old districts, so as to provide all residents with rehousing and compensation taking the price of a building aged seven years as reference and provide shops with compensation calculated at the market price. This option has already been put in place. According to the practice stated in the Notice we are now discussing, a unit can receive a much higher amount than the value of acquisition offered by the URA. Thank you, President.

**MR PAUL CHAN** (in Cantonese): President, first of all, I would like to declare an interest. My family members hold some properties in old buildings in Tai Kok Tsui. But we have no intention to carry out any acquisition and development, nor are we developers. We purchased these properties before

1997 for investment purpose. Moreover, I am an independent non-executive director of the Wharf (Holdings) Limited (the Wharf). However, the Wharf has not engaged in any business of acquiring old buildings for redevelopment. It was reported in a newspaper a couple of days ago that the Wharf held a number of titles of old buildings in Ma Tau Wai. I have particularly rung them for enquiries and confirmed that it is not the case. The said report is not the truth.

Buying properties for investment purpose is the dream of many people in Hong Kong, which is also the most important investment in their life. It is very important for Hong Kong, being a capitalist society which respects human rights, to protect private properties of the public. Therefore, it is a big issue to seize private properties of the public through legislation. As a Member, I have given this matter very cautions consideration. In the middle of last year, when the Panel on Development of the Legislative Council discussed the application threshold under the Land (Compulsory Sale for Redevelopment) Ordinance (the Ordinance), many owners and professional groups had written to the Panel or even all Members to express their opinions on the Ordinance. Although I am not a member of the Panel, nor am I a member of the Subcommittee which is scrutinizing this Notice, I have read thoroughly the proposal made by the authorities as well as the submissions from small property owners, professional groups and some stakeholders. Also, I have kept a keen interest in the discussions of the Subcommittee as well as the reports, commentaries and analyses made by the media.

President, there are many old buildings in Hong Kong and according to statistics, those of 50 years or above in age number more than 3 300 now. Structurally, they are not dangerous buildings. But it is known to all that their environment and conditions are very poor. If there is a chance to redevelop these old buildings, under most of the circumstances, it is beneficial to residents living there as well as the community as a whole. Over the past several weeks, many owners of old buildings have written to Members, urging us to support the Notice. This can serve as proof of the case in point.

In our society, redevelopment of properties depends on their potential value. Definitely, developers conduct these projects for profits. They will go ahead if these projects are profitable. Therefore, the introduction of the Notice will easily give people an impression that we are helping and even practising favoritism towards developers. However, I think that in considering this



problem, the most important thing is whether it is beneficial to small property owners and society. As for those owners who are not willing to sell their properties, is there any mechanism to ensure that they can be treated in a fair and reasonable manner?

The Ordinance we are now discussing is enacted to tackle contradictions and interest conflicts between those who are willing to conduct redevelopment and those who are not. By stipulating explicitly the conditions of applications for compulsory sale, the party which is interested in conducting redevelopment can rest assured in offering a higher price to owners who are willing to sell their properties under a clear situation, so that the latter can sell their old properties and get cash in return to improve their living environment.

As for the protection of those small property owners who are not willing to sell their properties, the Lands Tribunal is responsible for acting as the gatekeeper for the existing Ordinance or the amended version in future. At present, when the majority owner lodges an application to the Lands Tribunal, he should have owned not less than 90% of all the undivided shares in the lot. If the Notice is endorsed by the Legislative Council today, the threshold, after it has come into effect, will be lowered to 80%. However, the applicant should still make the Lands Tribunal satisfied with two requirements in order to obtain the order for compulsory sale, which are: (a) "redevelopment is justified on the ground of age or state of repair of the existing buildings sitting on the lot"; and (b) "the majority owner has taken reasonable steps to acquire all the undivided shares of the lot".

Regarding these two requirements, I notice that when scrutinizing the Notice, Honourable colleagues have obtained an undertaking from the Government that at an appropriate time after the Notice has come into effect, "age or state of repair" will be amended to "age and state of repair". Moreover, the Government will also actively help parties in dispute reach conciliation.

I hope the Government can give us a clear account again in its response later on when the above wordings will be amended. It is because this involves amendment to the principal legislation which enables the Lands Tribunal, when considering an application lodged by a majority owner, to consider "age and state of repair" at the same time, so as to remove some worries of the public. That is to say, insofar as those old properties which state of repair is good and are still

suitable for living, the Lands Tribunal should not approve any compulsory sale for redevelopment.

President, as for the reserve price in auction, according to my understanding, it is not a trifling matter for the Lands Tribunal to consider such approval. Both parties to the litigation will also appoint surveyors to offer a valuation on their behalf. I have enquired about the situation in the sector. Some people have told me a number of cases, showing that even though the Lands Tribunal has received the valuation from the two sides, it is not willing to approve it. Why? Because there are new flats to be put up for sale in the vicinity of the lot very soon. Therefore, the Lands Tribunal requires them to examine the valuation again with the new property price after these new flats are put up for sale.

Some Honourable Members request that the ratio of 80% should include the prevailing market value of the property, rather than 80% of the undivided shares. This has taken into consideration the fact that some properties on the ground floor or lower floors are shops where owners are operating their businesses. The value is so high that they may not be willing to sell their properties for redevelopment. I understand this viewpoint. However, I am afraid I cannot subscribe to this proposal. I think such practice is unfair to those tenants living on the upper floors as their fate of conducting redevelopment for their buildings or not is linked to some factors which are absolutely beyond their control. Moreover, according to the existing mechanism, the proceeds generated from the compulsory sale will be divided among the majority owner and the minority owners on a pro-rata basis according to the valuation reports submitted by them in respect of the existing use value of their properties. I hold that, to a certain extent, this has addressed the problem that the property value of street-level shops may be higher than that of residential flats on the upper floors.

President, where should the line concerning the number of undivided shares for conducting compulsory sale be drawn? No matter how detailed our consideration is, there is no way for us to come up with an absolute standard which can convince various stakeholders. This is a judgment, which is made after considering time and again the situation and justifications of various stakeholders in society as well as the social needs. This explains why some Honourable Members, when quoting the threshold ratios in overseas countries, such as Japan and other places, find that they are not the same. If we are only

concerned about the minority of owners who are not willing to sell their titles, have we ignored the interest of the majority of owners who are willing to sell their titles at the same time? The titles of buildings in Hong Kong are widely scattered. It is not easy to acquire 80% of the titles. Even if owners are willing to sell their titles, they will only do so if developers offer them a good price. I believe Honourable colleagues, same as me, have received some submissions from small property owners who desperately hope that a green light be given to lowering the threshold. For example, former owners of Haven Court, owners of Pok Man Street and Ka Shin Street as well as owners of Kam Kwok Building have all indicated that they are prepared to sell the titles of their units, with a view to improving their living environment as soon as possible.

President, monetary interest can make people become very greedy. Among those owners who are not willing to sell their properties, some of them are not small property owners being bullied. Put badly, they are "nail households" or extremely greedy owners, trying to fish in troubled waters and reap excessive gains. At present, quite a number of small owners who are willing to sell their old properties have to suffer because of them. They feel very furious and helpless. In the middle of last year, a resident living at Wood Road, Wan Chai, made submission to the Legislative Council, alleging that the owner of the street-level shop requested a compensation of \$100 million. As a result, he has to live in that old building continuously, not able to realize his wish to improve the living environment even now. If lowering the threshold is to allow developers to rob people of their assets, is it a kind of injustice if excessive protection is afforded these unreasonable owners and even "nail households"?

Mr James TO and Mr Albert HO have proposed a number of resolutions respectively, which are mainly to include that the Building Authority should issue an order in writing according to the Buildings Ordinance; or the Secretary for Development, on the ground of public safety, or the Tribunal, due to the state of repair or the interest of public safety, considers that redevelopment of the buildings is justified. I think it improper to link redevelopment and building safety together. I am worried that this may encourage owners to give up maintenance and strive for redevelopment instead, which will pose dangers on not only the safety of residents but also that of pedestrians. For this reason, I am afraid I cannot support it.

During the scrutiny of the Notice, some Honourable colleagues proposed the method of "flat for flat" and they have also mentioned it time and again during the debate just now. As for the arrangement of "flat for flat" or allowing owners' participation in redevelopment projects, I think this is a spirit that merits our support. In introducing the mediation mechanism, this should be taken into account. However, I consider it infeasible if its implementation is mandated by way of legislation. It is because the situation of each project is different. Regarding some large-scale projects, such as "The Belcher's" which is well known to us, even though there is no requirement in law, redevelopment can still be conducted by adopting the method of "flat for flat" or even "one flat for two flats". As for some smaller sites, the imposition of excessive restrictions will make it more difficult to conduct redevelopment. It may not be beneficial to small owners who are willing to sell their properties. Perhaps, it is more appropriate to leave this issue to the interested party and owners to negotiate.

Regarding the resolutions proposed by several Honourable Members or the views advanced during the scrutiny, I agree with Mr WONG Kwok-hing, who proposed during the scrutiny that a mediation mechanism be set up. However, at this stage, before having thorough discussion with the Department of Justice, the Judiciary and other relevant stakeholders and clear consideration on the relevant procedures and rules, I have reservation about making it a compulsory requirement immediately.

However, I consider it worthwhile for us to consider Mr James TO's proposal of deferring the commencement of the Notice for one year. This can enable the Government to give us a clear account later during this year, stating what complementary measures will be taken to tie in with other ordinances relating to the Notice, including the mediation mechanism mentioned just now. In this way, the Ordinance can handle the problem of redevelopment in old districts more properly, so as to remove any unnecessary worries and conjectures.

President, I agree with the Government that the threshold of compulsory sale should be lowered to 80%, so as to facilitate urban renewal and help residents living in old districts to improve their poor living environment.

President, I so submit.

**MS STARRY LEE** (in Cantonese): President, before the commencement of today's meeting, many small property owners who support or object to the Notice came over to the Legislative Council to express their opinions outside. An old lady, who is apparently not invited by any organization, came to us anxiously. Perhaps, she has seen that the subject of compulsory sale is being discussed in society recently. She passed a note to us, hoping that we could read it out for her. She said, "Honourable Members, please do not do a disservice out of good intentions. I hope buildings can be acquired with consent from 80% of the owners. I do not wish to climb flights of stairs until I die. I notice that some elders, who are older than me, have great difficulty in doing so. It is so heartrending to see such a situation."

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

This note really gives me great mixed feelings. I have been serving in the old districts for nearly 10 years. During this decade, I have got to know a lot of kaifongs when they are very young. But now, their hair has turned grey and they can no longer go out for a picnic together but would rather stay home because of poor health. Most residents living in the old districts are elderly people. The above note has really stated what I have heard in the old districts, which is the heartfelt wish of numerous residents living in tenement buildings with no lifts. They will ask me when I can offer them a helping hand and expedite the redevelopment of old districts even in their dreams. It is because they know that only through redevelopment of old districts can they sell their old buildings above the market price. Hopefully, they do not just turn up outside the Legislative Council Building. In fact, I always find them in the old districts for which I have been serving over the past decade. I remember very clearly that the watchman of my building lives in the 13 streets. It is because after I have been elected as a Legislative Council Member, it is really troublesome as he will ask me when the authorities will acquire the 13 streets whenever he sees me enter the building. What I can tell him is that I have raised this in the District Council and will make some efforts in the Legislative Council. Now, he must have felt fed up now. However, after the building collapse incident at Ma Tau Wai Road, he asks me again if redevelopment can be further expedited. I said, speaking, I do understand that many residents, especially those living in poor environment in old districts, very much hope that the redevelopment of old districts can be expedited.

However, I also wish to share with you here that not only those living in dilapidated buildings which can hardly be repaired want to redevelop old districts. Among the residents whom I have come across, many of them are living in old buildings. Even those who are living in buildings with lifts always tell me that they wish to improve their living environment, hoping that their buildings can be acquired. I will also think about it myself. With titles under sub-deeds, how can redevelopment of old districts be expedited? Frankly, what the public wish most is that the Urban Renewal Authority (URA) can acquire their buildings. However, according to the time required for the URA to do so in the past, we may understand that it is indeed impossible to complete the task if we merely rely on the URA. Then how can private developers be enabled to participate in redevelopment projects? The Land (Compulsory Sale for Redevelopment) Ordinance has in fact given room for the private market to do so. And now, this legislation is already in place, allowing those with 90% of the titles to apply for compulsory sale. However, my first question is: Is the threshold of 90% sufficient? Can it balance the interest of various parties? Recently, many people have placed advertisements in newspapers. Apart from Mrs IP, a group of small property owners of old buildings have also done so. I believe what they have said is also the heartfelt wish of some small property owners. They said, "At present, the greatest difficulty in the redevelopment of old districts and acquisition of old buildings is 'nail households'. Some of us have also had this experience. Due to the unreasonable request made by some 'nail households', the overwhelming majority of owners cannot sell their properties at a desirable price and have to live in fear in such a poor environment continuously. Therefore, we support the amendment as it can combat 'nail households' more effectively by increasing their costs and risks. In this way, the overwhelming majority of small property owners can improve their living environment expeditiously." I believe this advertisement published in newspapers has fully expressed the heartfelt wish of those small property owners who support lowering the threshold of compulsory sale.

Moreover, as reported by *Ming Pao*, according to Mr CHU, a resident living in an old building at Fuk Wing Street, Sham Shui Po — I also visit Fuk Wing Street frequently as the buildings there are really very dilapidated — he got the news that the developer would acquire the building six months ago and his neighbours had also accepted the offer. However, the entire process of acquisition and redevelopment was impeded as those street-level shop owners

refused to accept the offer. During the interview, he said he hoped to get some cash and improve his living environment as soon as possible. As we can see, with the current requirement of obtaining 90% of the titles, some "nail households" may have hindered the majority of owners who agree to redevelopment. Therefore, if the threshold can be lowered to 80%, I can see that there will be two advantages. First of all, redevelopment in old districts can be expedited; and secondly, the costs of acquiring properties as "nail households" will be increased. However, we understand that if the threshold is lowered to 80%, 20% of the owners may be forced to sell their only asset, their only lamb. Therefore, I have been listening to the heartfelt wishes of small property owners in the Subcommittee, wondering if the current arrangement can protect their interest or not. Therefore, irrespective of the situation, that is, no matter 10% or 20%, some properties should be put up for auction and there are bound to be some people who are forced to give up their private property right. For this reason, we also consider it necessary to provide them with sufficient protection.

Many small property owners blame that the Lands Tribunal has not played its gatekeeping role properly, resulting that their properties were sold at a very low price. I have heard of such criticisms many times, which makes me feel very worried about it. And in order to ascertain if what they have said is true, I have looked up a lot of papers, including the cases which the authorities have provided to the Subcommittee earlier. I am even worried that they will only submit those cases which are favourable to lowering the threshold of compulsory sale for illustration. Therefore, I have also asked my colleagues to find those judgments. Let me share with you here. First of all, I consider that the Lands Tribunal has made every effort to do a good job of gatekeeping. Take one of the most controversial cases, the one concerning numbers 44 to 46 of Haven Street, as an example. What has the Lands Tribunal done in this case? As some Honourable Members are not members of the Subcommittee, I will elaborate it once again here. According to the Lands Tribunal, the applicant in the case has submitted the valuation report of the existing use value of all units in the building to it in accordance with the Ordinance. And the valuation of the street-level shop at number 44 of Haven Street is \$3.59 million. The respondent has also submitted a valuation report to the Lands Tribunal, showing that the valuation of the street-level shop at number 44 of Haven Street is \$10,225,143. Surveyors of the two parties have a great dispute over the valuation of the shop. This point is understandable. It is because if one party is not willing to sell while the other party is reluctant to make a concession, they will of course up the ante.

Originally, I think the staff of the Lands Tribunal will only sit in their offices and courts. However, in the case of Kam Kwok Building, the Lands Tribunal really conducted a site visit to the shop which is quoted as reference in their valuation reports, thereby making an independent valuation. Finally, the Lands Tribunal made the judgment that the current value of the street-level shop of the respondent is \$4.58 million.

Moreover, I also found that among the records of the cases reviewed, there is a requirement that the Lands Tribunal should be satisfied if the major property owner has made every effort and taken reasonable steps to acquire all the undivided shares of the lot. Take the case of Haven Street as an example. According to the record, there is only one respondent in this case. However, eventually, he failed to reach a transaction agreement with the applicant. The applicant has made an acquisition offer five times in total, and the details of negotiation are summarized as follows. The applicant offered \$6 million in the first time; \$7 million in the second time; \$8 million in the fourth time and finally, \$11,715,000 in the last time for acquisition. I then think that according to some newspapers or the representation given to me by small property owners, the Lands Tribunal has not played its gatekeeping role properly. However, after reading such information, I concluded that the Lands Tribunal has already done its utmost and the problem indeed does not lie in it. As we all understand, if owners are not willing to sell their properties, even if the Lands Tribunal has made every effort to compare these cases, there is no way to meet their satisfaction. Therefore, I think such criticism of the Lands Tribunal is not quite fair to it. Actually, where does the problem lie at present? I remember that in a radio programme, I have heard of the heartfelt wishes of some small property owners of Kam Kwok Building which was subject to compulsory sale. They said that the question was not about money. In fact, they simply wished to participate in the process. This is exactly the main point of the entire controversy. In fact, even though I found in the papers that the Lands Tribunal has done its utmost, the result achieved eventually will not be acceptable to all in society — in particular, those whose properties are subject to compulsory sale. And their request is simply to participate in the process.

Many Honourable colleagues have proposed the method of "flat for flat" or "shop for shop" just now. I think this is a good idea. However, I also believe that this cannot be done within a short span of time. In proposing the method of "flat for flat" or "shop for shop" and the sharing of fruits, should we also request



owners to participate in it at the same time, such as considering the feasibility of sharing the construction costs or other risks? How should the finalized method be implemented? Shall it be implemented by adopting the system of shares, or simply follow the views expressed by many Honourable Members just now? I think the Secretary should allow every one of us to take part in the discussion on this topic openly. It is because no matter the threshold is set at 90% or 80%, if this problem remains unresolved, I believe the controversy will never end. I have no intention to require the Lands Tribunal to put in more efforts. However, after reviewing so many cases, I have arrived at such a conclusion. If we do not start discussing it, we will only keep on repeating such arguments. I also hope the Secretary can clarify a point in her speech later, that is, a recent transaction of \$3,000-odd per sq ft for Kai Yuen Lane, North Point, which many Honourable Members have mentioned just now. I remember that I also enquired about this in the Subcommittee. According to my understanding, the price of \$3,000-odd per sq ft was not what owners received eventually. As far as I can remember, the clerk told me at that time that the price was \$10,000 instead. I was assured after learning about it. However, I also hope the Secretary can make a clarification later, telling us the amount that small owners received from the compulsory sale of their properties eventually.

Frankly, I believe that controversy on whether the Lands Tribunal has played its gatekeeping role properly will arouse, no matter the threshold is set at 80% or 90%. After reading the judgment of the above case, I believe even if the Lands Tribunal puts in more efforts, such problems cannot be resolved. I then ask myself, if there are still similar controversies, will I refuse to give my support to the lowering of the threshold as a result? As mentioned by Dr Priscilla LEUNG just now — in fact, she makes this statement frequently — the existing legal aid system is most unfair. The situation that the judicial system in Hong Kong fails to uphold justice is not only found in compulsory sale. Under such a situation, should I wait until the controversy is settled and every one is satisfied before giving my support to the lowering of the threshold to 80%? Personally, I hope that there can be a proposal acceptable to all, so that we can continue to make a step forward. However, in reality, can we continue to move forward without controversy? I think this is only an ideal. Even if the Secretary makes a thorough consideration in future and puts forth an arrangement which can really allow small property owners to participate in the process of private development — say the system of shares I have just mentioned — will there be no objection at

all? Will all of us be satisfied? It is because there are bound to be disputes when distribution of interests is involved. What shall we do then? Deputy President, I have also faced a dilemma in deciding how to cast my vote. But after all, I do believe that there is a need for Hong Kong to expedite redevelopment in the old districts. Moreover, I think small property owners also wish to improve their living environment.

Lastly, as I still have some time left, I feel obliged to talk about something. Some Honourable Members have mentioned the nuisances currently faced by small property owners. These are all true facts. I believe that if the threshold of compulsory sale is really lowered, those groups, such as the Richfield Group, will certainly conduct acquisition by employing various means. In order to threaten and force small owners to sell their properties, they may even resort to some despicable means, such as cutting their water and electricity supplies. I hope the Secretary can address this problem. I think the bargaining power of small property owners may not necessarily be weakened with the lowering of the threshold. On the contrary, it may be possible for developers to offer them a better price in view of the higher chance of acquisition. This we will not know. However, it is definitely improper to employ such means to force small owners to sell their properties. I hope the Secretary can make a commitment in this regard later. I also think that the best solution is to ask the Hong Kong Housing Society to take charge of it, telling those small property owners being affected that even if their asking price cannot be offered, it is not necessary for them to lower it. It is because there is a very important gatekeeping element in the legislation on compulsory sale, that it should be agreed by the majority of the owners, that is, the threshold of 90% or 80%. If it is only required to obtain consent from 80% of the owners, many people may be forced to give up their assets. Even if they can get a sum of money to improve their living environment, they will not be happy about it. Therefore, how should we convey this message to the small property owners? In fact, their major gatekeeping point now is that the process of compulsory sale can only be commenced with the consent of 80% of the owners. I hope the Secretary can address this problem squarely. I do not wish to see that the endorsement of the legislation on compulsory sale will give rise to such problems in building acquisition.

Deputy President, I so submit.

**PROF PATRICK LAU** (in Cantonese): Deputy President, I believe you might not have expected that we would spend so much time on this issue, but I think it is very important for us to do so. Now that so many deep-rooted problems are prevailing in Hong Kong, having listened to these remarks, I miss the former Chief Executive, Mr TUNG Chee-hwa, somehow. Why am I saying this? If Members can still remember, the former Chief Executive, Mr TUNG Chee-hwa, once proposed that 70% of Hong Kong people should have their own properties. If this policy of his had achieved success, there would not have been so many disputes. Not only do young people want to buy flats, the elderly also wish to change to other flats, which is all about the issue of property ownership.

Therefore, I would like to do an analysis on the mode of development in Hong Kong, so that we can examine the issue together. Actually, the natural development of each city is vitally important. Even the 10 major infrastructure projects were proposed by Mr TUNG, and now we are implementing them, and the Secretary will complete this task for him, which is very good. It is precisely because of these infrastructure projects that we carry out urban renewal; otherwise, why would there be urban renewal? Therefore, urban renewal, community and environmental enhancement are directions which should be followed by each and every city. I think the subject under discussion today is one of the solutions to the problem of the overall development of Hong Kong.

Members have received quite a lot of submissions from different parties, and there are lots of complaints as well. Some people even queried whether the Secretary has acted in accordance with the Basic Law, which was also a question raised by a Member just now. I now read out the Basic Law to see what Members would think. Article 105 is about this: the Hong Kong Special Administrative Region shall, in accordance with law — the word "law" in "in accordance with law" is very crucial. Therefore, I have great respect for all lawyers and professionals, including the Deputy President, as they can provide explanations from the legal perspective. Dr Priscilla LEUNG also explains laws to me all the time — protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property. Therefore, if there is "law", there is no reason why we do not discuss it here today. We are precisely discussing law, and that is the lawful deprivation of the property of individuals, and most importantly, the right to compensation, which we are also discussing now. Therefore, let us put aside for the time being the question as to why some people said the Secretary is challenging to the Basic Law, which is indeed

baffling to me. I hope this issue will not be discussed anymore because we must respect the Basic Law.

Mr TUNG was the first Chief Executive to promote the Basic Law, which made the establishment of the Government of the Hong Kong Special Administration Region (SAR) possible, and this is precisely why I miss him. He spent a great deal of time to discuss with me the overall development of Hong Kong. However, as all of us know, he resigned from his office due to his leg ailment.

Back to the subject today, there are actually two sides to the problem. The Deputy President's remark just now was well made, and she pointed out one side of the problem; and the other side was also discussed by Mr Paul CHAN just now, that is, some people are trying to hinder development, while others feel that their right of development is not protected. I think we must look at the problem from both sides, and that is why seven meetings were held by the Subcommittee over a short period of a month or so. As Mr CHAN Kam-lam was out of town at some time, I chaired two of the meetings for him. I found that as the Chairman, I had to pay close attention to remarks made by Members instead of watching the television, looking around and talking to different people from time to time as I did before. The Chairman has to pay full attention to comments made by various Members.

Many people said this exercise was too hasty. Actually, the Secretary was right in saying that she had raised this issue repeatedly and attended several meetings of this Council in relation to this back in 2006, and I also remember listening to her presentations on several occasions. Therefore, I believe she has given thorough consideration to it. Why did I say so? One of the reasons why we objected to the proposal was this Notice did not only propose changing the threshold from 90% to 80%, but the most important factor was the relevant age of buildings. I remember very clearly that when the professionals proposed changing it to 30 years or 40 years to expedite the urban renewal process, the Secretary agreed to set the relevant age of buildings at 50 years only after extended consideration. I took exception to this. Actually, some buildings having reached the age of 50 are still very pleasing to the eye, right? But the Secretary has to decide after all which buildings are more dilapidated, and she has to do so based on their age. As an architect, I think buildings aged 30 may probably be in a very rundown condition, and I also know if the construction

works of buildings are defective, many problems, such as water leakage or poor repairs, will arise. This is precisely where the problem lies.

However, I think the most important aspect of the discussion today is every small property owner regards his/her property as an asset, which is considered as very important in Hong Kong. Why? The reason does not lie in the buildings because not a huge amount of money would be spent by builders on constructing the buildings, but the largest portion of the costs goes to the land premium. Many people mentioned the high land price policy and the issue of who had started it all, but let us forget about this issue and the problem of a huge population in a small area for the time being. Actually, it is the land resources instead of the construction costs which account for a larger proportion in the valuation of our property. Many Honourable colleagues mentioned the issue of building maintenance, but it is only the land in which the value lies. No Member has mentioned this point today, but it is the value of the land that matters. Just like Mr Abraham SHEK, as he is the representative of developers, he knows that land is vitally important. The key point is the location. Where is it located? The prices of land in Shamshuipo and that on the Peak are vastly different, which is exactly where the problem lies.

I have heard many property owners say that they hoped to receive fair and reasonable compensation. Actually, Ms Starry LEE was right in asking why we did not discuss the ways to enable small property owners to carry out redevelopment on their own or receive satisfactory and reasonable returns through redevelopment. Just now, Mr Ronny TONG said there were criticisms about the credibility of lawyers and surveyors. This is a very important issue. The initiative cannot be carried out without these two groups of people because without surveyors, there would be no way to determine the value. Actually, the value refers to the value of not the building but the land, which in turn helps determine the redevelopment potential in the future. In this respect, therefore, we need the co-operation of lawyers and surveyors to provide assistance and services to small property owners.

I think small property owners in Hong Kong should have many options in enabling the continuous development of their buildings. Unlike foreigners, the people of Hong Kong are seldom willing to work together. There are many overseas experiences and instances in which small property owners teamed up to develop a certain lot in collaboration. The reason why I have not talked about other issues is, as Members should know, developers may carry out development

by land acquisition or various other means, as many people may well be aware of. However, when it is said that developers have grown so fat that they cannot even pull up their socks, why do small property owners not take up the role of developers? This is actually feasible, just that not many people have thought about it. What they own is the value of not the buildings but the land. However, what are the factors affecting the price of land? There are a few of them. Besides the factor of location mentioned just now, there is also the development potential in the future. What is development potential in the future? It is certainly the plot ratio, the floor area it will provide for coverage in the future and the time required, which will in turn determine the amount of profit to be made by selling the development project in the future. Therefore, if small property owners are listening to my remark now, I hope they will work together to carry out development.

Actually, some parts of this legislation can facilitate this approach. Mr WONG Kwok-hing proposed establishing a mechanism of mediation, while Dr Priscilla LEUNG proposed setting up an arbitration mechanism to resolve the relevant problems. That is to say, majority and minority owners can work together to resolve problems without the need for the Lands Tribunal to determine the selling price through compulsory land sale. Actually, even if a price is to be determined, it should be a matter of the overall development in the future. Therefore, insofar as such a densely populated city as Hong Kong is concerned, development potential is crucial. I therefore consider that the Secretary should make some effort in this area. Just now I heard Ms Starry LEE say there was little the Hong Kong Housing Society (HKHS) could do at present. In that case, can it provide co-ordination for small property owners so that they can carry out a development in collaboration? This may be a better solution than compulsory sale.

After all, Deputy President, much can still be said about the development of Hong Kong because there is also the issue of environmental protection. Nowadays, everyone is talking about green buildings, and sometimes there is actually no need for demolition as many approaches are available. What I want to say most is we should give more options to small property owners so that those who would go for co-operation can do so, those who want to sell their properties to developers can go ahead, those who want to move out can move to other places, and those who want to stay can stay. These are options we have not taken into consideration.

Actually, I appreciated the work of Mr Abraham SHEK very much when he was working with the former Land Development Corporation (LDC). Once when I visited a building in Mong Kok with him, many people shook hands with him in gratitude. When I asked him why it was so, I found that the former LDC constructed some buildings for those owners in order to arrange in-situ rehousing for them, and they liked living there very much. Therefore, many approaches are available. Moreover, many measures were taken by the former LDC back then, but for reasons unknown, those desirable measures were totally forgotten when urban renewal was carried out after the enactment of a new piece of legislation. Therefore, I very much hope this problem can be resolved at the conceptual level. Regarding the legislation under discussion today, Members have to cast their votes in the end, and many Members have put forth lots of insightful ideas. Actually, I have heard all of these problems when I took the chair on behalf of the Chairman, just that there is no way to resolve them. Many Members said just now that not all the problems could be resolved.

Do we need a new direction? As Ms Starry LEE has raised this question, I would like to talk about it. I very much hope owners can pull their forces together and co-ordinate their efforts on their own initiative. If they are not satisfied with this piece of legislation, they could make other proposals, just that they must do so in accordance with law. The legislation proposed today, that is, the present Notice, seeks to effect improvement, and this is actually just an improvement. Some people may not think so, and they may have other ideas. This I may well appreciate. But the Secretary has undertaken to establish a mechanism of mediation in the future. Under these circumstances, I hope all small property owners can rest assured. As an architect, I fully understand the potential and benefits of development, but if buildings owned by small property owners do not offer great development potential in Hong Kong, difficulties will arise. Just now, I mentioned how valuation is carried out by the Lands Tribunal, and actually many considerations are involved. Therefore, I very much hope this issue can be resolved satisfactorily. Thank you, Deputy President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Deputy President, the discussion today is on lowering the threshold for the compulsory sale of lots with aged buildings. From many Honourable colleagues' remarks, I can find that Members both for and against this initiative have made the same points. In other words, Members have many ideas in common, for example, they understand very well

that the living conditions in these buildings are very poor, and they want to address the hazards and the issue of environmental hygiene as soon as possible. Both sides share these ideas and do not have any divergent views.

Besides, I have also heard them talk about community enhancement, that is, they think the community should be redeveloped and renovated so as to at least provide people with a good living environment and a nice cityscape. This is something that no Member will object. Some colleagues, such as Mr Abraham SHEK, kept urging us elected Members to visit more the districts and acquire a better understanding of them. Actually, everyone understands this, and elected Members understand it all the more ..... I am not saying Members returned by functional constituencies do not. Regarding this situation, however, one does not have to be a Member to understand it, and everyone living in this community has expectation on the living environment. Apart from these two shared points, there is also the legal issue raised by Prof Patrick LAU just now.

Insofar as the legal issue is concerned, Members have a consensus and they have quoted the Basic Law in their speeches. Prof Patrick LAU said just now the Basic Law stipulates that we must act in accordance with law, and some Honourable colleagues also quoted some provisions in the Basic Law in their speeches. For example, Article 6 stipulates that "The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law", and Article 29 provides that "The homes and other premises of Hong Kong residents shall be inviolable.". These are constitutional provisions, and I reckon everyone thinks we should act in accordance with law. As Honourable colleagues said, we should attach importance to these two viewpoints. However, the problem is despite having expressed the same ideas, Members seem to have come to different conclusions, which is a shame. In particular, regarding the approach proposed by the Government today, I wonder whether adjusting the threshold from 90% to 80% in a broad-brush manner is the best solution.

Having heard many Honourable colleagues' remarks, I know Members are all aware that the problem lies in the question of how the interests of small property owners can be protected under this approach proposed by the Government — let us put aside the query as to whether there is collusion between business and the Government and favoritism towards consortia and developers —



assuming that the threshold will be adjusted from 90% to 80%. How can they be protected? This is a most crucial issue. Ms Starry LEE mentioned an even more crucial point just now and that is: How can their right of participation be assured? The Government has totally neglected these two points in this legislation. Even if we assume that the authorities have not neglected them, not enough effort has been made in relation to them, which has made small property owners query what protection has been afforded them.

Frankly, the owners do not like the existing living environment. Who would? The biggest problem, however, is that this is the living environment they are in now. But what about in the future? If this legislation is passed, what they have now will very likely be taken away from them. In this respect, the Government's current approach cannot offer them any protection or give them confidence. In enacting legislation, the Government has to make sure that the public have confidence in it. Undoubtedly, it has now given developers and those people who are willing to redevelop aged buildings confidence. How about the confidence of small property owners? They have no confidence at all, which is exactly the problem. This makes people think that if this legislation is really passed and implemented, high-handed measures will be taken, and ordinary people will then have no say at all.

Deputy President, the Lands Tribunal, for example, is a very typical case in point. Before the reunification, the Wah Kai Industrial Centre was resumed by the Government to give way to the West Rail project, but the problem of compensation to a few dozen commercial tenants has not been resolved so far. The Lands Department kept saying that no more discussion would be conducted with them, and if they were dissatisfied with the compensation, the case could be referred to the Lands Tribunal. Deputy President, they are small shop operators and relatively rich people — just relatively but not really very rich — but they dared not initiate a lawsuit. Why? Because once a lawsuit has commenced, they have to pay the costs first, and the lawsuit may not necessarily be successful. Even if it is, will the amount of compensation be acceptable to them? Usually not. There were certain small shop owners who were unable to receive the amount of compensation they desired, despite their successful lawsuits, and there was a huge gap between the amounts they wanted and the amounts received.

In that case, what should we do? I agree with Starry LEE that it is not that the Lands Tribunal is irresponsible. But what is the use of it exerting its utmost? From the documents, we can see that it was unable to protect the interests of the public in the end, and the relevant members of the public were unable to receive the amounts of compensation they wanted. This is undeniably a hard fact supported by actual instances.

Therefore, by saying that the case will be brought before the Court if the people concerned are dissatisfied, the authorities are categorically bullying ordinary people. How can they resort to a lawsuit? They are indeed unable to do so. How can they file a charge? This is indeed out of the question. So, talking about the spirit of the rule of law, we have to go back to the Basic Law. What does the Basic Law say on this? Under the Basic Law, if a property is a property of an individual, private ownership is involved, and respect and protection should be rendered to the individual. With this approach, however, the Government has not given regard to the interests of 20% of the owners — if the proposal to lower the threshold to 80% is passed. I think they also hope redevelopment will be implemented expeditiously, but what will happen after the redevelopment?

The Government has to resolve their problem first. If it cannot be resolved, what can they do? Just as in the case of the small property owners of the Wah Kai Industrial Centre, it has been over a decade now but some of them were unable to obtain reasonable compensation even after actually sacrificing their lives — some committed suicide while others plunged from a height to death, and those who survived the plunge sustained injuries or broke their legs. How pitiful! Why? Because they were dissatisfied with the compensation. Most pitiful of all, they considered themselves being exploited and stabbed by a knife, suffering injuries all over their bodies. Therefore, I think no one will object to urban renewal, but the question is how to make small property owners feel respected, safeguarded and protected in the process of redevelopment and revitalization, which is vitally important. However, I do not see that the approach adopted this time can achieve this purpose.

Starry LEE put it very well when she said that small property owners also wanted to have the right of participation. However, does this legislation say anything about this? Does the Secretary's approach say anything about this? No. For this reason, I assume the Secretary is not throwing tantrums today, but

the fact is, I think she has failed to give thorough consideration to the details. Small though the number of small property owners is, the biggest problem and the crux of the matter lies in how we can make them feel respected and protected. They have the ownership of their private properties, but the Secretary is using this legislation to force them to succumb. Is this fair? This is the problem.

I think many Honourable colleagues may well appreciate the plight of small property owners, but they have adopted different attitudes and approaches. The Secretary's approach is more convenient because the only requirement is to obtain 80% of the titles. Some developers may consider the problem resolved as long as 80% of the titles are secured, and therefore they will not care about the small property owners, and this is the problem now. Therefore, I agree with the views of some Honourable colleagues, such as those of Ronny TONG. All the motions today, except those proposed by Cyd HO and Albert HO, should not be discussed. On the contrary, I think it is a good idea to start all over again so that Members can think about it more thoroughly to find out how to make small property owners, particularly the small number of minority owners, feel respected and recognized, which is vitally important.

Regarding overseas experiences, Prof Patrick LAU has put it very well just now. Co-operation — to implement development in the mode of a co-operative society — can give small property owners the right of participation, which is very important. Why does the Secretary not give consideration to this? Why are only developers or large consortia allowed to undertake development? Why should we do that? Is there favoritism? Subjectively speaking, there may not be, but objectively, this has given rise to a phenomenon of collusion between business and the Government. Why? Because this is allowed under a piece of legislation enacted by the Government, right? In any case, therefore, I regard this approach partial and unfair, especially when we intend to uphold the provision in the Basic Law that the homes and other premises of Hong Kong residents shall be inviolable. How can the Secretary ensure that the homes and premises of small property owners shall be inviolable after this legislation has come into effect? Once this legislation is enacted, the homes and premises of small property owners will be violated because they will not be able to voice their opinions anymore. This is my view.

Therefore, as in the case of Wing Lee Street, after listening to public views, the Government has advised today that it will not be demolished, and everyone is very glad. Similarly, if the Government can withdraw this legislation for reconsideration — I am not saying that nothing should be done, and the issue should still be handled expeditiously after this legislation is withdrawn — and make an effort to give regard to the interests of the small number of minority owners, both purposes will be achieved, and it is thus more desirable.

Deputy President, I so submit.

**DR RAYMOND HO** (in Cantonese): Deputy President, under the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (the Notice) tabled at this Council, the Government proposes to specify that the threshold for compulsory sale be lowered from 90% to 80% for the following three classes of land lot:

- (a) a lot with units each of which accounts for more than 10% of the undivided shares in the lot;
- (b) a lot with all buildings aged 50 years or above; and
- (c) a lot with all industrial buildings aged 30 years or above not located within an industrial zone.

Regarding this proposal put forward by the Government in the form of a Notice going through the "negative vetting procedure", I made the following considerations and formed the view that it is acceptable.

The above proposal put forth by the Government does not involve any provision in the principal legislation, which still provides an important framework and has binding effect. Under the Land (Compulsory Sale for Redevelopment) Ordinance (the Ordinance), the compulsory sale application threshold is 90%. However, a provision in the Ordinance stipulates that the Chief Executive in Council may, by notice, specify a compulsory sale application threshold which is not less than 80% in respect of a lot belonging to a certain class of lots specified. The authorities have submitted the relevant proposals thrice to this Council for consideration since 2006, and relevant organizations have been invited to attend

meetings of this Council to give their views on the proposals. Regarding the Government's previous proposal of setting the relevant age of buildings at 40 years, quite a lot of members of the public and related organizations expressed reservation about it. Under the Government's current proposal, this condition has been revised to 50 years or above, so it should be able to remove the public's concern in this respect.

The Government's proposal should be able to facilitate the expeditious redevelopment of buildings aged 50 years or above. Currently, there are about 41 000 buildings in Hong Kong, of which about 4 000 are aged 50 years or above. It is estimated that the number of buildings reaching the age of 50 will rise to about 9 500 by 2019. Some aged buildings are dilapidated, and the living conditions of people in them are very poor. After the collapse of a building on Ma Tau Wai Road, they have even become frightened, living in constant fear. The different expectations of individual owners of aged buildings on the acquisition offers or the aggressive attitude adopted by owners of "nail households" have hampered the opportunities for redevelopment, which has in turn forced other residents to go on living in these dilapidated buildings. This situation is most unfair to them. The proposal of lowering the compulsory sale application threshold from 90% to 80% can precisely provide them with an opportunity to escape from this predicament and the hope of an improved living environment.

If the compulsory sale application threshold is lowered from 90% to 80%, developers should have more certainty in the implementation of redevelopment projects, which will in turn reduce the risk of acquisition and also help reduce other costs, such as litigation costs, thereby resulting in a smaller cut in the acquisition price and thus the offer of a higher acquisition offer to the benefit of small property owners.

Besides, one of the measures proposed by the Government is lowering the compulsory sale application threshold for industrial buildings aged 30 years or above situated in non-industrial zones. As a result of the economic restructuring of Hong Kong and the northward relocation of traditional manufacturing industries, many private flatted factories have been left vacant or underutilized. As at the end of 2008, there were 1 467 private flatted factories in Hong Kong. Among them, about 720 are 30 years or above, of which 580 are situated in

non-industrial zones. This proposal can also facilitate the redevelopment of these aged industrial buildings.

I am also a member of the Subcommittee on Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice) (the Subcommittee). At the meetings of the Subcommittee, many Honourable colleagues expressed some concerns of the people, in particular, the concern that the interests of minority owners may be jeopardized after the compulsory sale application threshold is lowered. I think the Lands Tribunal should be able to perform the role of a gatekeeper in this respect. In determining applications for compulsory sale, the Lands Tribunal will, apart from assessing the age of the relevant buildings, take into consideration their state of repair. In its report to the Subcommittee earlier, the Government also mentioned that in dealing with disputes over the assessed existing use value and/or reserve price of the property concerned, the Lands Tribunal will study the expert valuation reports submitted by both sides and where necessary, pay site visits to the area and the property in question. In this regard, we have to trust the experts. As they are experts, we have to trust their professional standard and valuation. It would not be reasonable to argue over this.

Besides, according to a requirement under the Ordinance, the Lands Tribunal should take into account the redevelopment potential of the lot when determining the reserve price. If there is redevelopment potential, affected owners may appeal against the judgment of the Lands Tribunal on the ground of a point in law. This arrangement and requirement will be able to protect the interests of minority owners.

Some members of the community consider that lowering the application threshold may not be able to address the problem of buildings in disrepair in Hong Kong because more often than not, developers will only choose lots with comparatively high market value for making compulsory sale applications and neglect districts with relatively more aged buildings and requiring redevelopment. The choice certainly hinges on the relevant lot's potential and land area for development. Under the Town Planning Ordinance, this is exactly the plot ratio allowed in the Outline Zoning Plans. Of course, the higher the plot ratio of the lot after redevelopment compared with that before redevelopment, the greater the development potential. Therefore, lowering the application threshold and the choice of lots for redevelopment should not be discussed in the same context.

Some Members of the Subcommittee proposed establishing a mediation mechanism for resolving any disputes between property owners. In this regard, I think in setting up the mediation mechanism, the Government should aim at streamlining the procedures and dispense with the requirement for minority owners to engage surveyors and lawyers in order to save owners' costs.

Deputy President, the problem of an ageing population in Hong Kong has to be solved without further delay. I think the proposal put forth by the Government in the Notice will help enhance the capability of the private sector to redevelop old districts, which will in turn bring benefits to minority owners. I support the Government's proposal. I so submit.

**DEPUTY PRESIDENT** (in Cantonese): Does any other Member wish to speak?

**MR PAUL TSE** (in Cantonese): Deputy President, an Honourable colleague mentioned the movie *Echoes of the Rainbow* today, while I would like to talk about *Avatar*. I do not intend to talk about the post-80s generation, neither will I comment on whether development or conservation should be pursued from a philosophical point of view. There is this planet known as Pandora in the movie, and Members should know what Pandora's box is. Regarding the exercise today, I do not know whether the Secretary feels a bit like opening the Pandora's box. Actually, this exercise was originally very simple, as it was simply to adjust the percentage from 90% to 80% by Notice in the Gazette, with other aspects basically remaining unchanged. However, once the Pandora's box is opened, to put it in vulgar Cantonese, the situation has become that of "catching worms"<sup>(2)</sup>, which may lead to the need to reconsider the entire mechanism. Is this compulsory sale mechanism well-received by the general public in the Hong Kong society nowadays? What weaknesses are there? What are the areas requiring improvement? Over the years, besides functional constituencies, this mechanism is probably another area which the authorities should have improved but failed to do so. Now that the Pandora's box is opened, the consequences may not necessarily be too serious, but I hope this curse will turn into a blessing. No matter what the results will be, any unfairness in relation to enforcement, areas requiring improvement, perfunctory practices and outdated aspects

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(2) This vulgar Cantonese expression means causing oneself unnecessary trouble.

identified during the examination of this mechanism, which has been in place since 1998, should be addressed and rectified without delay.

Regarding the proposal of deferring the implementation for 12 months put forward by an Honourable colleague, even the Secretary said she might consider accepting it to facilitate consideration of the so-called arbitration or mediation mechanism. I hope the Bureau will seriously consider whether it is necessary to do something about the overall framework and operation of the law. If it is, modifications should be made during these 12 months.

Deputy President, I will now spend some time on the Basic Law. Honourable colleagues mentioned the Basic Law plenty of times just now. Actually, to my understanding, the relevant provisions should include Articles 6 and 105, which are laid down in very general terms. Besides requiring the protection of the right of property ownership, it is also stipulated that appropriate compensation is allowed, and consideration should certainly be given to the protection of other so-called human rights. In this regard, I am afraid I am not aware of any new cases on Article 6 or 105 of the Basic Law. Concerning similar protection, however, the Privy Council decided in a case that it does not breach the Hong Kong Bill of Rights Ordinance (HKBORO). The relevant incident happened many years ago, and it was the "FOK Lai-ying" case. This case seemed to have confirmed that compulsory property resumption was in order and in the public interest, and the Court considered that it did not breach the HKBORO. Actually, when this legislation was passed by the Legislative Council back in 1998, this case was brought up and questioned.

Some Honourable colleagues may think this legislation was passed in a hasty manner during the Provisional Legislative Council era, and thus questioned whether ..... if I did not hear Mr Albert HO wrong, he even called them shameless; please correct me if I heard him wrong. I think Members may have some negative opinions about the Provisional Legislative Council, but I think it is not fair to call them shameless for passing this legislation hastily without careful consideration. I traced the development of the situation until about five o'clock this morning and acquired an understanding of how this law was enacted back then. To my understanding, they had actually considered many factors, including all those aspects about which Honourable colleagues have raised concerns proposed and criticized today. It is not that they had not considered these, and it was put on record in black and white. They had even considered



some aspects which we have not thought of today, and I will give an account of them later granting the opportunity. When the law was enacted, some issues were left unresolved, and the situation now is, as I said at the beginning, like opening the Pandora's box, and so comes the trouble. Looking back, what should we do? What do we have to do?

Deputy President, Honourable colleagues have expressed many opinions, including those expressed during the scrutiny of the Notice, and it seems that there is much public opinion today and recently on the issue. Pardon me for making a straightforward remark that those opinions are unrealistic because we are already bound by a broad framework. What we should consider today is only to lower the threshold from 90% to 80% under the existing mechanism, alright? The authorities would not allow us to make all those weird and constructive proposals, including those of Ms Audrey EU. I find it very interesting because with the shares she ..... the Secretary also criticized just now that if an equivalent number of shares are to be offered, no one would undertake redevelopment at all.

In any case, Deputy President, what we have to do at the present stage is basically to consider our *status quo*, the incidents happened, the framework we are now subject to and the original intent of the legislation, in the hope of building in some leeway, so to speak, in the mechanism under certain circumstances, such as defective titles, untraceable owners, owners who died intestate or owners demanding unreasonably high prices, in order to enable the relevant work to proceed without hindering urban renewal. This we all know. Under these circumstances and this framework, basically we only have three options now: first, to stay put, not taking any action and keeping the 90% threshold; second, as presently proposed, to lower it to 80%; and third, besides reducing it to 80%, also to conduct a brief review to find out what issues can be addressed incidentally, including setting up the so-called mediation, arbitration mechanism. Only these three options are available, and we have to look at this issue in a more pragmatic manner.

Certainly, there are basically only three approaches to redevelopment: first, government participation, this is the work of the Urban Renewal Authority (URA); second, private sector participation, in which there are two approaches, and one of them is industry-initiated. The process is co-ordinated by the industry on its own initiative, and redevelopment will be carried out only after a

consensus has been reached. This is certainly the ideal case, and it would even be better if some builders would participate in the process. And third, some builders, or just estate agencies instead of large builders, may initiate the process. I will not mention their names as Members may have already done so. They will make some efforts first and when the process is completed, they will sell all of them to large builders for profits or even for reaping huge profits. We may decide not to carry out redevelopment, but if we have decided to do so, what protection is there? We may be like people in the story of the Blind Man and the Elephant, approaching the issue from different perspectives. Some may say that it is dreadful for owners to be compelled to move out; while others may say it is equally dreadful for owners to be unable to move out even if they want to; and most owners between these two extremes may find out, only after they have received their payments, that their properties could be sold at very high prices in the future and bring more profits. Greed is human nature, and this is only natural. Therefore, they will not be satisfied either, and basically, no one will.

However, if we would still act for the good sake of urban renewal, there must be a mechanism after all. Taking reference from places such as Tokyo and Taipei, different places certainly have different ideas, cultures and philosophy. However, Hong Kong has its unique characteristics, and we have been moving forward all along, and also in a very progressive manner, pulling down the most beautiful buildings in this course. Frankly, Wing Lee Street should not be preserved. Certainly, however, political considerations are involved. I hope the announcement today will serve as a lubricant and be of some help to us. For me, however, even if I am interrogated with torture, I will consider it better to preserve So Uk Estate, where I used to live, than Wing Lee Street because it is after all a special housing estate of the Below the Lion Rock era.

In any case, Deputy President, I have this view. I do not know whether Honourable colleagues have reviewed the entire incident. After listening to Dr LEUNG Ka-lau's question, I have given some thoughts to how his request could be satisfied, that is, how various factors could be weighed on the existing scale. When the legislation was scrutinized on 10 February 1998, the then Principal Assistant Secretary for Planning, Environment and Lands, Mr Richard LUK Fong-chun, said in relation to protection that "consideration could be given to specifying in regulations to be made under clause 12 the factors to which the Lands Tribunal should have regard". This stated expressly that a framework

would be developed to allow the authorities to impose a host of considerations in the subsidiary legislation. The one I have in hand is the copy of the Legislative Council, but it seems to me that the Government has never done anything about it. Although Richard LUK Fong-chun — I do not know whether "Fong-chun"<sup>(3)</sup> means fake — said there would be subsidiary legislation, there has never been any. Subsidiary legislation is actually very useful. Let us refer to the relevant provision. Actually, the Secretary told us in the letter that there are two fundamental considerations ..... sorry, I have to turn to the right page first. The first one concerns the age and state of repair of the relevant development, and the second one concerns the majority owners, that is, whether the majority owners have taken some reasonable steps to acquire the relevant minority shares.

Actually, apart from subparagraph (i), there is also subparagraph (ii) in section 4(2)(a) of the legislation, which states "on 1 or more grounds, if any, specified in regulations made under section 12", and I read it out in Chinese: "根據第12條訂立的規例所指明的一項或多於一項理由(如有的話)". Section 12 stipulates that "The Secretary for Development may make regulations — (a) specifying grounds for the purposes of section 4(2)(a)(ii); (b) specifying matters to be taken into account for the purposes of section 4(2)(b); (c) specifying matters to be taken into account in the nomination or appointment of trustees to discharge the duties imposed on trustees under this Ordinance in relation to the lot the subject of an order for sale; and (d) generally, providing for the better carrying into effect of the provisions and purposes of this Ordinance." This has almost opened the entire box so that any time the Secretary has any consideration, including those raised by Dr LEUNG Ka-lau and Honourable colleagues just now, such as collaborative development; whether they should be allowed to bid in a tender; whether the URA should participate in it or shore up the price; and whether the consent of 100% of owners is not necessary for collaborative development or making a bid in the tender, a framework is already available in the original legislation for the Secretary to attach to it a subsidiary legislation.

As I said just now, when the legislation was passed, the Government said the above effort would be made, and actually the legislation *per se* has opened the box for us, just that nothing has been done by the Government over the years. As nothing has been done, the present situation seems to have caused great

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(3) In Chinese, "Fong-chun" ("仿真") means imitation or replication.

troubles. Out of the 64 applications, 21 have been processed and concluded, but it seems that many people are very dissatisfied. What should we do now? Now, we have to move forward, not turning back. In order to move forward, I have the following suggestions. First, the legislation has to be passed without further delay because discussing without making decisions and deciding without taken actions is not a proper approach for the SAR Government; second, I would tend to listen to the Secretary's response first to find out whether a 12-month buffer period will be available for us to ponder over what elements can be added outside the scope of the original legislation to enhance the effectiveness and protection. Besides the mediation or arbitration mechanism ..... actually all of these may not necessarily work because, as all of us know, only cases in which consensus cannot be reached will be decided by the Lands Tribunal, and only when a decision cannot be made can an appeal be filed. But the point is at least a mechanism has to be put in place. More importantly, however, I hope the Government will carefully consider during this period of time whether measures which should have but have not been taken can be included under the existing framework so that the protection requested will come into effect at once. As all of these will be subsidiary legislation, they can be processed quickly and easily. I believe if the authorities introduce the subsidiary legislation into this Council, Members will agree to spare no effort to help. These 12 months can allow us to find out what reasonable circumstances can be included. If the authorities agree with this, I believe not only will Members of the pro-establishment camp support the Government straight away, Members of the opposition camp will also think over it, and in 12 months' time, will it be more ..... all of us hope to boost the economy, and this is a good way to do so.

I am afraid there is no time for me to talk about issues mentioned by Honourable colleagues, such as the issue of attaching greater importance to quality than quantity and the credibility of lawyers. Due to the time constraint, I will not respond to them, although I intended to. In general, I would like to reiterate that this may be an opportunity for turning a curse into a blessing. In the beginning, a blessing might have turned into a curse, but now a curse may be turned into a blessing, which will enable us to consider seriously and pragmatically how we should move forward to make the mechanism as fair as possible: pursuing redevelopment on the one hand and protecting members of the public on the other.

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up.

**DEPUTY PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Deputy President, I am very grateful to Members who have spoken and they have talked about their views on this controversial subject. In the long speech I made earlier, I responded to the points made by the six Members who have proposed respective amendments. So the focus of my speech now is on the views advanced by other Members.

(THE PRESIDENT resumed the Chair)

Since Mr TSE is the Member who has spoken the last, I will start with his speech. First of all, I must say that Mr TSE is very hardworking and he has reviewed all the discussions conducted during the deliberation stage as well as the existing Ordinance. I do not know if this event has opened a Pandora's box, but even if it has, we will cope with the matter in a very pragmatic manner. But if the discussions have caused any negative impact on or criticism directed against certain organizations or professionals whom we have paid much respect and admired, this is the last thing I would wish to see. Examples of such persons are Members of this Council or Members of the Provisional Legislative Council who deliberated seriously on this resolution previously and passed it into law. Or the Judges in the Lands Tribunal who have worked hard as gatekeepers for more than a decade on this piece of legislation, as well as the professional surveyors who have helped them. Or the surveyors from The Hong Kong Institute of Surveyors who deliberated on this piece of legislation in 2006, 2008, 2009 and recently. All this is because a surveyor, Dr POON, has written to the Legislative Council saying that to his surprise, when he attended a meeting here, some people made the criticism that surveyors had so much vested interest and many business dealings that they could not be fair. All these are things I do not wish to see. But as for the Pandora's box mentioned by Mr TSE, if it is opened, I am afraid

there is nothing to be done about it. We must deal with this in a serious and pragmatic manner.

This Ordinance has been in force for more than a decade. By working through the objectives, spirit and protection at the time the Ordinance was enacted, as well as the gatekeeping role played by the Lands Tribunal, I really do not think we have made any of the so-called serious blunders which many Members have talked about, not even to date. But with respect to mediation, on the question of whether or not some of the latest views can be taken on board, especially with respect to the disputes on land and properties between owners, we can think about whether or not a way of handling things which will not result in so much resistance can be adopted. This we would be glad to follow up.

The most important provision mentioned by Mr TSE is of course section 4(2), which is about the grounds which the Lands Tribunal would need to be satisfied before an application is granted after hearing. These grounds are: first, the age and state of repair of the existing development on the lot in question; second, the majority owner (that is, the applicant) has taken reasonable steps to acquire all the undivided shares in the lot and such steps have included the use of fair and reasonable terms and conditions to discuss the purchase of undivided shares from the minority owner. What Mr TSE has said is correct. Section 4(2)(a)(ii) stipulates that if some regulations have been enacted, the Lands Tribunal will certainly consider them, but as Members who have taken part in making laws will know, often times the principal legislation will confer powers on the authorities concerned to make regulations. However, the exercise of this power would depend on the actual situation. Since the Lands Tribunal has done a good job over the past decade or so in gatekeeping and interpreting what is being fair and reasonable and in the adoption of reasonable steps, we have never invoked section 12 to make regulations. This is something I can confirm here.

Perhaps let me first respond to the few Members who have said time and again that what we are doing is like snatching or affecting private property rights. I understand that when mention is made of work related to real estate development, owing to the public image of the real estate sector in Hong Kong, both the Government and I might be doing something like sailing a boat against the currents. We need to use great efforts to prove to Members that what we are

doing are for the interest of the public at large and for the protection of the rights and interests of the small property owners.

So I would like to stress that the core issues related to the discussion on this Notice are not that the Government is luring developers to undertake redevelopment by offering them benefits. I have heard a Member say that the purpose of this Ordinance is to lure developers to undertake redevelopment. The Ordinance is not an attempt to transfer interest to developers, still less is it blatant neglect of the right to private ownership of property. I must point out as in the long speech I made earlier that this so-called right to private ownership of property is not a right to private property of the individual in the absolute sense. It involves undivided shares and it is a property right shared by all owners. They have to manage together this right of property for the purpose of furthering common good. The law enacted by us seeks to use a legal framework to help these owners of a common property right achieve a common good and solve the problems faced by them.

So with respect to the speeches made by Mr KAM Nai-wai, Mr Ronny TONG and Mr Frederick FUNG, I would think that the one made by Mr FUNG is more straightforward and more acceptable to me. This is because he is a man of principles. Actually, I cited an example about a valuable wrist watch in the speech I made at the beginning of the debate and if my memory is correct, that example comes from Mr FUNG. I do not fancy Mr FUNG would support an ordinance of this sort because he is certainly a man of principles. In a word, things that we own cannot be taken away by others, no matter if it is a matter of majority shares or minority shares. I respect him very much for his pursuit of quality in life and his values and principles. On the other hand, Mr Ronny TONG asked why in this matter the minority had to submit to the majority. Often times, it is the minority that we have to protect. It seems that he has misunderstood the core issues that I have said. With respect to this matter, actually, we respect all individual small owners. However, in some matters, there is a tendency that people are inclined towards the views of the majority of small owners and it is just that the minority of small owners think the other way.

A number of Members have mentioned the Basic Law. I am very grateful to Mr TSE for that. In fact, when we first examined this resolution, he had mentioned that the resolution was in some ways related to the Bill of Rights. At that time, the Administration gave some explanation and Articles 6 and 105 of the

Basic Law ..... One of the cases of the Lands Tribunal is the case of Kam Kwok Building in Wan Chai and a ruling was made. The judgment on that case is very detailed, but I am afraid I cannot comment on it owing to the time constraint. In both Articles 6 and 105 of the Basic Law, a very important expression is "in accordance with law". Since there is a Land (Compulsory Sale for Redevelopment) Ordinance which stipulates the methods of protection, so any action should be made in accordance with law. Likewise, if the Administration is to deprive someone of the right to private ownership of property, it is done in accordance with law. It is done in accordance with our Land Resumption Ordinance and in public interest.

Some people have asked what other intention we have in lowering the threshold and what our bottomline is. After the threshold is reduced to 80% of the undivided shares, would it be further reduced to 70%, 60% or even 50%? I can tell Members that I am afraid no public officer in charge of such matters will have the guts to push through an amendment to this Ordinance again. I must point out that when the Bill was under scrutiny, that is, back in 1998, actually a percentage was mentioned and at that time, the percentage proposed was 75%. This is because many old buildings in Hong Kong — we used to live in such buildings when we were young — that had three floors above the ground-floor shops. So there were four undivided shares. At that time, it was proposed that 75% would be ideal. But after lengthy discussions, and after considering the fact that these were very sensitive issues, this percentage point of 75% might be on the low side as well. Just now Members have cited examples to show that when compared with a number of cities in Asia, this percentage of ours is still too high and that even if it is reduced to 80% and given that it is only applicable to buildings which are 50 years old, the percentage is still high. However, I am convinced that it requires great courage and strong justifications before this threshold can be lowered to any point under 80%.

Mr LEUNG asked me to further elaborate on the work of the Lands Tribunal in this regard. As I have said earlier, if anyone who has ever read a judgment on any case tried at the Lands Tribunal, he would be deeply impressed by its serious and rigorous attitude. So when Mr Starry LEE and other Members have read such judgments, they will understand that the Lands Tribunal takes an independent approach to every case. It does not just look at the report submitted by an applicant and it will take into account the views of professional surveyors in the Lands Tribunal and it would even make an on-site inspection before it is



satisfied. From some cases we can see that the Lands Tribunal does not fully accept the information submitted by applicants.

With respect to two very important gatekeeping criteria, that is, building age and state of repair, I had pointed out in the motion debate on that occasion that when we had a chance to re-examine this piece of principal legislation, I would be very glad to ..... Some Members are worried like Ms Miriam LAU that these criteria of building age and state of repair are not foolproof. This is said despite the fact that Ms LAU has said that the criterion of building condition is used in the numerous cases heard at the Lands Tribunal. I have seen that in a Lands Tribunal case, the word "or" is given an interpretation of what good it might bring. It points out that the advantage of building age or state of repair is that one factor may be considered and two factors may also be considered together. But it is inclined towards attaching greater weight to the condition of the building. So an example was cited in the case of a building which despite the fact that it was not very old, it had unfortunately been severely damaged by a great blaze. Hence the Tribunal formed the view that no maintenance and repair can be made to that building. Under such circumstances, it can adhere to just one single criterion and give approval to that case solely on the ground of the state of repair of the building in question.

President, you may have noticed — I have also sent that letter to you — that what we are doing today is not simply to change that word "or" into "and", but we would consider making the state of repair a prerequisite so that the Lands Tribunal can be in a better position to let people know that the state of repair is the most important factor to be considered, such that people can rest assured. This is because the age of a building cannot completely decide whether or not a building is to be redeveloped and if a building is well-maintained, its life can be very long.

Also, among these old buildings, there are some buildings with a cultural character that we would love to conserve. For these buildings, we would almost not consider their economic life. And at times we would protect and preserve such buildings at all costs. An example is Mei Ho House which is the first public housing estate in Hong Kong. Later on we will submit a proposal to the Panel on Development and then we will apply to the Finance Committee for a funding of \$200 million to restore and conserve it. Some people say that it

would cost less to demolish it for redevelopment. But for purposes of conservation of cultural relics, it is essential to make this financial commitment.

The second criterion that has to be complied with is that it must be fair and reasonable. This involves two things; first, the procedures must be reasonable, that is, the majority owners should take reasonable steps to acquire the undivided shares of the minority owners. Also, it is stated in the provisions included in the brackets of the relevant Ordinance that this so-called reasonableness includes the use of fair and reasonable terms and conditions to enter into an agreement on the purchase of undivided shares owned by the minority owners concerned.

Hence we are given a good opportunity in this respect. As I said in my first speech when I introduced the mediation mechanism in our follow-up work. Just as Dr LEUNG Ka-lau has said, a lot of options can be added to the operation of this mechanism. Apart from cash, we can also consider other options. Of course, if the case concerned cannot be resolved after attempts at mediation, when it is brought to the Lands Tribunal, it is the job of the Tribunal to make sure that during the mediation, whether the two parties concerned are sincere in taking part in the mediation and if not, this would affect the view of the Tribunal on the case.

In other words, the view we hold now is that when mediation is undertaken, the mediator may work by way of communicating with the parties concerned to explore their needs and what they can possibly afford. An example is, apart from the value of the unit concerned, are there any other options such as a flat in exchange of a flat or a shop in exchange of a shop? Or can other ways of subsidy be used, such as meeting the demands of owners and help them buy or rent a similar commercial or residential unit in the same district? With the help of a mediator, the parties concerned may make proposals that will take into account their respective needs. Such proposals may in fact exceed the powers vested in a Court under the relevant Ordinance, and such proposals can only be made after an agreement is reached between the parties concerned. I hope that this point I have just made can respond to the comments made by Mr LEUNG. Mr LEUNG is a very practical person and he has said that he would not be so rigid as to demand that a flat be exchanged for a flat in each and every case and other options can be looked into as well.

On the options, I must talk about how, after a compulsory sale order is issued by the Lands Tribunal, the upset price of a public auction should be handled or how valuation should be done. In this matter, I have a deep impression that accountants and architects can grasp better the economics of real estate development in Hong Kong. They have more of a concept of value-addedness. As a matter of fact, when a majority owner is to make an application to the Lands Tribunal, he must submit a recent evaluation on the existing use value, that is, one that covers the situation of the past three months. This existing use value is very important, in that, firstly, it enables the Lands Tribunal to determine whether an application is reasonable or not; and secondly, when payment is to be shared out later, this existing use value will be adopted as a benchmark.

However, when the reserve price is approved, there is also the redevelopment value to be considered. We must not forget that when the Urban Renewal Authority (URA) is to make out compensation, it does not consider this redevelopment value. The URA gives compensation according to the value of a seven-year old building. I think Mr Abraham SHEK will understand it because he has worked in the Land Development Corporation for a long time. The amount of compensation paid out under this Ordinance may be greater than that paid out by the URA. The actual amount of compensation will depend on the land economics which I have talked about earlier, that is to say, how much development potential this plot of land has got and how much potential it has for growth in value. The potentials for development and growth come from the plot ratio of that lot, that is, the ratio allowed in the Outline Zoning Plan and the location of the plot of land. Some Members would know that location is of vital importance to real estate in Hong Kong. People often say, "Location, location, location". So why are there so many cases on Hong Kong Island? This is easy to understand, and we will understand why there is such a phenomenon when we look at the question together with the land lease. This is because there are many unrestricted leases on Hong Kong Island under which regrant premium is out of the question.

Originally I told my colleagues that I would refrain from talking about cases by all means today. This is because whenever cases are mentioned, it may make some people feel uneasy and on the other hand, this will make people think that I am using cases to make my points more convincing. However, since a number of Members have asked about some cases, I cannot help but talk about them in response.

First, of the redevelopment projects carried out in the past, there are two most successful ones that are often cited. First, The Belcher's and the other is Lai Shing Court in Tai Hang. The latter is the development called Serenade which will be put up for sale today. These two cases do not owe their success to any collective bargaining regime that Ms Cyd HO has talked about. Although some collective bargaining might have been conducted in these two developments, the major reason for their success is the development potential that I have just talked about, that is, land economics. The plot ratio of the development at The Belcher's at that time was less than one fold and according to the development plan at that time, the plot ratio allowed in the site of The Belcher's was eight times, so it is a viable development project without even resorting to the approach of a flat for a flat or even a flat for two flats.

The increase in the plot ratio of Lai Shing Court was not so large and it was only increased from 2.7 times to 4.999 times. We know that the Lai Shing Court was located in Tai Hang and there is sea view, and next to it is the Jardine's Lookout area. It is because of this great development potential that the majority owner or the developer later could have offered such attractive terms. As a matter of fact, the auction price for Lai Shing Court at that time was \$1.71 billion, as opposed to the value of the old Lai Shing Court which only stood at \$390 million. So this ratio enabled the project to offer such attractive compensation or get the owners involved. These conditions did not fall from the sky, so we cannot write them into the Ordinance or in the threshold, or in the terms and conditions approved by the Lands Tribunal. This is because that cannot be done under certain circumstances. What would result if these are written into the law? In that case, nothing will happen, for the developers will just fail to see why they should proceed with this development after complying with so many terms and conditions. It then begs this question: Who will suffer in the end? It will be those small owners who are still living in these old buildings.

Some Members challenged us and asked if anything had gone wrong when the price per sq ft in the case of North Point was only some \$3,000. They said that this case happened recently at the beginning of this year. And they are sure that something has gone wrong. Actually, our colleagues have checked and double checked the relevant information and given a reply to this question. This is a case in Upper Kai Yuen Lane. The area there before redevelopment, that is, the area of land use now is about 100 000 sq ft and the auction price after

considering the redevelopment value is \$790 million. If we work out the sums according to a simple arithmetic of an average price per sq ft, that is, not considering whether we are talking about commercial premises or residential floor space, the average price is \$7,000. But at that time, the small owners got \$10,000 per sq ft from the Lands Tribunal. That \$10,000 was worked out this way. At that time, this small owner did not want to sell his title to the majority owner. He had a unit on an upper floor and the area was 551 sq ft. As I have said, the transaction price after the compulsory sale of that lot was \$790 million and this unit with an area of 551 sq ft has an existing use value which takes up about 0.791% of the total existing use value of the whole block of building. Sorry, I cannot say right away how many parts out of 100 or 1 000. It is 0.791% and that is less than 1%. The auction proceeds that the owner of that flat got in the end was \$5.56 million and that translates to more than \$10,000 per sq ft. This is the information requested by Members.

Actually, apart from our work in dealing with the mediation mechanism, in the letter sent to Members, I have mentioned another thing which we would do next. I think that for this to be done well, it will have to depend in the final analysis on the owners' awareness of their rights. As Mr TO said, owners should be united. I remember he once said in a radio programme that owners should not be worried and if only some 20% of the owners were united, things could be done better and their bargaining power would increase. As we can see recently, apart from a kind of joint acquisition by companies or developers, there is also another form of sale and purchase and that is, after owners of a certain plot have amassed more than 80% of the title, they will proceed to an auction themselves. Of course, they may need to commission a professional company to conduct the auction. An example is the widely reported Kai Tak Building in the Kai Tak area and such a joint auction was conducted. But owing to the unsatisfactory bids offered, more than 80% of the owners said that they would not sell their property and they preferred to wait and see.

So we will follow up work in this respect. We will collaborate with the Hong Kong Housing Society and the Hong Kong Institute of Surveyors and help owners raise their awareness. In such a process, if other kinds of work are needed, such as teaching owners what kinds of things they can take part in or what kinds of things they should seek professional assistance, and if they hope that we should play a more active role in respect of the Hong Kong Institute of Surveyors or the Housing Society, or even as Mr Andrew LEUNG has said, we

should increase publicity by asking auction houses or surveyors to step up publicity efforts in every auction to enhance competition, we would be happy to do all this. In fact, I had been the Director of Social Welfare for a number of years and I came to learn a term, and I think Mr CHEUNG Kwok-che might have also taught me that term, that is, empowerment. Now is the time to empower the small owners in Hong Kong. I hope that under this legal framework, the small owners can be offered the best proposals. Apart from improving their living environment, such proposals should also help increase their asset value.

Then there are a few other issues which may look somewhat trivial, but I feel there is a need to respond to them. This is because discussion on this occasion has not gone into great details for industrial buildings. It is due to the support from many people that even if there is a need to repeal the Notice, the whole Notice should not be repealed and the part on industrial buildings should be retained. Industrial buildings are part of the Chief Executive's revitalization proposal in the policy address. I have said time and again that the most important thing about revitalizing industrial buildings is to convert the entire block into other uses. This is because industrial buildings are usually not very old and the architectural conditions are not bad. So the incentive that we provide in redevelopment is not as high as that in conversion. The responses I have got lately are mostly eager attempts to convert entire blocks of industrial buildings. However, redevelopment would be a good option in some areas because of the advantages it can bring in planning and as a result, the environment of that area can be improved. In the process of redevelopment, and even in the process of conversion, it cannot be denied that some tenants may be affected. But if we believe in supply and demand in the market, this problem should be transient or it will go away very soon. This is because while there are many industrial buildings that can be converted, there are also a lot of such buildings that will remain unchanged as industrial buildings. So if tenants have to move out as the industrial purposes of a building are changed, they can move into other industrial buildings. If they engage in creative, cultural and artistic activities and they have to move out, they may move to other industrial buildings that have been converted into other uses.

Each month I would pay attention to the information on rentals and selling prices of industrial buildings furnished by the Rating and Valuation Department. I have not seen any 60% increase that some Members have talked about earlier. There is no such thing as that. The increase has been very mild. But as I have

said in public, since revitalizing the industrial buildings is a policy of the Development Bureau, we hope very much to do something extra for the cultural and artistic sectors, such as calling on owners who will convert whole blocks of industrial buildings to help the cultural, artistic and creative sectors by offering them concessionary rentals. I will also take the initiative of inviting the Hong Kong Arts Development Council to pay a visit to a converted industrial building. This will enable the Hong Kong Arts Development Council to consider playing the role of an intermediary and help workers in the cultural, artistic and creative sectors make full use of these revitalized industrial buildings. As many Members have said, one of the aims of revitalizing industrial buildings is to help the six major industries in Hong Kong with a clear advantage, and these include the cultural, artistic and creative industries.

Besides, Mr KAM has mentioned in particular whether or not there is any conflict between the conservation of Wing Lee Street and the entire Ordinance. As I have explained, no such conflict in fact exists. There are many kinds of old buildings, so if there are some old buildings which have not been given good repair for a long time and they do not have any historical or cultural value, the only option open to us is to redevelop them. But if they merit conservation efforts and as we attach great importance to conservation work, there should not be any conflict in general.

Lastly, what I wish to say is, some newspapers have reported — and two Members have cited such reports — that among the large number of amendments, it seems that I do not mind postponing the effective date of this Notice for one year. I have stated in my speech earlier that I am not prepared to accept this amendment, for the reason that not deciding on anything after discussions are made will result in non-action after a decision. If the motion is passed today, I think it is time to put it into practice. This is because the discussion started as early as 2006. I have conveyed the situation of the small owners during the past two years — actually that was not recently but during the past two years. These small owners kept on writing letters saying that they heard the Government would do that and they asked if things could be put into force sooner in order that their living conditions could be improved. Besides, about the work which I have mentioned, namely, making preparations for the mediation mechanism which has to fit in with the work report on mediation presently being compiled by Mr WONG Yan-lung, the Secretary for Justice, and my work in collaborating with

the Housing Society and the Hong Kong Institute of Surveyors in raising the awareness of property owners, they do not conflict with the effective date of the Notice. On the contrary, this framework which allows an application to be made upon getting more than 80% of the title in an old building would help make mediation effective. Owners can know that if they would like us to help them in their empowerment, that is, effecting greater participation of the owners, obtaining 80% of the title can make owners engage in the relevant work.

Really lastly, it seems that it was Mr KAM who asked what in fact I am thinking. Apart from wanting to have my dinner (*Laughter*), there is actually something that I want to tell Members. When I go about doing this task or any other task, there are actually three basic beliefs I hold. First, the Chief Executive set up the Development Bureau in this term of the Government, no such Bureau had ever existed before, one of the objectives of setting up this Bureau was to put into practice and realize his concept of progressive development. For my part, I have been trying to give a rendition to this concept of progressive development, that is to say, how to strike a balance between conservation and development. We have to take into account the economic growth of Hong Kong and also public demand for a better life, their sentimental attachment to history and how they would view many other non-materialistic items of culture. This is my first basic belief and that is, to realize the concept of progressive development of the Chief Executive in the course of my daily work. Second, since we should build a society of care and concern, so Members should be able to sense that I like to talk about the experience gained when I was the Director of Social Welfare. This is because it can make me realize that if any work is done with care and concern, then it would be something that we can live up to and we will not feel ashamed of it. Third, I hope that the 7 million citizens of Hong Kong can know that we are doing solid work. So building a harmonious society and providing an environment for us to really get the job done are also my basic beliefs. Thank you, President.

**PRESIDENT** (in Cantonese): Mr Albert HO, you can now speak again.

**MR ALBERT HO** (in Cantonese): President, having listened to the debate speeches for more than seven hours, I find that the speeches of many colleagues



have failed to address our reasons of objection in a focused manner. Yet nothing can be done, as many colleagues spoke according to their scripts. Also, they may have not listened to all of our earlier speeches that explained the reasons for moving the motions to amend or repeal the Notice or to defer the effective date of the Notice.

Though the Secretary has made her speech, it is not a complete response to our questions, and I will talk about that later. I will elaborate my points one by one shortly afterwards.

First of all, I would like to talk about concepts. Though the Secretary has temporarily left the Chamber, I hope she can hear this. Let me start with the Basic Law and the concept of private property. To me, certainly I do not believe that the requisition of land ownership by the exercise of public powers and compulsory sale are totally impossible. This right is not an absolute right, it can be limited or reduced sometimes provided reasonable compensation is made and the interest of the public considered. However, when mentioning private property, the Secretary specifically pointed out one thing: unlike tangible properties like antiques or watches, this kind of entitlement involves the joint interest in undivided shares. Perhaps she does not understand the laws on land very well. The concept of flatted buildings is particularly clear in the laws on land of Hong Kong. Anyone, when buying a flat of a building, has purchased that flat as well as an interest in land; this point is very clear.

In early years, Hong Kong first developed multi-storey buildings. Subsequently, the buildings were sold in flats and relevant deeds were made. Hong Kong is indeed most advanced in this aspect. I have heard many professors and lawyers say that the sale of buildings in flats is an original idea developed by Hong Kong, even Britain has followed Hong Kong's practice. What an owner purchases is the undivided shares of interest in land plus — a point not mentioned by the Secretary just now, and precisely because of this, she does not know the importance of private property right — the "right to exclusive use, occupation and enjoyment of a unit" as usually written in English in the deed. This point is most important as it defines that the property ownership is more than a joint interest, clearly defining the property right of an individual owner.

Therefore, if the Secretary thinks that based on the concept of joint interest, simply by collecting majority votes and they can easily compel others to sell their properties, this concept is fundamentally wrong. Unfortunately, the Secretary is not here right now, she cannot hear this clearly. If this concept is fundamentally wrong, the entire legislation may need to be designed anew. For the Secretary should remember, when certain legislation clearly allows compulsory auction and interference with an individual's exercise of the right of private ownership, a totally different set of criteria should be adopted, and the intent of that legislation and the threshold regarded as appropriate for that legislation may also be completely different.

To cite another example, if a property is purely jointly owned without the right to exclusive use and occupy a unit alone, we do have another law, that is, the Partition Ordinance (Cap. 352), to deal with that. For example, if a property is jointly owned by two or three persons, the persons concerned may file an application to Court for partition of the property, specifying the occupants for different parts of the property or requesting the persons concerned to carry out an auction. Under this circumstance, not even the 80% or 90% threshold applies. Only consent from one of the owners is required for an auction. The reason maybe the property involves too many interests which are too difficult to share. This difference is very important.

For this reason, I must emphasize one point. If the Secretary, based on misinterpretation, believes that this design can be used to deal with problems, or even interfere with or intervene in others' entitlement to property ownership, sorry, the concept for the entire policy is wrong.

The Secretary has no time to respond today, and I believe she will not make further consideration. But the fallacies in her point of law are officially recorded today. This is the first point.

Secondly, regarding the 90% threshold required under the principal legislation, I still find it acceptable. I agree that it may not be possible to collect all necessary undivided shares under certain circumstances. For the purpose of redevelopment, if only a small number of shares are outstanding, provided that other requirements are met, I think this would be adequate to explain and support why such a mechanism is needed to compel some owners to sell their property ownership together with that of other owners. But I hold that there should be a

limit on the number of shares. The current 10% requirement is an acceptable level. Any need to lower the threshold must be justified by adequate reasons together with a mechanism which, in our standard, is adequate and comprehensive. In particular, given that this legislation has been in effect for 12 years, we should conduct detail reviews and studies with a view to perfecting the mechanism before considering whether it is necessary to lower the threshold for compulsory sale. As for today's proposal, sorry, it is definitely immature.

Regarding my response, to start with, just now Mr Paul TSE asked me why I reprimanded the Provisional Legislative Council with a strong wording like "shameful". In fact, that legislation is not my subject, as I have just said, I am not unable to accept the current legislation. What I find most offensive is that why should the authority draw up a provision which allows the Chief Executive in Council to amend the most important policy under the legislation — to lower the threshold for compulsory sale from 90% to 80% , by way of a notice? This is a shirk of responsibility. If the authority wants to make changes, fine, every time it wants to make a change, it can introduce an amendment bill to the Legislative Council, let it go through Third Reading after a vote in this Council. At least, we do not have to go through the separate voting. Hence, I find this an irresponsible practice.

What I also want to say to some colleagues is, I have seen some items of legislation before which often ..... may not be often, but from time to time authorize the Government to amend the provisions under the principal legislation in the form of subsidiary legislation. Every time, I find every one of them very offensive. The first thing I would like to say to the Government lawyers is, how could these provisions be drafted? What kind of legal policies are these? These policies violate the basic principle of rule of law. Any amendment to the principal legislation should pass through Third Reading in the Legislative Council. Certainly, for provisions that are relatively technical, sometimes the Government may amend them by way of subsidiary legislation, and I find these cases acceptable. But this proposal involves the principal legislation, an important policy.

Thirdly, the Secretary said that this proposal has been brewing for many years and it has been under discussion since 2006. However, firstly, has her

proposal ever been seriously reviewed? Has she really heard the experiences of many who have experienced the painful process of compulsory auction? Has she studied and reviewed the situation as a whole and considered if the existing mechanism can be improved? Have all these been done? I have mentioned the scenario of the failure of the auction mechanism, but the Secretary has made no response so far. President, among 21 cases of compulsory auction, 17 saw no competitive bidding at all, how can we call them auctions? The Secretary made no responses in this connection. What makes the auction mechanism fail? At least, I have made efforts to ask different people who gave me the explanation that no one would bid with developers who have already secured a 90% ownership, the logic is that simple.

These problems show that the Government has not thought about any methods of improvement. For example, as I have mentioned, is public tender a more suitable option? At least it cannot be worse than the existing compulsory sale where in most cases the remaining 10% ownership were sold at the reserve prices. Certainly, we have already raised many proposals during the debate just now. Take the inequalities in judicial proceedings as an example, as we know, minority owners have to face the pressure of litigation costs, can there be improvement? For example, currently redevelopment plans are mainly focused on districts with high land prices, what are the reasons? Does this tally with our current objective of urban renewal? Also, regarding the form of collaboration, many colleagues have just mentioned that they look forward to mechanisms that would help minority owners to participate in the redevelopment. The flat-for-flat option is one of them. In fact, the then Land Development Corporation had once adopted a mechanism that enabled minority owners to participate. It turned the property prices of the minority owners into share capital and then a development company was formed to acquire the entire development project. The minority owners could participate in investment according to their respective share of interest in the company's capital. This mode certainly merits consideration. But currently we do not have any mechanism that offers options like this for minority owners to consider. During our scrutiny of the Notice, we proposed to the authority to consider allowing some non-profit-making companies to step in. But the Secretary then immediately said that "we would not provide assistance, neither would our Urban Renewal Authority nor Housing Society step into these matters, they are private developments, these are profit-making matters of the private sector". At that time, she called it profit-making, something that can earn money, that is why they would not step in. But when we talk about unfairness, she said this is not only

about profit, it is also about helping the minority owners improve their living. Therefore, as I always say, when assessing whether something is right or wrong, there are indeed many scales. This is exactly the reason for our having so many arguments. As the biggest problem we find is the lack of a serious and solemn review and a mechanism that we have genuine determination to perfect. Our view is that these are the prerequisites that we must have before considering lowering the threshold.

There is one more point. The Secretary briefly said the current review of Urban Renewal Strategy has nothing to do with this. President, not all things are related, but certainly many things are related. For example, for many districts, what will be their future development plans and development parameters? For "screen-like buildings" and "inflated flats", how can we say they are unrelated? How can they be unrelated? If we consider lowering the threshold, these old buildings will be quickly released — yes, it is the word "released" — and become available for profit-making redevelopment by developers. Right at this moment, to cope with the numerous developments that emerge one after another, we should complete the review as early as possible. Hence how can we say they are unrelated? Is the Secretary's brief remark an acceptable answer to us?

We have also raised many amendment proposals, and Mr James TO will continue to talk on that later. For example, regarding the state of repair; regarding property ownership, we have mentioned that not only a 80% ownership is required, a 80% value should also be required. This should be a dual restriction and threshold. The decision-making power does not rest in the hands of those who own the shops, it is about giving him the veto power.

Deputy President, lastly, I would like to say, just now ..... sorry, President (*Laughter*) — this is unavoidable after more than seven hours — the Secretary has expressed her feelings by telling us the story of Ji Xiaolan and Emperor Qianlong. Certainly, she has put herself in the shoes of Emperor Qianlong. The pleasing words from such an intelligent official will certainly make her feel better to the extent of saying having "no guilty conscience". But the point is, I have just raised so many problems, the Secretary should know the problems are there and many problems are unresolved if she has seen and heard without any bias. In this case, does she still have peace of mind? Does she think that some of the minority owners will be very delighted with the threshold lowered in this

way? However, does she not know that many more minority owners are going to be deprived?

**PRESIDENT** (in Cantonese): Mr James TO, now you may speak again.

**MR JAMES TO** (in Cantonese): President, I have just read a report in *Ming Pao* today, which is about an interview made yesterday with Mr LEE Shau-kee, Chairman of the Henderson Group. It was the first time that he said he supported lowering the threshold. I told Members earlier that Mr LEE had said in a number of newspapers on 18 November 2009 that he would spend more than \$10 billion to acquire old buildings, two months before this Notice was announced in January.

He said yesterday that quite a few buildings aged 50 years were so dilapidated that they were close to collapsing, and people living in such dangerous buildings could not even sleep a peaceful night. For this reason, the redevelopment of old buildings is very useful to society. He said that 80% of the owners wanted to sell their flats, and it was tantamount to "stop the earth from spinning" if they were not allowed to do so. He went on to analyse that the current price per square foot for redevelopment acquisition was \$4,000 to \$6,000, and that the price for a flat in an old building could buy two new flats in Tin Shui Wai. Mr LEE knows the market and the business, as well as the prices of property market very well. He knows clearly that the price of \$4,000 to \$6,000 per sq ft or the amount of proceeds one receives from the compulsory auction of one's flat is not enough to buy a flat of equivalent size in the urban areas. So, one will have to go to Tin Shui Wai to buy two new flats.

As quoted by Mr Ronny TONG earlier, some owners want to continue to live nicely in these buildings. As time passes, these buildings may need repairs, but the owners concerned do not want to accept the per-square-foot acquisition price of \$4,000 to \$6,000 offered by Mr LEE and buy two new flats in Tin Shui Wai. They have their social network, and everything in the urban area, so why do you have to forcibly confiscate their flats and compel them to buy two new flats in Tin Shui Wai?

President, as I have said, if a building aged 50 years is very dilapidated and close to collapsing, this concerns public interest as the building is close to collapsing. However, in the past 10 years or so, were those buildings sold by compulsory sale all close to collapsing? They were prime flats on prime sites, not flats close to collapsing. As for the old buildings in Haven Street which were given repairs two years ago, are they buildings close to collapsing? Right as it is, might the age of an old building be more than 20 years, it is nothing strange that its price will rise by \$5 million if we spend \$6 million on repairs. However, these buildings are not close to collapsing. The Secretary said that we might specify the state of repair as a condition (I do not know whether she will specify that the building is close to collapsing), and who would know that she said later it was not so, and buildings close to collapsing would not be dealt with in such manner. However, Mr LEE Shau-kee said these buildings were close to collapsing, but the current situation is that simply not all buildings close to collapsing are required to be dealt with.

President, we have proposed the "flat-for-flat" arrangement. But the Secretary said nothing would happen if we specified it in that way. She also said that Lai Sing Court is a rare example. I can tell you that there are two reasonings here: first, if we do not write the legislation in that way, the owners of buildings who can rely on the "flat-for-flat" arrangement will have their hope quashed. As far as the plot ratios of some areas are concerned, we can actually implement the "flat-for-flat" arrangement, but the owners will end up with nothing if we do not write it down in that way. You may say that one cannot be so sure that they will get nothing, and perhaps she may come to discuss with us on the basis of the "flat-for-flat" arrangement. If we specify it in such a way, and the authorities will get it done in phases, that is, first by dealing with the very dilapidated buildings with adequate plot ratios, and then by lowering the threshold and amending the principal legislation if they find no more need to get it done in that way, or when all these buildings have already been dealt with, or when there are no more such buildings, before commencing a comprehensive review of the Urban Renewal Strategy, we will all be convinced in such circumstances.

President, some colleagues asked me why I have to postpone it for one year. I have listened to the many reasons advanced by the Members (including those other than the six Members who have proposed amendments), who pointed out that the original Ordinance is fraught with problems, and as such, why can we

not postpone it for one year? Why can it not be postponed for one year, and add to it sections 4(1)(a) and 4(1)(b) as suggested by Mr Paul TSE? This we can do.

What has the Secretary undertaken to do? Some people say the Secretary has undertaken to conduct a review. Let us look at the written reply she gave us carefully. She said that a review would be undertaken after it has been implemented with accumulation of a certain number of cases. What cases have to be accumulated? That is to accumulate the cases of owners of these buildings. That is when owners of shops in these buildings are fooled one after another, and their properties are forcibly confiscated, these will become cases. With these cases, what follows possibly will be to raise the plot ratio and revise the layout plans for the place, which will all be used to construct "screen-like buildings", or remain vacant and undeveloped for speculation purposes, since the developers hold the plans in their hands. Following the alterations, we cannot even pursue them as the existing law allows this. Who stands to benefit when the Secretary said amendments to the legislation will commence after they have accumulated cases involving many pitiful victims? How many *fait accompli* will this bring about?

President, I am furious, but I will not let my emotions override my rationality. Every sentence I say now is said with rationality. Mr Albert HO and I pointed out that our Secretary did not even know as basic as what is "undivided share", and what is it in the latter part? That is the interest in exclusively owning a building block, which is also protected under the Basic Law. We are not talking about five people in the building buying Mark Six, or buying a watch. It is not this case, still less one which five people have jointly purchased a piece of land with nothing on it. If five people have jointly purchased a piece of land, Mr Albert HO has already talked about it — we can invoke the Partition Ordinance to conduct compulsory sale and put it up for auction, and have the land divided and partitioned without the need for any threshold, let alone the so-called 90% or 80%.

It is fortunate that our Secretary has spoken on the issue. If she chooses not to speak, we will not know that she is wrong, and her understanding of some basic points of law is also erroneous, which is really bad, buddy. How can we add such provisions to the legislation if a review is not undertaken? Those Members who support the Secretary and colleagues who know a bit about law



said they supported the Secretary when they responded to the reporters outside the Chamber. Mr Albert HO said to me just now whether this demonstrated that the Secretary had made a fundamental mistake. There is a fundamental mistake, and I am prepared to debate this with Secretary for Justice WONG Yan-lung. This involves a fundamental mistake.

President, the Secretary said that it would be more dangerous if we add in the amendment expressions such as "likely to collapse", "there is danger" or "on receipt of an order". President, you will know how ridiculous it is if I say that the other way round. If there is danger with a particular window in a building, for which an order can be issued (this is what the Director of the Buildings Department said, a building can be demolished even if there is danger with a window), is the condition of the building "close to collapsing" as said by LEE Shau-kee. If not, why must the owners be forced to buy two new flats in Tin Shui Wai?

President, the Secretary said, "Very strange as it is, why did Mr James TO assert that shops at the ground floor be given greater power of veto? This is not justified as their land rights are the same." Right. I now know what the Secretary does not understand. As she only has "undivided share" in her mind, without thinking of the difference between an exclusively-owned shop and an exclusively-owned fifth-floor flat. She only thinks about the difference between an exclusively-owned shop and an exclusively-owned fifth-floor flat in terms of the sharing of proceeds. However, one can exclusively own a shop in the long run, which is very much different from exclusively owning a fifth-floor flat. A shop has great value. A shop owner will suffer badly if the whole building collapses unfortunately. Why? In spite of owning one sixth of the ownership rights as the same as all others, the shop owner will instantly lose a few million dollars. Let us assume that the market value is \$10 million for a shop, and \$1 million for a flat on upper floors, nothing will remain after the collapse of the building, not to mention whether it is exclusively owned. The ground floor no longer belongs to the shop owner, who cannot own his shop exclusively anymore. So he will instantly lose \$8 million, and flat owners on upper floors will gain more than \$1 million instantly. This is the scenario when a whole building block collapses, including the shops.

However, if the building still exists, why do we have to give respect to the owner of the shop, and let him have more say? The reason is that we cannot

..... and of course the shop owner will use all his energies to prevent it from collapsing, as he will lose a lot of money if the building collapses. In this connection, he will take out enough insurance, with great interest and determination in carrying out repairs consequently. However, under the existing regime, you only need to carry out repairs for the upper floors, as simple as that. If a buyer has acquired flats on the upper floors, this will have a significant bearing as he will certainly not carry out repairs. If the owner of the shop on the ground floor has no say, he will meet his destiny of having the building put up for auction eventually.

Actually, Mrs LAM had been the Director of Social Welfare, and she has cited an example lately. When she was the Director of Social Welfare, out of kind-heartedness, she visited the Kam Kwok Building where she saw many street sleepers, drug addicts, and so on, and she was greatly moved. Let me tell you that everyone in the security service sector knew that at that time someone had bought all flats on the upper floors, and then engaged triad members as caretakers. Why? It was because they wanted to make the owners and tenants of the building mentally bankrupt without not even a day of peace. All through these few years, the policemen go there every day, and patronize the bistro cafe next door. Why? Who allowed them to take occupation of these flats and shops, and work as caretakers?

I will not cast doubts over Mrs LAM's intention, but her understanding of some basic law points and some issues is wrong. When she saw drug addicts in the building, this meant failure in management to her. Actually, it was because somebody wanted to see failure in management there in the hope that the owners would soon sell the flats to them.

President, the Secretary said that she had received a lot of letters, in which the senders indicated that they had already waited for a very long time, and were worried about family breakups and loss of family members. My answer is — and the Secretary has said — that compulsory sale is simply not the way to deal with these dangerous buildings, and what she has requested is to carry out repairs for these buildings.

The Secretary went on to say that there would be a fairly large problem if it was postponed for one year, as many people would have sold or assigned their flats while some people would have plans to acquire them during the interim.

President and Honourable colleagues, is it that amendments to a piece of subsidiary legislation can certainly be passed even if separate voting is adopted? Is it that there will certainly be no further amendments, modifications or extensions? For anyone who purchases real property — I do not know whether he is LEE Shau-kee, or who is the assignor — there are bound to be risks. As the review of the principal legislation has yet to be completed, and it will take one year for the general urban renewal strategy to be launched, these are the risks they have to undertake. Will it be risk-free in purchasing real property? No, it will not. How can we say that someone has anticipated that the legislation will be passed? Can the job be done if the legislation is not passed? For whom the Secretary will get the job done?

President, in conclusion, this legislation involves colossal public interests in practice ..... just to make people convinced. If it is passed now in that way ..... I have considered it in two aspects. I would not say that there will be not even one owner who was originally very miserable and very much hoped that his flat be acquired will be benefited if the percentage threshold is lowered from 90% to 80% — I will not say that. However, I have actually considered it in two aspects, and frankly, why have I done this? It is because my rational self leads me into considering it in two aspects. I need to consider whether there are more people being aggrieved than those being benefited. If people to be benefited are far more than those aggrieved, I will be very determined to support this legislation, and defend it together with the Secretary. However, according to my assessment, it is absolutely not the case. Many people, especially those among the first category — that is, each of the last small owners of shops in those 6 000 buildings — will be bullied and oppressed. The Secretary said that owners can have bargaining power if they unite together to represent about 20% of the ownership rights, but Ms Starry LEE said they might be "nail households". So, is it that 20% of the owners will join together as "nail households"? They will be similarly accused of being "nails". However, the problem is that we need to conduct a review of the principal legislation first if we want to have a reasonable law.

**PRESIDENT** (in Cantonese): Mrs Regina IP, you may speak again.

**MRS REGINA IP** (in Cantonese): First, I wish to say that I saw the Secretary absent for a while just now. I also hope that she could catch a bite first. Although she is relatively speaking young and well-known as a "fighting general", since she has to sit here for a long time, I also hope that she could eat something first.

Just now, I heard the Secretary give her interpretation of undivided shares and I was rather shocked because according to the Secretary, owning a flat is not the same as owning a wrist watch or a car, although I have already forgotten the wordings used by her. What she practically means is that one has to share it with other people, or so long as the majority of people are of a certain opinion, they can take away your belonging and I was very shocked to hear that. Subsequently, two lawyers said that the Secretary was wrong in her understanding, but still, I find this strange because usually, officials follow legal advice closely, so I wonder if the Secretary will have an opportunity to respond to this later. As regards her interpretation of undivided shares just now, if she has any legal basis for it, I hope that today, tomorrow or in the future, after the end of this motion debate, she can let us take a look at it to make people like us, who have purchased properties, feel slightly more at ease.

There are several points that I had no time to raise just now, so I wish to follow them up a little now. First, some Members (including Dr Joseph LEE) have doubts about the Resolution proposed by me because there is little mention of the compulsory sale of industrial buildings aged 30 years located in non-industrial zones. I have read some press reports on the positive effects of the revitalization policy and the compulsory sale policy on the transaction of industrial buildings. I have also looked at a very detailed research report of a certain major bank. The report holds that the policy on the compulsory sale of industrial buildings aged 30 years or more in non-industrial zones will help make available a large amount of space occupied by underutilized industrial buildings because the high rent of commercial buildings in Hong Kong will affect our long-term competitiveness. If the units in these industrial buildings can be made available for other purposes, as the Secretary said, be it converting an entire building or putting it up for compulsory sale, this will perhaps be favourable to our long-term competitiveness. No matter if they are converted into food establishments or hotels, doing so is not necessarily a bad thing.

According to the financial report that I have read, the value of these industrial buildings shot up immediately and their rent also rose. Of course, some other research reports point out that the short-term effect is that companies of the creative and cultural industries housed in these industrial buildings are facing the prospect of rental increase and may be forced out of these buildings. I remember that I once asked the Government in the meeting of the Subcommittee whether or not it knew how many arts workers or workers in the creative and cultural industries were involved. President, one very interesting answer is that the three Policy Bureaux (that is, the Development Bureau, the Home Affairs Bureau and the Commerce and Economic Development Bureau) said in their joint reply that no such figure was available. I find this very strange because the creative and cultural industries belong to one of the six industries in which we have clear advantages. The Chief Executive and the Financial Secretary have both provided us with figures to tell us how many jobs will be created and by how much the GDP will be boosted by promoting these six major industries. But it is now said that no such figure is available, so unless the Government thinks that the cultural workers in these industrial buildings have no economic output or value and unless it is taking such a view, I find this very strange. They went so far as to say that no relevant information whatsoever was available, so I find this very strange.

Although in the long term, I support the Government in increasing commercial space and making available more space, I have to call on the Government to find ways to help this group of arts workers struggling for survival or those who have set up studios — it is said that there are many in Fo Tan — as well as small entrepreneurs in the cultural and creative industries struggling for survival. This is the point that I wish to make.

Next, I wish to talk about another issue that has not been debated in detail, that is, the issues relating to tenants. As far as I know, since the passage of the Landlord and Tenant (Consolidation) Ordinance in 2004, under the tenancy agreements entered into after 9 July 2004, tenants do not have the right to renew these agreements on expiry and landlords can ask their tenants to move out without giving notice. In other words, if tenants are living in buildings which may be the subject of compulsory sale, they are not protected in any way. This is very different from the approach of the Urban Renewal Authority (URA) because people close to the URA have told me that one merit in its resumption of buildings is that at least, it would assume responsibility for resettlement and

would also be concerned about the situation of tenants. I hope the Government will find an opportunity to respond as to how the tenants would be taken care of.

As pointed out by many Members who have spoken, I also support redevelopment, and I am not utterly opposed to the threshold of 90%, only that the experience in the past decade or so was not very positive and many owners with minority shares have seen their interests injured.

If we look at this review of the Urban Renewal Strategy, we can find many valuable messages in it. If we make reference to the overseas modes, we will find there are many ways of doing a better job indeed. Let me reiterate this. According to the information on hand, for example, the Urban Redevelopment Law of Tokyo in Japan contains a provision for owner participation in private sector-initiated urban redevelopment projects. The developer is required to set up an association for redevelopment involving owners of the lots in question. The law, enacted in 1969, also provides for the statutory requirement of two-third consent of landowners for initiating redevelopment projects. Although there is a statutory provision to provide mandate for redevelopment on the basis of a two-third owners' consent, the remaining owners are seldom forced to participate against their will.

This is also the case in Taipei. The Urban Renewal Act of Taipei also has a provision for owner participation. The developers are required to set up urban renewal companies limited by shares, that is, when it is not possible to "exchange a flat for a flat" or "exchange a shop for a shop", appropriate arrangements should be made to enable owners with small shares to transform their interests into appropriate shares to enable participation by owners.

Of course, some people may say that such an arrangement would slow down the progress of redevelopment because acquisition companies would have to discuss with owners many times. However, other people say that it may be possible to make faster progress because, as the Secretary said, minority owners would be empowered, as in the case of owners of Lai Shing Court. It is said that the case of Lai Shing Court is one of the few successful examples because minority owners had the incentives — of course, its plot ratio would increase substantially after redevelopment — so they had discussions with Hongkong Land actively and as a result, a fairly satisfactory multi-win proposal was worked out. Recently, I also made a visit to the development called Serenade and once

my car pulled up, property agents fell head over heels to sell flats to me. As far as I know, the original owners with minority shares were all given flats on the lower floors in exchange. Of course, the prices of the upper floors are sky-high, President, as the location is close to Jardine's Lookout and commands an unobstructed sea view, so all parties have reaped the benefits, not only the property developer, but also the minority owners.

In view of this, it is possible to solve the problem of not being able to exchange a shop for a shop by establishing a company with a number of shares and this solution is applicable not just to commercial-residential buildings. Even in new commercial-residential buildings, it may not be possible to open a shop to sell soy sauce. The report of the University of Hong Kong is worthy of our reflection. It mentions market-driven redevelopment, that is, redevelopment founded purely on the pursuit of profits, that "The experience of leaving urban redevelopment entirely to the private sector in the other Asian cities does not seem to be very positive." All of us have this report and I think it is worthwhile for the Government to spend more time and pause to consider if it has any more imaginative approach capable of achieving a multi-win situation to deal with the conflicts between minority owners and majority owners, as described by the Secretary. I believe this does not amount to discussion without making decision and will not bring embarrassment to the Secretary. Rather, this would make us do an even better job in urban development. Therefore, I hope the Secretary can give this matter consideration. In fact, among the many resolutions, including the one proposed by me, I think the most desirable one is that on deferring the implementation of the Notice by one year, so I call on all Honourable colleagues who have not yet made up their mind to support deferring the implementation by one year.

Lastly, I wish to talk about my feelings after listening to a round of debate. I could hear many people inveigh those "nail households". Last night, I received a call from a resident in my neighbourhood in the Southern District. He runs a shop on the Aberdeen Main Road and told me that many residents in Aberdeen in the Southern District wanted to take the money and quit and let redevelopment go ahead. This is understandable, but there are also some small property developers — he disclosed names to me — that do not wish to see the threshold lowered because they are "nail households", that is, they have already made acquisitions. What does a "nail household" mean? President, does it mean a small fish? In a capitalist society, everyone is pursuing profits and there are big

and small fish. When big fish are having a feast and regaling themselves, if there is a small fish, that is, a small property developer, that wants to "place nails" in the hope of making profits in the process, this is nothing wrong because since big fish can have a feast, small fish should get a share of the pie too. In view of this, I do not think that "nail households" are disgusting.

Moreover, I have also heard many people say that those owners with minority shares are infinitely greedy and asking for sky-high prices. Frankly speaking, unless my understanding of properties is wrong, if we put ourselves in their shoes and if the units were mine, if I like to live in my own unit and like the view that my unit looks out onto, or if I have special memories of the unit because I once lived there with my husband, no matter how much money is offered to me, I still would not sell it. Or, if I have to move to another district in order to continue to run my business or find another flat of the same quality, then if I try to get a higher offer or want a little more, how can this be considered any great evil? Adam SMITH once said that economic development was possible because everyone had greed and self-interest.

President, I only wish to raise the foregoing points, in the hope that Honourable colleagues can consider them seriously, in particular, to support the Resolution to defer the operation of the Notice by one year, so that the Government can have the time to refine the mechanism of compulsory sale. Thank you, President. *(Clapping was heard)*

**PRESIDENT** (in Cantonese): It is now 9.16 pm. This Council cannot possibly complete all the items on the agenda before midnight today. Therefore, I have decided that upon completing the debate on the 14 resolutions proposed for amending the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, I shall adjourn the meeting until tomorrow morning to deal with the remaining items.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, you may speak again.

**MR LEE WING-TAT** (in Cantonese): President, I will be brief because many points have already been raised, so I will only talk about a couple of points.



The first point relates to industrial buildings. Today, there has been not much debate on this. The Secretary said just now that she paid close attention to the annual rental level movements furnished by the Rating and Valuation Department (RVD), so she was not that worried. It so happened that last month, we discussed the rental changes for public housing estates because I am concerned about both the housing and land policy and the rental changes of private housing. This year, the changes have been very great. However, it turns out the RVD told me that the rent of private housing had only risen slightly by 1% this year. On hearing that, I think it is not quite all right. How can the rise be 1% only? Members know that I have the spirit of delving into matters, so I asked the Chairman, Mr WONG Kwok-hing, to convene a meeting. Although I could not attend the meeting on that day, I read all the papers and had discussions with Mr Fred LI. Why did the rents of private housing increase by only 1% in the past year? The rents of all private housing, be it old or new buildings, would be increased upon renewal of the tenancy agreements, by 10% at the lower end but it can also be increased by as much as 30% or 40% at the higher end. So this is how the situation was like and I was really enlightened. How did the Census and Statistics Department calculate the rent? When it calculated the rental changes for this year, in fact, it did not calculate the rent on an individual basis.

President, your mathematical skill is better than mine, so you surely understand what I mean. Suppose I have 100 units and if this year, only the tenancy agreements of 10 units are due for renewal of tenancy agreement, the rental values of the other 90 units will remain the same. Even if the rents of these 10 units are increased by 30% each — President, let me quiz you and I will give you a few minutes — if the rents of the other 90 units remain the same and these rents are included, what would the average increase in rent be? Of course, the increase would not be as much as 30%, but it would not be the case that there is no increase in rent either. This is what the conclusion means. Why do I feel that the rent of private housing has soared in last year, whereas the RVD says, "Mr LEE, we are not deceiving you. The rent has really increased by 1%."? Here lies the reason. It turns out that the calculation method of the RVD includes tenancy agreements up for renewal as well as those not up for renewal. I wonder if the Secretary is aware of such a calculation method. If she is, I hope she would go back and see if this is really the case. If she is not aware of this, she has to ask the RVD about this.

In view of this, if you say that the changes in the rent of industrial buildings and private housing are not great, sorry, it is only because the rents of those units whose tenancy agreements are not up for renewal have not seen great changes. If calculations are done on an individual basis, the rental changes of units up for renewal of tenancy agreement are very great. Since I did not attend the meeting on that day, I asked Mr Fred LI if he had asked this smart question. Of course, since Mr Fred LI is not a smart guy, he did not ask the question, that is, how much the increase was for that 10% of units. Since he did not ask, too bad, so I have no way of knowing how much the increase in rent for the 10% of flats up for renewal of tenancy agreement is *vis-à-vis* the 1% rental change claimed by the RVD. I think it is 10% at the lower end, but it can be as much as 20%.

Just now, Secretary Carrie LAM said that the revitalization of industrial buildings would pose no problem and arts workers should not be worried. In the medium term or long term, I surely would not take issue with such a claim. There are perhaps benefits because to some extent, revitalization will make available more buildings and provide strong enough incentives for people to use them for other non-industrial, non-residential and artistic pursuits in addition to industrial purposes. However, in the short term, will the rental increase be steeper? This is not surprising because in the past, in the case of old buildings ..... at that time, the Democratic Party was lobbied for its support for the relaxation of rental control on old buildings and it was claimed that after the relaxation of rental control, there would not be so many limitations. However, before we were persuaded, the motion had already been negated.

The final outcome was that after the passage of that piece of legislation, the resultant changes are beyond the expectations of many people. In reality, SOCO ..... Secretary Carrie LAM also meets with Mr HO Hei-wah from time to time, and Members all know this. The rents of those small suites in old buildings are very high and in per-square-foot terms, they are almost on a par with the rents of flats at the Mid-Levels and it is not surprising if the rent is \$30 or \$40 per sq ft. What is the reason for this? Why is the outcome completely different from the expected one when our support was sought for the relaxation of rental control several years ago? In fact, no one has given us an answer as to why the confidence was so great at that time, but the changes have turned out to be completely different now. Of course, in asking Honourable colleagues to support her proposal, the Secretary may feel very confident. However, after half

a year or two years, will the same thing happen again? It is difficult for me to make a prediction, but I do not have such great confidence. I talked about the reasons in the debate and this is not a matter of personal opinion, rather, it has to do with the claims made by the Government in its policy on housing and property.

The figures cited by the Secretary fuelled my desire for a debate with her. She mentioned the concept of "progressive development". President, in fact, I find these words unbearable because I do not understand what they mean. This is a debate very difficult to deal with. I understand the meaning of development. To some extent, development means that old things have to be got rid of and new things have to be put in place properly, for example, by pulling down old buildings and erecting new ones, that as our society and economy develop and our GDP ..... I can understand all these things. As regards "progressive", she did not explain what it means. Is "progressive" an additional element to development and is this element so important that it even overrides the importance of what it qualifies, that is, it has a so-called overriding effect or is an overriding principle? What is an overriding effect and what matters even more? What matters even more is environmental protection, sustainable development, orientation towards people or care for socially disadvantaged groups. I have never heard Donald TSANG talk about all this. All that he talks about is the concept of progressive development and he trots out these words occasionally. For this reason, the Secretary said that she had to follow them on hearing them.

However, for one thing, I do not know how she can put them into practice; for another, she said that she was still learning the ropes. Since the Secretary has so many channels and it seems she too has a blog, I hope very much that she can write several thousand words to make me understand what the concept of progressive development actually means because this is advocated by Donald TSANG.

To me, in the past few years, particularly after the selection of the Chief Executive, I find that the development of Hong Kong has made little progress. What I mean by "progress" is: Since in the economy or in real estate development, many problems have arisen, and we have to make what may well be fundamental or strategic changes and even policy arrangements in relation to these problems, so that these past problems can ..... it would be best to put an

end to them, ameliorate them or turn them from an undesirable direction to a desirable one. However, I think this is not the case.

If we want to develop Hong Kong, first, the wealth gap in Hong Kong is yawning. In these few years, the situation has not changed by dint of the remarks made by the Chief Executive. One major conflict in Hong Kong is related to real estate development, the subject we are discussing today. I do not know what progress has been made in the past several years. Maybe to Mr LI Ka-shing or Mr LEE Shau-kee, a great deal of progress has been made in Hong Kong, but I think to ordinary members of the public, no progress can be seen.

I will only give one example not mentioned by the Secretary, namely, more than a decade ago, the living space of people living in private housing in Hong Kong was 500 sq ft and 15 years later, it still stands at some 500 or 600 sq ft, so what progress has been made? Just now, I discussed with some friends in the professional sectors — in fact, the professionals in Hong Kong are docile but even in the case of doctors, accountants or young lawyers, after buying their own properties, they still have difficulty in letting their sons or daughters have a room of their own, so what progress has society made?

Of course, I would ask myself if this is being too demanding. If a doctor or lawyer buys a flat of some 700 sq ft and wants his or her children to have their own rooms, so that they can have some privacy, I do not think that this is very demanding. This can be done in Singapore and in Taiwan, so how demanding is this? What progress has Hong Kong made?

On conservation, the Secretary has indeed made efforts, but I have to say that since she has really made efforts, do they answer the aspirations of society as a whole? On such issues as screen-like buildings and conservation, and even on enhancing the participation of residents in old buildings, even if there are changes, they are only taking place very slowly. The situation we now see is that economic growth or the GDP has increased by many folds in a decade or so, from some US\$10,000 more than a decade ago to tens of thousands of US dollars at present. Yesterday, I read an economic journal and found that on a per capita basis, Hong Kong is one of the 12 richest places in the world, ranking 12th and faring even better than the United Kingdom. Actually, the per capita GDP of the United Kingdom is even lower than that of Hong Kong.

However, we can still find some poor people leading a very hard life. If we compare the wages of the poor with the money made by the rich, the difference in percentage terms is quite stunning. Of course, we do not hate the rich and despise the poor but honestly, a dame doing the cleansing chores in a cafeteria works 12 hours a day and earns \$5,000 monthly; an old man working as a security guard also works 12 hours a day and earns \$6,000 monthly; and they all have to exert themselves physically. Although their jobs are different, is such a great difference in income justified?

This aside, in the course of more than a decade, can any progress as the Secretary calls it be seen in the changes taking place in the middle class? Since Donald TSANG took office, has the development in this regard seen any progress? President, sorry, I cannot sense it really. I cannot sense indeed what progress this society has made in caring for the socially disadvantaged groups or bridging the wealth gap, so that the grassroots and the middle class can all lead better, more stable and happier lives.

Over the meal just now, we talked about the possibility that the poorest people may also be the happiest — I am just joking, President. However, this may not necessarily be wrong. People from the Philippines are very happy and a survey conducted by the University of Hong Kong shows that the middle class in Hong Kong is not at all happy. In terms of indices, both the grassroots and the middle class have to work some 10 to 20 hours and of course, I have strayed somewhat from the question today. However, I want to point out that regarding the so-called "progressive development" mentioned by the Secretary, so far, apart from the slogan and individual developers or a small bunch of property developers, I really cannot see what benefit has this concept of "progressive development" brought.

Recently, I read an article by Prof LUI Tai-lok, which is about the talk of the town of late, namely, social mobility. It turns out that whether or not someone would be upwardly mobile depends on two factors, first, who his father is — President, this is true — the first factor is who his father is and second, what kind of education he has received.

**PRESIDENT** (in Cantonese): Mr LEE, you can leave what you are talking about now to the motion debate tomorrow.

**MR LEE WING-TAT** (in Cantonese): I am just mentioning it in brief. After this, I will come back to the question.

President, what I mean is that on the application of the concept of "progressive development" to the compulsory sale, the rent of old buildings and real estate under discussion today, I am really sorry, Secretary, but I cannot share your delight. I cannot feel it at all. I hope it is me who has got it wrong. I do not feel such delight, and I only feel pathetic. Even though Hong Kong society is so advanced, why are the conflicts not resolved? Wealth disparity is still here and the views of the major social strata and classes on society and the Government remain unchanged.

On this issue, President, I have finished talking about what I wanted to say. Thank you, President.

**PRESIDENT** (in Cantonese): Ms Audrey EU, you can now speak again.

**MS AUDREY EU** (in Cantonese): President, first, I wish to respond to some of the misrepresentations made by the Secretary. Of course, I hope she made them unintentionally.

The first point is that today, many Members who had spoken asked the Secretary whether or not she could give an explanation on the issue of the lot at Upper Kai Yuen Lane, the price of which was \$3,000 per sq ft. In response, the Secretary said that actually, she did not want to discuss individual cases but since Members had asked her, she had to reply. Then, she cited a heap of figures. She did not say that the price of \$3,000 per sq ft was wrong but she said that at present, the units involved had a floor area of some 500 sq ft each and after auction, the owners could get more than \$5 million, so the price per sq ft was \$10,000, and it seemed she meant that the price of \$3,000 was wrong. However, I wish to point out that this is an issue of comparing an apple with an orange.

This is because the 500 sq ft she talked about is the present floor area and according to this piece of legislation on compulsory sale, if compensation is to be made, according to the calculation method set out in Schedule 2, the development potential should also be factored into it. Therefore, she should base her calculation on the floor area after redevelopment. Why do other people hold that the price of \$3,000 per sq ft is unreasonable? Because based on the floor area after redevelopment, if the price per sq ft of \$3,000 is compared with that for the plot in Tseung Kwan O, which happened to have been put up for auction at that time, that would be a comparison between oranges. Since the price of the site in Tseung Kwan O was over \$4,000 per sq ft, the price of the lot at Upper Kai Yuen Lane in North Point, at some \$3,000 per sq ft, is obviously on the low side, so it is unnecessary to argue about whether the surveyor was accurate or not. If we look at the actual figures, people would question why this kind of problem would occur, so I think I must point this out. If the price per sq ft after development will increase three-fold and if you say that the price per sq ft is \$10,000 now, then after taking into account the floor area after redevelopment, the price per sq ft would become some \$3,000 per sq ft, so this is how the difference comes about.

Second, President, there is an even more serious problem. In fact, Mr Albert HO, Mr James TO and Mrs Regina IP have all mentioned it in their speeches. This is because the Secretary compared the right of ownership of private property to owning wrist watches. She said that if you had a precious wrist watch or a piece of antique, it was fine because it belonged to you, so no one could force you to sell it. However, titles were different because you held them together with other people. When I heard that, I was really shocked. I looked at Mrs Regina IP and we were both speechless because she had only discussed the undivided shares with Members. It is true that when we talk about land titles, the calculation is based on undivided shares but there is one very important concept that even people who are not lawyers should know is that not only are you entitled to the undivided shares, you also have the right of exclusive possession. What is written in the law is "exclusive possession" and this is a very clear concept. If I liked and bought unit C on the 18th floor, I would have also bought the exclusive possession of unit C on the 18th floor. Of course, I have a share that comes with the exclusive possession of unit C on the 18th floor but it is impossible to just take into account this share and say that I jointly hold ..... according to the Secretary's construsion just now, if I have a 10% share, that

is, 10% of the title, I am subject to the control of the other 90% of the title. I would say this is terrible because if this is how it is like, if I own 49% of the title and you have 51%, you could put my share up for compulsory sale, could you not? There is no need to secure 90% or 80% of the title and securing 51% of the title would suffice.

I can see the Secretary shake her head but her concept is fundamentally flawed and this is a fundamental fallacy. I agree with the comment of Mr Albert HO that if this was her view, the design of the entire piece of legislation was also flawed. This is not simply a matter of joint ownership. If we are talking about the common parts and the owners have to decide how to carry out repairs and maintenance to the lobby or the lifts, I can understand because President, as a minority owner, I have to follow the majority because we are talking about the repairs and maintenance or the management of common parts. However, what is being discussed is not the common parts but the compulsory sale of my unit. It is not just about my share but the demolition of my unit. I would even lose unit C on the 18th floor and this is definitely related to the right of private ownership of property stipulated in Articles 6 and 105 of the Basic Law. This right must be respected and should not involve the concept of the minority submitting to the majority. If the concept of the minority submitting to the majority is applied to this piece of legislation, that would be terrible because the situation can evolve into one of owners holding 49% of the title having to comply with owners with 51% of the title, as I said just now, but the calculation should by no means be done in this way.

In fact, even though the Secretary is not a lawyer, she knows about the details of many other laws. For example, she also said that if you were the owner of a unit, you had the responsibility to repair the windows, and so on. This is a clearly different concept relating to common parts and the right of private ownership of property. The legislation on compulsory sale under discussion now does not just relate to the common parts but also to the part under private ownership. This is also why I stressed in my first speech that Articles 6 and 105 of the Basic Law both mentioned the need to respect the right of private ownership of property and why I said we could not simply base the calculation on the approach of the minority submitting to the majority. Rather, public interest must be involved and it must be overriding. If you want to demolish my flat, if you want to buy my flat and forcibly deprive me of my title, you must make



adequate compensation. It is on this basis that I would discuss this issue with you and this is not purely a matter of joint ownership or the minority submitting to the majority.

President, in addition, I also wish to talk about the "nail households" mentioned by Ms Starry LEE and Mrs Regina IP in their speeches today. In fact, at present, many minority owners who complained to me were not "nail households". These flats are their homes and they have lived there for a long time, or they have their own shops which they have run for a long time. They do not want to give up their titles but have to do so under pressure. I do not oppose this as a matter of principle. If overriding public interest is involved and there is justification for redevelopment, I would agree with doing so, but if we simply want to let property developers choose the most succulent piece of pork, I think this is questionable, so I have to propose my motion. I think the Secretary should not tarnish everyone with the same brush by saying that this move would increase the cost for "nail households". Therefore, I do not agree with the comment made by Secretary Carrie LAM in a radio programme, that the entire piece of legislation was designed to increase the cost of "nail households".

Moreover, I also wish to talk about the arrangement of "flat for flat" and "shop for shop" and the mediation mechanism. A number of Honourable colleagues have mentioned this in their speeches. President, many Honourable colleagues in the pro-establishment camp have talked glibly and painted a very rosy picture of the merits of a mediation mechanism. However, President, I am sorry to say that this is all empty talk. What did they say? They said that this should not be written too explicitly. Dr LEUNG Ka-lau was even funnier. He said that so long as the Secretary said that she hoped or agreed that there should be a mediation mechanism, it would do, that he understood there is no need to state clearly that .....

(Dr LEUNG Ka-lau stood up)

**PRESIDENT** (in Cantonese): Ms Audrey EU, please hold on. Dr LEUNG Ka-lau, what is your point?

**DR LEUNG KA-LAU** (in Cantonese): I did not say that the mediation mechanism need not be stated clearly. What I said was .....

**PRESIDENT** (in Cantonese): If you think that your speech has been misunderstood by other Members, please clarify later. Ms Audrey EU, please continue.

**MS AUDREY EU** (in Cantonese): President, there is one very important point. We understand that mediation can be carried out only if all parties agree to it. If it is not specified clearly that mediation is a prerequisite, why would the majority owners want to carry out mediation? You cannot think that so long as the thinking or the will of the Secretary is to attempt to or hope to bring about mediation, mediation would really be carried out. We cannot do so. President, for this reason, my approach is to specify that mediation is a prerequisite and that mediation must be carried out first. As legislators, we cannot think that so long as we have secured the Secretary's undertaking, in the future, matters would then surely turn into reality as hoped. If we do not put this down clearly when enacting legislation, how can it be ensured that they would carry out mediation? Why would property developers want to carry out mediation?

President, I also wish to respond to the comments made by some Members and the Secretary, that it was impossible to exchange the same number of shares for the same number of shares and that such a thing could never happen. President, of course, this is not what I mean and obviously, the Secretary and Honourable colleagues voicing opposition have never understood the approach of "flat for flat" and "shop for shop" properly. President, this would also respond to the comment made by Ms Starry LEE, that many minority owners wish to participate in redevelopment. In fact, precisely because of such a wish, what mode should be adopted to enable their participation? They would use their units or shares as the investment, President, and of course, property developers also have to make investments and provide the capital. They will erect the buildings, calculate the interests, and so on. Developers would calculate the entire set of accounts, so the final outcome of mediation may not be that of getting the same share as that which one originally had. However, this is the capital contributed by owners and after deducting other costs and interests, they have to see how much they can eventually get.

Secretary Carrie LAM asked just now why, to take The Belcher's as an example, one unit could be exchanged for two. In this process, the calculation was not just a matter of exchanging one unit for two or calculating the area, rather, the property developer took into account all the costs. In fact, this is not talking about the impossible and such an approach has been adopted in Taiwan, Japan, Singapore and Hong Kong. This approach was also adopted in respect of the old buildings on Macdonnell Road and one unit was exchanged for one unit or one and a half units. The owners could also choose how to calculate the area and in the end, the developer would calculate all the costs. I have also sought legal advice from the Legislative Council when drafting my present motion. Since the legislation is written in terms of shares, of course, the shares should be exchanged for the same number of shares. However, after all people have participated, all the costs can be set out and a final calculation can then be made. This is an approach whereby the profits are shared with the developer. President, for this reason, this is not a novel or special approach.

In addition, President, to some extent, according to the design of Schedule 2, we can also see that the development potential of the units owned by minority owners should be included in the calculation. For this reason, in line with the common-sense calculation method spelt out by me just now, if the area of an existing unit is 500 sq ft, it does not mean that it must be exchanged for a unit of 500 sq ft. It is also necessary to take into account the plot ratio and at the same time, the development risks have to be shared as well. Just now, Mr Abraham SHEK also talked about the risks, interests and costs, which have to be shared by all parties. President, this is the mechanism that must be included in the "flat-for-flat" and "shop-for-shop" arrangement and in mediation.

President, I wish to respond to the issue of "location, location, location" raised by Mrs Carrie LAM. President, you will remember that she said this three times. She said that if we wanted to carry out development, location was very important and that location was very important in terms of the development potential. I fully agree with the Secretary's comment and this is also the reason for my proposing the motion. I do not agree with the approach taken in the Secretary's Notice to lower the threshold for the three types of buildings on Hong Kong Island, in Kowloon and the New Territories across the board from 90% to 80%. The Secretary should identify districts that should be accorded priority in

redevelopment, where objective criteria are applicable. For example, the Government has conducted a review of the Outline Development Plan and considers that the density needs not be too high. In particular, regarding the lots on Hong Kong Island, the Secretary said that there was no height restriction and if an across-the-board approach is adopted to give developers free choices, the lots on Hong Kong Island on which no height restriction was imposed would first be chosen to build "toothpick" buildings or "screen-like" buildings. For this reason, if we have public interest in mind, old districts and property owners who truly lack the means to carry out repairs and maintenance should be given top priority. However, the Secretary did not actually answer the questions in this regard.

In addition, when Mr Abraham SHEK spoke just now, he was very high-sounding in portraying himself as the Member having the greatest conscience in this regard, saying that other directly-elected Members had practically never made visits to the local communities. He also mentioned the rehousing of tenants repeatedly. Mr Albert HO also put a question to Mr SHEK, saying that the legislation does not cover the allocation of flats to tenants. Although this issue has been broached today, we do not have enough time to discuss it, nor has consideration been given to the protection of tenants in the legislation. This is also the reason for a Member's proposal to defer the date on which the Notice comes into operation by one year. President, if the effective date of the Notice is simply deferred by one year but the Secretary does nothing in the meantime, I would really find this a great shame and most regrettable.

Later on, if there is really the opportunity to vote on deferment of the date on which the Notice comes into operation by one year, I hope the Secretary can ensure that the need to protect tenants, revitalize industrial buildings and take care of cultural workers can be addressed and it should also be ensured that the prerequisite consideration for redevelopment is the state of disrepair of a building. Furthermore, it must be specified clearly in the legislation that mediation must be carried out first, so that major developers or majority owners will carry out mediation.

President, I will therefore support all the motions later on.

**PRESIDENT** (in Cantonese): I now call upon Ms Cyd HO to reply. This debate will come to a close after Ms Cyd HO has replied.

**MS CYD HO** (in Cantonese): President, the more I listen, the more I find it necessary to repeal this Notice because in proposing that the effective date be deferred for one year, we only wish to have one more year to have discussions and take follow-up action with the executive in the event that all the other proposed amendments are not passed. However, even with an additional year, it does not mean that the Secretary would necessarily accept our views. In particular, just now, we found that in fact, there is a major and fundamental difference between the Secretary's interpretation of the right of ownership of property and that of Members from the legal profession. The Secretary should discuss this immediately with the Secretary for Justice and give an explanation to the public and the Council in black and white, so as to clarify whether or not communism is being practised in Hong Kong and why we have to own assets together.

President, in fact, after the Notice comes into operation on 1 April, there will be profound and negative implications on the public, justice and jurisprudence. The minority owners in Haven Street would be affected immediately because over 80% of the titles there have been acquired, with only a little more than 10% outstanding. For this reason, while I was speaking for the first time, I could hear the owners of Haven Street sob in the public gallery. Although it lasted only a short while, I could hear and see that. The Secretary could not see that because the public gallery is at her back. However, even if the Secretary could not hear that today, I hope she could listen and would be willing to listen in the future because after the passage of this piece of legislation, many minority owners would indeed be subjected to great pressure.

In the debate today, the more we debated, the clearer the truth is. Just now, the Secretary has already clarified that this matter is not directly related to building safety. Second, the Secretary also admitted that location mattered the most and of course, prime sites would attract property developers in speeding up redevelopment. Let me cite the example of The Belcher's again. Of course, the site is excellent: It commands an unobstructed sea view and is situated next to a higher educational institution. However, do Members know why the process of acquisition and redevelopment of The Belcher's went so smoothly? The

Secretary did not raise two points, so I will provide some information to everyone here. First, originally, The Belcher's was a housing estate developed jointly by a civil servants co-operative, so property developers could not crack the owners one by one because all the owners had to wait for a certain number of years together before their units could be sold. Therefore, it was almost certain that collective bargaining had to be carried out. The second and also the most important point is that at the time of the acquisition of The Belcher's, the legislation on compulsory sale had not yet been enacted and even the threshold of 90% for compulsory sale had not yet come into existence, so it was necessary to negotiate because compulsory sale was not possible. However, after the legislation on compulsory sale had come into operation, a similar civil servant housing estate, the Chatham Garden, fared much worse because at the time of the acquisition and redevelopment of the Chatham Garden, the legislation on compulsory sale had already been enacted and it was possible to apply for compulsory sale after acquiring over 90% of the title, so the price offered was far lower. The owners were afraid that they would become the last 10% of owners, so they did not unite together to negotiate the price. They only wanted to sell their units as quickly as possible. These two examples show clearly the difference before and after the introduction of the legislation on compulsory sale.

Therefore, no matter if the threshold for compulsory sale is 90% or 80%, it is necessary to put in place an equitable mechanism to deal with the right of minority owners who are not yet unwilling to sell their flats and give them more choices. In fact, there are two perspectives in the whole matter, one being the right to private ownership of property of individual owners. Various Members, including Ms Starry LEE and Prof Patrick LAU, have said that they would consider the proposal of "flat for flat", so I call on Members not to cause division among owners anymore and they certainly should not say that a building cannot be sold because some owners are unwilling to sell their flats. Be it the sale of buildings or redevelopment, there is an even better approach, that is, to enable owners to take part by "exchanging a flat for a flat". This is an approach that is worth making reference to, an approach also proposed by various political parties and groupings today.

Of course, not all redevelopment projects have followed the example of The Belcher's and in reality, most instances followed this pattern: A developer carries out acquisition in a low profile and when it has acquired 40% or 50% of the titles, it comes to light, so other people know about the acquisition. The

mechanism is then activated to allow owners to take part in the development and let them have a choice between getting the money upon the sale of their flats or taking part in development. Of course, under this arrangement, the interest of some people would be compromised. This would certainly happen, that is, the property developers cannot make so much money but the rights of individual minority owners are given protected.

At the same time, we should also make reference to the anti-trust provisions in the Broadcasting Ordinance, which give owners an opportunity to carry out collective bargaining, so that minority owners would not be affected by the predatory and monopolistic behaviour of property developers that have acquired 80% or 90% of the titles using the advantages presented by the shares already held. In view of this, why do we not consider putting in place an equitable legal framework to enable developers and owners to carry out urban redevelopment together more smoothly? If we can provide commercial incentives to encourage developers to take part in urban redevelopment, why can we not also provide commercial incentives to minority owners, so that they can also have a greater incentive to participate in urban redevelopment together? Therefore, I hope that various political parties would not call on minority owners to choose between the devil and the deep blue sea, rather, we should propose ways that would enable all parties to conclude this matter amicably and make profits together, so as to carry out redevelopment.

The Secretary said that this matter had been discussed for a long time, that since the discussion had begun in 2006, if the discussion went on, would this not be tantamount to discussion without making decisions? However, when this matter was discussed in 2006, the authorities did not mention "flat for flat". In fact, the concept of "flat for flat" was proposed in late 2003, when the Urban Renewal Authority (URA) was acquiring the properties in the "Wedding Card Street" to carry out redevelopment. Nevertheless, all along, the authorities were unwilling to listen to other people's views. It was in the last couple of years, when there was a great deal of grievances, that many victims of urban renewal projects pooled themselves together to create a social campaign, that such views were taken on board. Therefore, this is not discussion without making decisions, rather, this matter has never been put on the agenda, never discussed at all. The authorities have not listened to the demands of the public in earnest, so this is not a question of discussion without making decisions.

President, apart from the right to private ownership of property, next, I wish to talk about public interest. Public interest is the disastrous effect on urban planning when we do not impose restrictions on building height and floor area and as a result, a free rein is given to redevelopment. Just now, Mr CHAN Kam-lam mentioned my name, telling me not to use such slogan-like remarks as "do not make full use of the plot ratio", saying that these slogans are certainly pleasant to the ear. However, I am not the only one making such remarks. The Ombudsman also made criticisms in this regard: Due to the absence of plot ratio restriction for the redevelopment projects at the Central Mid-Levels, the numbers of buildings and residents there increased drastically, thus posing serious problems to the traffic capacity and road network there, and it is difficult to solve the problem of traffic congestion in the area. The Government also agreed that there are problems, so it is not just Cyd HO who is saying this.

Today, I have brought along a document purposely to discuss it with Mrs Carrie LAM. However, I can tell Mr CHAN Kam-lam about it now. This "Invitation for Response" document on Building Design to foster a Quality and Sustainable Built Environment was published in late June 2009 and the response period ended in late October of the same year. A passage in the document reads, "While tall buildings and high density provide function and efficiency, such development may also lead to the formation of "walls" of buildings, narrow and overcrowded roads and streets, poor urban air ventilation, high levels of roadside air pollution, limited public amenity ..... The compact nature of building designs and the close proximity of buildings, which arise from the need to maximise the efficient use of building sites, also mean that we don't take full advantage of natural ventilation and breezes for cooling, further increasing our dependence on air conditioning.". Such are the possible consequences of carrying out redevelopment without any constraints, any cap on plot ratio, height or floor area. The document also carries pictures illustrating such problems as pedestrians and vehicles competing for space, the canyon effect and screen-like buildings impeding air flow. All these problems require our action and they are not empty slogans. At the Western Mid-Levels, The Swire Group redeveloped a building on which no limit on the plot ratio was imposed, or what the Secretary calls an unrestricted lease, and the building is 58 storeys tall. The Town Planning Board (TPB) did not want it to be so tall, so both parties took this matter to Court. Unfortunately, the TPB eventually lost the case, precisely because no restriction was imposed. Therefore, if we do not speed up the review and propose new



town planning standards to impose limits and instead, allow building size to expand unchecked, the consequences on town planning can be disastrous.

I really do not understand because last week, the DAB arranged for Mr CHAN Hak-kan to move a motion on reducing carbon emission entitled "Advocating a low carbon life" and at that time, everyone happily and eagerly agreed with and passed it unanimously. At that time, I also said that such individual efforts as saving electricity and switching off lights would be of little help. If our overall framework, our major policies and overall setting are not geared towards town planning that would reduce electricity consumption and carbon emission, no matter how thrifty individual members of the public are, our efforts in saving energy can be undone in just a few strokes by this kind of legislation that is passed for no apparent reason, thus making Hong Kong a high-carbon city.

President, in fact, such slogans as "flat for flat" and "shop for shop" were proposed by me when I followed up the acquisition plan of the URA together with residents of the Wedding Card Street. At that time, I told them that they should by no means discuss matters relating to money with the URA because if they did, the URA could paint them in a bad light, saying that they were greedy. The residents were very clever in coming up with the slogan of "flat for flat" and "shop for shop". Although it is only a slogan, since 2003, this slogan has gained acceptance and it is agreed that flats should be exchanged for flats. It may not be possible to exchange shops for shops but shops can also be exchanged for flats. So long as there are strong enough incentives, all parties will be prepared to consider such exchanges. Therefore, to say that the plot ratio should be limited and the threshold on compulsory sale should be relaxed from 90% to 80% only after the Outline Zoning Plans have been completed is not merely a slogan, but also a necessity. Although today, Mr CHAN Kam-lam has also used the slogan proposed by us in 2003, if each time, we have to wait for six years before he agrees to it, that would be too bad.

President, if we pass the legislative proposal put forward by the Secretary today, this would give rise to three classes of victims. The first class of victims is the tenants who rent cheap units in old districts. After the redevelopment of buildings in the old districts, they will not be able to afford the rent of units in newly completed buildings and the price per sq ft of these new buildings may be

a five-digit figure. Even if they eat nothing for a whole month, they still cannot even afford one square foot in these units. For this reason, even as we lower the threshold for compulsory sale to speed up urban redevelopment, it is also necessary to make other arrangements to take care of the grassroots and increase the supply of public housing. If the authorities concern themselves only with redevelopment and overlook the care for the grassroots, such an approach is most undesirable and obviously, this policy is skewed towards consortia. The second class of victims is the owners. Today, we have cited many examples because after the passage of the legislation on compulsory land sale, the bargaining power of each owner will be reduced and by this, I do not mean the last 10% or 20% of owners, but all owners. The third class of victims is the general public because if we open the gate to speed up urban redevelopment in old districts before new town planning standards have been formulated, the public will be the victims of the disasters in town planning. In fact, in the Central and Western District, there are still over 150 sites in respect of which no limit on plot ratio has been imposed. Come to think about this. If these sites numbering over 150 are redeveloped, more than 100 58-storey buildings like the one built by The Swire Group would crop up at the Central and Western Mid-Levels, so may I ask how possibly can the traffic capacity on Caine Road cope with them?

Concerning the use of industrial buildings for cultural purposes, although the Secretary said in the papers provided to us that less than 1% of industrial land is used by cultural groups, I notice that the number of such industrial buildings is not small and stands at several thousand, that is, tens of thousands of units. Even if the rate is only 1%, in fact, a lot of people are involved. For this reason, it is necessary for us to follow up this issue.

President, finally, I wish to say that the Secretary portrayed herself as fighting for the people, but I think there is a mistake in her assumption of roles. People petitioning for a public cause are those without power or influence, but there is no need for the Secretary to fight for the people because she has power. She only has to put herself in others' shoes and listen to the plight of the minority owners. If the Secretary is prepared to listen, we as Members do not have to fight for the people all the time. We can see from the example of Mrs Regina IP that after running in an election, she knows that she has to be accountable to the public and care about the interests of the grassroots. However, under our present political system, the executive is not elected by us and the Members in the legislature are not all elected by us either. Under this system, we cannot convey

the difficulties facing the public and resolve the issues of concern to the public. If we let constitutional reform drag its feet until 2017 or 2020, this kind of thing will continue to happen in the next 12 years, so Hong Kong cannot wait any longer.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Cyd HO be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Ms Cyd HO rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Cyd HO has claimed a division. The division bell will ring for three minutes, after which the division will begin.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Dr LEUNG Ka-lau abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, three were in favour of the motion, 23 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 15 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**MS MIRIAM LAU** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motions proposed on the relevant

subsidiary legislation as set out in the remaining parts of the Agenda, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motions proposed on the subsidiary legislation as set out in the remaining parts of the Agenda, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr James TO, you may move you first motion.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR JAMES TO** (in Cantonese): Page 9. President, I move that the first motion under my name be passed. That is, with the exception of industrial buildings, the other two items shall come into force on 1 April 2011.

**Mr James TO moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended by repealing section 1 and substituting –

"1. Commencement

- (1) Subject to subsection (2), this Notice comes into operation on 1 April 2010.
- (2) Section 4(1)(a) and (b) comes into operation on 1 April 2011."."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr James TO be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO has claimed a division. The division bell will be rung for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr Joseph LEE, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU and Mr IP Kwok-him voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE and Mr CHAN Hak-kan voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 11 were in favour of the motion and 16 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 18 were in favour of the motion and six against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Mrs Regina IP, you may move your motion.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND  
GENERAL CLAUSES ORDINANCE**

**MRS REGINA IP** (in Cantonese): President, I move that the motion under my name be passed.

**Mrs Regina IP moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended —

- (a) in section 2 —
  - (i) in the definition of “relevant date”, by repealing the semicolon and substituting a full stop;
  - (ii) by repealing the definition of “unit”;
- (b) by repealing section 4(1)(a) and (b) and (2)."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Regina IP be passed.



**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO has claimed a division. The division bell will be rung for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che and Dr Samson TAM voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted against the motion.

Dr Joseph LEE abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, four were in favour of the motion, 22 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Mr James TO, you may move your third motion.

### **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR JAMES TO** (in Cantonese): President, on page 11. President, I move that the third motion under my name be passed, that is, regarding the last title, to include such requirements as building age of 50 years, issuance of the maintenance order and valuation at 80% of the market value.

**Mr James TO moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended by repealing section 4(1)(a) and (b) and substituting –

"(a) a lot –

(i) with each of the units on the lot representing more than 10% of all the undivided shares in the lot;

(ii) with each of the buildings erected on the lot –

(A) issued with an occupation permit at least 50 years before the relevant date; and

(B) against which an order in writing issued by the Building Authority under section 26 or 26A of the Buildings Ordinance (Cap. 123) is registered in the Land Registry at the relevant date; and

(iii) where the majority owner owns not less than 80% of the market value of all the properties in the lot according to the valuation report prepared in accordance with Part 1 of Schedule 1 to the Ordinance;

(b) a lot which satisfies the requirements specified in paragraph (a)(ii) and (iii);".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr James TO be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, two were in favour of the motion and 25 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Mr James TO, you may move your fourth motion.

#### **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR JAMES TO** (in Cantonese): President, on page 12. President, I move that the fourth motion under my name be passed, that is, regarding the last title, to include such requirements as a lot specified by the Secretary on the ground of public safety and valuation at 80% of the market value.

**Mr James TO moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended by repealing section 4(1)(a) and (b) and substituting –

"(a) a lot –

- (i) with each of the units on the lot representing more than 10% of all the undivided shares in the lot;

- (ii) specified by the Secretary for Development for redevelopment on the ground of public safety if no order in writing issued by the Building Authority under section 26 or 26A of the Buildings Ordinance (Cap. 123) is registered in the Land Registry; and
  - (iii) where the majority owner owns not less than 80% of the market value of all the properties in the lot according to the valuation report prepared in accordance with Part 1 of Schedule 1 to the Ordinance;
- (b) a lot –
  - (i) which satisfies the requirements specified in paragraph (a)(ii) and (iii); and
  - (ii) with each of the buildings erected on the lot issued with an occupation permit at least 50 years before the relevant date;". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr James TO be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, two were in favour of the motion and 25 against it; while among the Members returned by geographical constituencies through

direct elections, 24 were present, 13 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, you may move your first motion.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR LEE WING-TAT** (in Cantonese): President, I move that the first motion under my name be passed.

**Mr LEE Wing-tat moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended by repealing section 4(1)(a) and (b) and substituting –

"(a) a lot –

- (i) with each of the units on the lot representing more than 10% of all the undivided shares in the lot;
- (ii) with each of the buildings erected on the lot –
  - (A) issued with an occupation permit at least 50 years before the relevant date; and
  - (B) against which an order in writing issued by the Building Authority under section 26 or 26A of the Buildings Ordinance (Cap. 123) is registered in the Land Registry at the relevant date;
- (iii) where the majority owner owns not less than 80% of the market value of all the properties in the lot according to the valuation report prepared in



accordance with Part 1 of Schedule 1 to the Ordinance;  
and

(iv) where the majority owner of the lot certifies in writing that mediation between the majority owner and minority owner has been conducted before the relevant date;

(b) a lot which satisfies the requirements specified in paragraph (a)(ii), (iii) and (iv);".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Wing-tat be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mrs Regina IP voted for the motion

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, two were in favour of the motion and 25 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, you may move your second motion.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR LEE WING-TAT** (in Cantonese): President, I move that the second motion under my name be passed.

**Mr LEE Wing-tat moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended by repealing section 4(1)(a) and (b) and substituting –

"(a) a lot –

- (i) with each of the units on the lot representing more than 10% of all the undivided shares in the lot;
- (ii) where the Tribunal is satisfied that redevelopment of the lot is justified due to the state of repair of each of the existing buildings erected on the lot;
- (iii) where the majority owner owns not less than 80% of the market value of all the properties in the lot according to the valuation report prepared in accordance with Part 1 of Schedule 1 to the Ordinance; and
- (iv) where the majority owner of the lot certifies in writing that mediation between the majority owner and minority owner has been conducted before the relevant date;

(b) a lot –

- (i) which satisfies the requirements specified in paragraph (a)(ii), (iii) and (iv); and
- (ii) with each of the buildings erected on the lot issued with an occupation permit at least 50 years before the relevant date;".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Wing-tat be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, two were in favour of the motion and 25 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 15 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, you may move your third motion.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR LEE WING-TAT** (in Cantonese): President, I move that the third motion under my name be passed.

**Mr LEE Wing-tat moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended by repealing section 4(1)(a) and (b) and substituting –

"(a) a lot –

- (i) with each of the units on the lot representing more than 10% of all the undivided shares in the lot;
- (ii) where the Tribunal is satisfied that the redevelopment of the lot is justified due to the interests of public safety;
- (iii) where the majority owner owns not less than 80% of the market value of all the properties in the lot according to the valuation report prepared in accordance with Part 1 of Schedule 1 to the Ordinance; and
- (iv) where the majority owner of the lot certifies in writing that mediation between the majority owner and minority owner has been conducted before the relevant date;

(b) a lot –

- (i) which satisfies the requirements specified in paragraph (a)(ii), (iii) and (iv); and
- (ii) with each of the buildings erected on the lot issued with an occupation permit at least 50 years before the relevant date;".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Wing-tat be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, two were in favour of the motion and 25 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 15 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.



**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, you may move your fourth motion.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR LEE WING-TAT** (in Cantonese): President, I move that the fourth motion under my name be passed.

**Mr LEE Wing-tat moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended by repealing section 4(1)(a) and (b) and substituting –

"(a) a lot –

- (i) with each of the units on the lot representing more than 10% of all the undivided shares in the lot;
- (ii) specified by the Secretary for Development for redevelopment on the ground of public safety if no order in writing issued by the Building Authority under section 26 or 26A of the Buildings Ordinance (Cap. 123) is registered in the Land Registry;
- (iii) where the majority owner owns not less than 80% of the market value of all the properties in the lot according to the valuation report prepared in accordance with Part 1 of Schedule 1 to the Ordinance; and
- (iv) where the majority owner of the lot certifies in writing that mediation between the majority owner and minority owner has been conducted before the relevant date;

(b) a lot –

- (i) which satisfies the requirements specified in paragraph (a)(ii), (iii) and (iv); and
- (ii) with each of the buildings erected on the lot issued with an occupation permit at least 50 years before the relevant date;".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Wing-tat be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, two were in favour of the motion and 25 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Mr Albert HO, you may move your second motion.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR ALBERT HO** (in Cantonese): President, I move that the second motion under my name be passed.

President, there are only two items in this motion. I have added that the Lands Tribunal has to consider the state of repair of the building while at the same time, the majority owner has to own 80% of the assessed market value of the building before an application can be filed under this legislation.

**Mr Albert HO moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended by repealing section 4(1)(a) and (b) and substituting –

"(a) a lot –

- (i) with each of the units on the lot representing more than 10% of all the undivided shares in the lot;
- (ii) where the Tribunal is satisfied that redevelopment of the lot is justified due to the state of repair of each of the existing buildings erected on the lot; and
- (iii) where the majority owner owns not less than 80% of the market value of all the properties in the lot according to the valuation report prepared in accordance with Part 1 of Schedule 1 to the Ordinance;

(b) a lot –

- (i) which satisfies the requirements specified in paragraph (a)(ii) and (iii); and
- (ii) with each of the buildings erected on the lot issued with an occupation permit at least 50 years before the relevant date;"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Albert HO be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Albert HO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, two were in favour of the motion and 25 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Mr Albert HO, you may move your third motion.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MR ALBERT HO** (in Cantonese): President, I move that the third motion under my name be passed. The motion is mainly about: In the application for the compulsory sale, I have added two new conditions, namely the Lands Tribunal has to consider from the angle of the interests of public safety and at the same time, the building owners have to own 80% of the assessed market value of the building.

**Mr Albert HO moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended by repealing section 4(1)(a) and (b) and substituting –

"(a) a lot –

- (i) with each of the units on the lot representing more than 10% of all the undivided shares in the lot;
- (ii) where the Tribunal is satisfied that the redevelopment of the lot is justified due to the interests of public safety; and
- (iii) where the majority owner owns not less than 80% of the market value of all the properties in the lot according to the valuation report prepared in accordance with Part 1 of Schedule 1 to the Ordinance;

(b) a lot –

- (i) which satisfies the requirements specified in paragraph (a)(ii) and (iii); and
- (ii) with each of the buildings erected on the lot issued with an occupation permit at least 50 years before the relevant date;".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Albert HO be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr James TO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU,



Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, two were in favour of the motion and 25 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 14 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Ms Audrey EU, you may move your motion.

#### **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MS AUDREY EU** (in Cantonese): President, I move that the motion under my name be passed. President, the relevant wordings are presented in Appendix 14,

and it is very simple. It seeks to add two conditions to the second class of lots. One of them is that it has to be designated by the Secretary for priority redevelopment, and the Secretary is thus vested with this kind of flexibility. Second, mediation between the majority owner and minority owner has to be conducted beforehand.

**Ms Audrey EU moved the following motion:**

"RESOLVED that the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice, published in the Gazette as Legal Notice No. 6 of 2010 and laid on the table of the Legislative Council on 27 January 2010, be amended by repealing section 4(1)(b) and substituting -

"(b) a lot -

- (i) designated by the Secretary for Development for priority redevelopment for reason of public interest, with each of the buildings erected on the lot issued with an occupation permit at least 50 years before the relevant date; and
- (ii) where mediation between the majority owner and minority owner has been conducted, including the obtaining of the undivided shares of the minority owner in the lot at the relevant date by the majority owner by offering the same number of undivided shares from the lot after its redevelopment;". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Audrey EU be passed.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Ms Audrey EU rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Audrey EU has claimed a division. The division bell will ring for one minute.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the motion.

Dr Joseph LEE abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, two were in favour of the motion, 24 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 15 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

## **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting until nine o'clock tomorrow morning.

*Suspended accordingly at half-past Ten o'clock.*

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Transport and Housing to Ms Miriam LAU's supplementary question to Question 2**

The "Safe Driving and Health Campaign", ran from December 2009 to February 2010, was organized by the Transport Department (TD) to raise the alertness of commercial vehicle drivers to their health conditions with a view to enhancing road safety. During the Campaign, a total of six "Health Check Days" were organized in different districts of Hong Kong to provide free and simple health check for about 1 800 commercial vehicle drivers. The health check covers the measurement of:

- height, weight and body mass index;
- pulse and blood pressure;
- blood cholesterol and blood glucose level;
- fat percentage; and
- waist, hip and waist-hip ratio.

The TD also arranged dieticians on sites to explain to the participating drivers the findings of the health checks.

## Appendix II

## WRITTEN ANSWER

**Written answer by the Secretary for Food and Health to Mr Fred LI's supplementary question to Question 5**

As regards the coverage rate of each of the target groups receiving human swine influenza (HSI) vaccine under the HSI Vaccination Programme, as at 15 March 2010, about 173 100 persons under the target groups have received HSI vaccines. The breakdown of the number of recipients by target group and the respective coverage rates are as follows:

	<i>Total estimated population</i>	<i>Number of recipients</i>	
		<i>Total (as at 15 March 2010)</i>	<i>Cumulative Percentage</i>
Elderly aged 65 or above (including elderly people living in residential care homes)	890 000	95 700	10.8%
Persons aged under 65 with chronic illnesses	570 000	42 600	7.5%
Pregnant women <sup>(1)</sup>	-	1 500	-
Health care workers	150 000	12 900	8.6%
Children aged between six months and less than six years <sup>(2)</sup>	380 000	19 900	5.2%
Pig farmers and pig-slaughtering industry personnel	1 600	500	31.3%
Total:	1 991 600	173 100	8.7%

(The figures in the above table are rounded to the nearest hundreds.)

Notes:

- (1) The population of eligible pregnant women at a given point of time is subject to considerable uncertainty. The number of women who gave birth in 2009 was 82 906.
- (2) Children need to receive two doses.