



Alone or together? Part 2

Under section 4(6)(a)(i) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545), the Lands Tribunal has the power to set the particulars and conditions of the sale of the lot which is the subject of an application before the Tribunal (the subject lot). The question is whether that power enables the Tribunal to order the sale of the subject lot *together with* other adjoining lots already 100% owned by the applicant.

If the answer is yes, one wonders how the Tribunal could order a sale of the lots not seized by it by virtue of any application. In *Many Gain Investment Limited v Chan Fai Ho & Ors*¹, the Tribunal took the view that if it was the applicant's intention to redevelop the subject lot together with other adjoining lots as a merged site, such intention and particulars of such adjoining lots should be pleaded so that the Tribunal could set the reserved price reflecting the full redevelopment potential of the composite site. It in fact adjourned the proceedings to enable the applicant to include the adjoining lots in its application.

A differently constituted Tribunal in *Day Bright Development Limited & Ors v Choi Pak Ling & Ors*² came to a different conclusion. It considered that since section 4(6)(a)(i) referred only to an order already made by the Tribunal under section 4(1)(b)(i), the powers created by it were thus restricted to the giving of directions incidental to the sale of the subject lot. Only if the Tribunal was also seized of the adjoining lots under other provisions of Cap. 545, could it order a sale of the lots together. In *First Kind Limited & Anor v Liu Keng Chor, Administrator of the estate of Li Fung Man, deceased & Anor*³, the same Panel of the Lands Tribunal made clear that in such circumstances the Tribunal was under no duty but only had the discretion to order a sale of the lots together.

Again we have to wait for the final word of the higher courts to resolve the differences.

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¹ [2013] HKCU 2755 (LDCS 28000/2012, 29 November 2013, unreported).

² [2014] 4 HKC 364.

³ [2016] 4 HKC 90.

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PLEASE NOTE

The law and procedure on this subject are very specialized. This article is a general explanation for your reference only and should not be relied on as legal advice for any specific case. If legal advice is needed, please contact our solicitors.

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