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Foreseeable Problems of Redevelopment of Public Housing Estates – a case study of Tsui Ping (North) Estate



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1. Introduction

About one-half of the population in Hong Kong lives in public housing estates, but some of the estates are ageing rapidly and would soon be required to be redeveloped. However, the sub-sale of public housing units and commercial parts in 2005 by the Tenant Purchase Scheme (TPS) and to the Link REIT has converted public housing estates from single ownership to multiple ownership. Problems of redevelopment would be foreseeable.

HKHA (2014) highlights the following 22 non-divested aged estates (Table 1, i.e. single owned by HKHA), but there are 180 commercial facilities¹ within public housing estates co-owned with the Link REIT and 39 estates co-owned with TPS owners (Table 2). This paper takes Tsui Ping (North) Estate as an example to illustrate the co-ownership issues in case of redevelopment.

Table 1 Non-divested aged public housing estates

Estate	Completion Year	Building Age (as at Dec 2013)
Model Housing	1952	61
Sai Wan	1958	55
Ma Tau Wai	1962	51
Wo Lok	1962	51
Choi Hung	1962	51
Fuk Loi	1963	50
Wah Fu (I)	1967	46
Wah Fu (II)	1970	43
Ping Shek	1970	39
Mei Tung	1974	38
Kwai Shing West	1975	38
Lai King	1975	38
Lei Muk Shue (II)	1975	37
Hing Wah (II)	1976	37
Lai Yiu	1976	36
Nam Shan	1977	36
Cheung Ching	1977	36
Yue Wan	1977	35
Choi Wan (II)	1978	35

¹ Full details of the 180 commercial facilities in 2006 are available in the valuation report at http://www.thelinkreit.com/EN/investor/Documents/Financial%20Reports%20and%20Presentations_Eng/Financial%20Reports/annualrpt0506_en.pdf, there may be changes in the portfolio.

Fu Shan	1978	35
Cheung Shan	1978	35
Shek Kip Mei	1979	34

Source:

www.housingauthority.gov.hk/en/common/pdf/about-us/housing-authority/ha-paperlibrary/HA6-14.pdf

Table 2 Estate for Sale in TPS

Estate	Year of Intake	TPS Phase / Year
Wah Kwai	1990-91	Ph1 / 1989
Fung Tak	1991-92	Ph1 / 1989
Heng On	1987	Ph1 / 1989
Cheung On	1988-89	Ph1 / 1989
Wan Tau Tong	1991-92	Ph1 / 1989
Kin Sang	1989	Ph1 / 1989
Yiu On	1988-89	Ph2 / 1999
Wah Ming	1990	Ph2 / 1999
Tsui Wan	1988-89	Ph2 / 1999
Tin King	1989-90	Ph2 / 1999
Chuk Yuen North	1987-89	Ph2 / 1999
Tak Tin	1991-92	Ph2 / 1999
Choi Ha	1989-90	Ph3 / 2000
Hin Keng	1986-88	Ph3 / 2000
Fung Wah	1991	Ph3 / 2000
Tai Wo	1989-90	Ph3 / 2000
Fu Heng	1990-91	Ph3 / 2000
Tin Ping	1986-90	Ph3 / 2000
Kwong Yuen	1989-90	Ph4 / 2001
King Lam	1990-91	Ph4 / 2001
Lower Wong Tai Sin (I)	1989-91	Ph4 / 2001
Hing Tin	1987-88	Ph4 / 2001
Leung King	1988-90	Ph4 / 2001
Tsing Yi	1986-89	Ph4 / 2001
Pok Hong	1982-85	Ph5 / 2002
Tsui Ping (North)	1982-94	Ph5 / 2002
Tung Tau (II)	1982-93	Ph5 / 2002
Lei Cheng Uk	1984-90	Ph5 / 2002
Tai Ping	1989	Ph5 / 2002

Kwai Hing	1991-92	Ph5 / 2002
Cheung Wah	1984-86	Ph6A / 2004
Lei Tung	1987-88	Ph6A / 2004
Shan King	1983-86	Ph6A / 2004
Po Lam	1988-89	Ph6A / 2004
Cheung Fat	1989	Ph6B / 2005
Fu Shin	1985-86	Ph6B / 2005
Long Ping	1986-89	Ph6B / 2005
Nam Cheong	1989	Ph6B / 2005
Tsui Lam	1988-89	Ph6B / 2005

Source:

<http://www.housingauthority.gov.hk/en/home-ownership/buying-a-flat-under-tps/list-of-tps-estates/index.html>

2. Background of the Housing Estate

Tsui Ping (North) Estate is located at Kwun Tong, Kowloon. Land lot number is Kwun Tong Inland Lot No. 754. It was formerly a resettlement estate built in the 1960s, which was commonly known as Kai Liu, and it underwent redevelopment in the 1980s. Today, Tsui Ping (North) Estate consists of 12 residential blocks (Figure 1). There are 3,500 housing units for rental as at 31 March 2014, and the GFA of housing units ranges from 15.8 to 87.8 sm.



Figure 1 Block Plan of Tsui Ping (North) Estate

3. Sub-sale of the Housing Estate

Being one of the public rental housing estates in Hong Kong, Tsui Ping (North) Estate was originally built and owned by Hong Kong Housing Authority (HKHA). However the ownership structure changed since 2005.

In 2005, it was put under the Tenants Purchase Scheme (TPS) Phase 5, through which tenants could purchase their flats and became homeowners. According to the Census 2011, about 45.1% of the households owned their housing units. The median monthly rent to income ratio was 11.2% and the median mortgage payment to income ratio was 6.9%, which were much lower than many other districts.

Furthermore, the commercial parts (shopping centre, car parking spaces) of the housing estate were sold to the Link Management Limited in 2005. Some of the commercial parts are detached and can be independently redeveloped, but some are located on the M1 and M2 floors of the housing blocks, which cannot be physically separated from the housing structures. The housing units sold via TPS cannot be separated from the housing structures.

That is probably the reason why they were sold by means of undivided shares with exclusive possessive rights. A DMC was made on 22 March 2002 defining the rights and responsibilities among co-owners. A Modification to Remove the Alienation Restriction was then made on 28 August 2003 to allow sub-sale of some parts of the Estate. A Deed Poll of the Integrated HA Accommodation, Car Park Block, Commercial Complex and Reserved Shares of Tsui Ping (North) Estate dated 20 Oct 2005 was also made for assigning undivided shares to the parts.

Figure 2 shows an extract from the layout plans enclosed in the DMC.

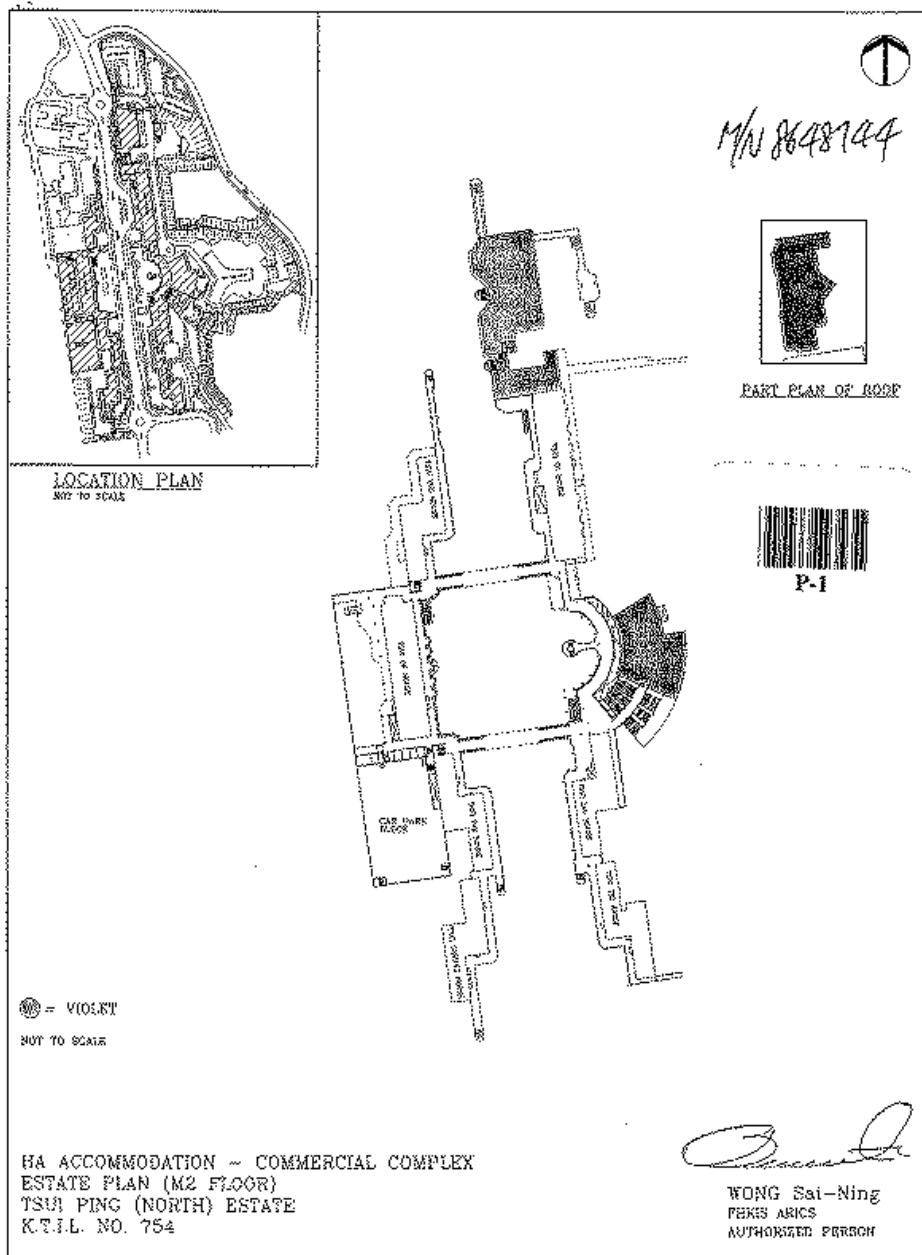


Figure 2 Layout Plan of HA Accommodation – Commercial Complex M2 Floor

4. Ownership of the Housing Estate

Page 79 of the DMC shows the breakdown of the undivided shares, summarized in Table 3 as follows:

Table 3 Distribution of Undivided Shares of Tsui Ping (North) Estate

Nature of Accommodation	No. of Shares	%
Residential Accommodation	297,353	86
Integrated HA Accommodation ²	26,750	8
Detached HA Accommodation ³ (Car Park Block, Commercial Complex ⁴ , Open Car Parks)	21,048	6
Others (Common Areas and Reserved Shares)	159	0
Total	345,220	100

The Letter of Removal of Restriction on Alienation of Flat No.8 on 4th Floor of Tsui Nam House Low Block refers to the sale of housing unit via TPS is by allocating 44/345,220th undivided shares in the lot of Tsui Ping (North) Estate.

The distribution of shares shown in the Deed Poll of the Integrated HA Accommodation, Car Park Block, Commercial Complex and Reserved Shares of Tsui Ping (North) Estate also implies that the Link REIT owns 46,926/345,220th undivided shares (14%) of the lot in Tsui Ping (North) Estate including the M1 and M2 floors of Tsui Tsz House, Tsui Lau House, Tsui Pak House, Tsui On House, Tsui Yue House and Tsui To House.

Hong Kong Housing Authority (2014) explicitly spelt out the problems in the redevelopment of public housing estates due to the co-ownership with the Link REIT:

“For divested estates which are co-owned by the Link and the HA, it is

² “Integrated HA Accommodation shall mean such part of parts of the HA Accommodation located within the Residential Blocks as referred to in the FIRST SCHEDULE HERETO and as shown for identification purpose only coloured violet on the HA Accommodation floor plans annexed hereto;” (DMC)

³ “Detached HA Accommodation shall mean all parts of the HA Accommodation excluding the Integrated HA Accommodation but including the Car Park Block, the Commercial Complex, the Open Car Parks, the Reserved Areas and the guard kiosks, control barriers and related electronic and mechanical devices (if any) erected or installed within the Estate serving exclusively the car parks within the Car Park Block and/or the Commercial Complex and/or the Open Car Parks” (DMC)

⁴ “Commercial Complex shall mean the commercial complex (including the external walls and portions of the roof and portion of the footbridges erected within the commercial complex but excluding the Recreational Areas and the Recreational Facilities) constructed and provided on the said land and the Estate, comprising (i) parking spaces for goods vehicles and loading and unloading spaces on the M1 floor; (ii) portions of the commercial accommodation on the M1 and M2 floors and (iii) other services on the podium floor serving the Commercial Complex (the locations of all of which are for identification purpose only respectively shown and coloured violet on the HA Accommodation – Commercial Complex estate plans annexed hereto); (iv) the commercial complex associated areas on the M1, M2 and podium floors (the locations of all of which are for identification purpose only respectively shown and coloured violet on the HA Accommodation – Commercial Complex estate plans annexed hereto); and (v) the Commercial Complex Improvement upon completion of all construction works in relation thereto, all forming part of the Detached HA Accommodation;” (DMC) see also Figure 2.

necessary to have the cooperation and agreement of the Link to jointly address the issues relating to the legislation, land lease, dead of mutual covenant and land ownership, etc. and to derive a redevelopment model that is considered acceptable by both the Link and the HA, before we can embark on any redevelopment.”

5. Governance for Redevelopment of the Co-owned Housing Estate

In view of the presence of multiple-ownership in Tsui Ping (North) Estate, it requires an agreement among HKHA, 4,300 TPS co-owners and the Link REIT.

Section X of the DMC makes provisions for co-owners’ agreement on redevelopment matters, among others. Clause 77(m)(2) requires not less than 75% of the total number of Undivided Shares to make “a resolution to rebuild or redevelop the said land and the Estate or any part thereof.”

According to the government’s response to the Legislative Council in 2013, once a public housing estate is divested, then any redevelopment works “are subject to the requirements of the BO, planning requirements, as well as the relevant clauses in the Government leases. If the works require any relaxation or modification of lease conditions, such as an increase in GFA, application to the LandsD will be required. The LandsD will decide if any land premium will be charged for the modification of lease conditions.”⁵

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⁵ <http://www.info.gov.hk/gia/general/201306/19/P201306190406.htm>