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本署檔號 Our Ref.: (S1) in LD DE 7/1/4/19 Pt.2

來函檔號 Your Ref.:

覆函請註明本署檔號

Please quote our reference in response to this letter.

我們矢志努力不懈，提供盡善盡美的土地行政服務。
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By Post

Ms. Heidi Chu
The Secretary General
The Law Society of Hong Kong
3/F, Wing On House,
71 Des Voeux Road Central,
Hong Kong

6 December 2021

Dear Ms. Chu,

**Redevelopment or Use of Industrial Lots and
Sales and Letting of Premises in Industrial Buildings**

We are writing to seek your assistance in bringing the contents of this letter to the attention of your organisation and your members to the importance of and the need for strict observance of land lease conditions when handling the redevelopment or use of industrial lots and sales and letting of premises in industrial buildings (“IBs”).

Recently, a considerable number of lots which are restricted to “industrial” or “industrial and/or godown” purposes under lease have obtained planning permission from the Town Planning Board (“TPB”) for relaxation of the maximum non-domestic plot ratio by up to 20% to redevelop the lots for “modern industrial uses” or “non-polluting industrial uses”. These approvals were given in accordance with the policy for revitalisation of IBs announced in 2018.

Where a land lease restricts the use of the lot to “industrial and/or godown purposes”, it is the view of the Lands Department (“LandsD”) that industrial use must involve a process of manufacturing and must take place within the lot concerned, whereas godown use must involve storage of goods and/or transient deposit and storage for delivery purpose. This interpretation is not the same as the interpretation of “non-polluting industrial use”, “other uses as permitted in the “Other Specified Uses” annotated “Business” (“OU(B)”) zone” and “industrial use” in the planning regime as follows: -

- (a) “Non-polluting industrial use” in planning terms covers a much wider range of uses, the examples as quoted from the TPB guidelines include “research and development”, “quality control”, “information technology support”, “training for the process of enhanced productivity/delivery of goods”, “computer-aided design service”, “editing of newspapers/books/magazines”, “after-sale service of products”, etc.

Page 1 of 2

- (b) "Other uses as permitted in the OU(B) zone" include "shop and services", "office", "information, technology and telecommunication industries", "educational institution", "eating place", "place of entertainment", "place of recreation, sports or culture", etc.
- (c) "Industrial use" in planning terms covers a wide range of uses, the examples as quoted from the TPB guidelines include "art studio", "office (audio-visual recording studio, design and media production, office related to industrial use only)", "research, design and development centre", "shop and service (motor-vehicle showroom on ground floor, service trades)", "vehicle repair workshop", "information technology and telecommunication industries", "non-polluting industrial use", etc.

All the above uses will constitute uses in breach of the user restriction of "industrial purpose" under lease.

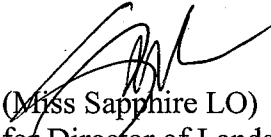
If non-industrial uses are expected/involved in the new IB to be developed on the lot in accordance with the planning permission mentioned in paragraph 2 above, the lot owner should approach LandsD for lease modification. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit including, among others, charging of premium and administrative fee.

If the lot owner is selling or letting out any portion of the new IB, your members should advise their clients to carefully study the lease conditions to ensure that the premises will not be used for any purposes not permitted under lease. Besides, the marketing materials of the premises should accurately reflect the specific use which is permitted under lease and avoid giving the impression that "non-polluting industrial use" under the planning regime would be permitted in the IB. It is thus important that your members do provide accurate information to their clients when handling the redevelopment or use of industrial lots and sales and letting of premises in IBs. Your members should also be fully aware of the different interpretations under leases and the planning regime, in order to avoid providing inaccurate or misleading information to lot owners, prospective purchasers or tenants of properties in IBs.

LandsD takes a serious stance against breaches of land lease in respect of private properties. Whenever a breach of land lease conditions is detected, LandsD shall take lease enforcement actions in respect of the breach including but not limited to the Government exercising its right of re-entry under the Government Rights (Re-entry and Vesting Remedies) Ordinance, Chapter 126.

We hope this letter has explained Government's position on the interpretation of "industrial purpose" under lease and shall be grateful if you could inform all members to take note of the above when handling the redevelopment or use of industrial lots and sales and letting of industrial premises in IBs that are redeveloped or to be redeveloped in accordance with the planning permission as mentioned in paragraph 2 above.

Yours faithfully,


(Miss Sapphire LO)
for Director of Lands