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Background

The Land Acquisition Act (the Act) provides for the compulsory acquisition of privately owned land for public purposes.

Recent amendments, which came into effect on 7 July 2014 and 29 September 2014, sought to improve compensation for owners affected by such acquisition and enhance the efficiency of the land acquisition process.

Betterment levy

Due to the new use of the land acquired, it is possible that the remaining portion of the land held by the owner could increase in value (betterment). Prior to the amendments, section 33 of the Act required any increase in value of the remaining portion of land held by the owner to be deducted from the compensation calculated on the market value of the land acquired (the betterment levy).

The amendments to the Act removed the requirement of such “betterment levy” to be deducted from the compensation and restrict the set-off of the betterment only against the amount of compensation that would otherwise be payable for severance of the land under section 33(1)(c) of the Act or for injuriously affecting the owner’s other property (movable or immovable) under section 33(1)(d) of the Act.

The owner will receive better compensation under the new regime as the amendments will prevent the betterment levy being set-off against other heads of compensation.

When common property is acquired from strata titled developments

Under the old regime, when common property is acquired from strata titled developments, every subsidiary proprietor in the development is required to go through the entire acquisition process even if such subsidiary properties are not affected significantly. This did not just inconvenience the subsidiary proprietors, but severely crippled the acquisition process.

With the amendments to the Act, the management corporation is able to act on behalf of the subsidiary proprietors when common property is acquired. Consequential amendments to the Building Maintenance and Strata Management Act (BMSMA) have been made as well.

Pursuant to the new section 2(3) of the Act, the management corporation is able to receive compensation for such non-lot acquisition and competent in alienation of such part of the common property acquired by the government. Technically, the common property in a strata development is owned jointly by all the subsidiary proprietors in accordance with the share value of their units, and not the management corporation. The BMSMA requires certain resolutions to be passed before the management corporation may alienate or sell any common property. The new section 2(3) eliminates this administrative hurdle. In addition, under the new laws, only the management corporation can make a claim for compensation and lodge a notice of appeal in respect of non-lot acquisition. The Collector is empowered to require the management corporation to produce evidence of the requisite resolutions to support such claim or appeal. The Collector is also entitled to reject any claim by a subsidiary proprietor or a mortgagee, chargee or other person with an interest in a strata lot. The new Act further makes it clear that any compensation for non-lot acquisition will be awarded to the management corporation and will not be subject to distribution among the subsidiary proprietors unless the subsidiary proprietors agree by special resolution under section 85A(4) of the BMSMA. Where such special resolution has been passed, the compensation will be paid to subsidiary proprietors constituting the management corporation on the date possession of the acquired land is taken. This amendment takes care of changes in ownership of the strata lots which can happen as the acquisition process could be protracted and the consequential issue of identifying the right parties entitled to such distribution.

Other technical administrative amendments

Notices

The new Act has also been amended to take care of some housekeeping matters. For instance, the requirement for notices to be posted on the acquired land when possession of the land is taken has been removed. The affected owners will continue to be notified as required previously under section 45 of the Act.

Foreshores

The amendments to section 2 of the Act also clarified that foreshores may be subject to acquisition under the Act. These are areas of land which lie below water during high tide and above water during low tide.

Conclusion

The amendments to the Land Acquisition Act are timely in view of the numerous infrastructural plans the Singapore Government have in place.

Your Key Contacts



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