

**Study on Urban Renewal Policies of Other Cities
in Asia -
Supplementary Study Report on Development
Rights of Taipei and Tokyo**

Final Version

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Study on Development Rights

1 Introduction

1.1 Project description

CB Richard was commissioned by the Urban Renewal Authority in March 2009 to provide consultancy services and a report on the study on development rights for the Urban Renewal Strategy Review.

The report (initially prepared in Chinese), is mainly a study on the “rights exchange” policy of Tokyo and the “floor area transfer” policy of Taipei.

1.2 Structure of the Report

This Report comprises the following parts:

Party 1 is an introduction to the Report.

Party 2 describes the “floor area transfer” operation mode in Taipei and relevant regulations.

Part 3 contains an analysis of the results of “floor area transfer” in Taipei.

Part 4 analyses the applicability of “floor area transfer” to Hong Kong.

Part 5 provides details about the implementation of the “rights exchange” policy of Tokyo and the relevant processing mechanism.

Part 6 describes how “rights exchange” is executed in the Roppongi Area redevelopment project.

Part 7 analyses the applicability of the “rights exchange” policy to Hong Kong.

Party 8 defines the terms used in the Report.

Party 9 sets out the data referred to in the Report.

2 “Floor area transfer” in Taipei

2.1 Introduction

Land reserved for public facilities in Taipei is usually acquired through cash compensation. However, statistics of the Taipei Department of Urban Development show that Taipei had about 940 hectares of private un-requisitioned land reserved for public facilities by December 2008. The government needs to pay trillions of NTD to acquire all the land through cash compensation. As such, the government adopts a policy to acquire land reserved for public facilities through “floor area transfer”, which is applied in requisitioning historic sites. The government hopes to compensate the land owners by selling floor area to them. In doing so, the government can also cut down the compensation cost, guarantee the interests of the owners of land reserved for public facilities, and facilitate the acquisition and development of land for public facilities.

The legal basis for “floor area transfer” in Taipei includes “Measures for Implementation of Floor Area Transfer for Urban Planning” and “Measures for Floor Area Transfer for Historic Sites” promulgated by the Ministry of the Interior.

“Floor area transfer”¹ is the transfer of part or all of the buildable floor area of a parcel of land to another buildable parcel of land for construction upon approval by the government.

The purposes of “floor area transfer” are as follows:

- 1) To preserve and maintain properly buildings with commemorative or artistic value;
- 2) To facilitate the development of land reserved for public facilities, improve the urban environment, and relieve the fiscal burden of the government;
- 3) To achieve the effective use of the sites facing open spaces by appropriately increasing the floor area of those sites whilst increasing the public space in the city and improving the environment; and
- 4) Guarantee the interests of and make compensation to owners of land with development restrictions.

¹ Article 5 of Measures for Implementation of Floor Area Transfer for Urban Planning (Measures for Implementation)

2.1.1 Scope of implementation

The application for “floor area transfer” is limited to ‘giving’ sites² and ‘receiving’ sites³ specified in “Measures for Floor Area Transfer for Historic Sites” or “Measures for Implementation of Floor Area Transfer for Urban Planning”. Land of other types is ineligible for “floor area transfer”. ‘Giving’ sites must be of the types set out below, and “floor area transfer” should follow the principle of transfer to any other buildable land within the same planned area of the city. If a ‘giving’ site is a historic site and is not within the planned area of the city, the ‘receiving’ site may be any buildable nonurban land in the same township. If necessary, the governments of municipalities and counties (cities) will specify the target areas in consideration of the overall urban development⁴.

‘Giving’ sites include:

- 1) Historic sites (land attached to private residences, family temples and ancestral halls designated as historic sites);
- 2) Private land in historic preservation areas;
- 3) Private land in historic preservation land;
- 4) Private land including buildings specified to be preserved in the urban plan or recognised by governments of municipalities and counties (cities) as valuable for preservation;
- 5) Buildable land complete in shape, measuring above 500 m², and used as public space (e.g. children’s playground); and
- 6) Land reserved for public facilities in a private urban plan⁵.

² Article 6 of Measures for Implementation, article 3 of Measures for Floor Area Transfer for Historic Sites, and article 3 of Conditions for Examination and Approval of Floor Area Transfer in Taipei Urban Plan (“Conditions for Examination and Approval”)

³ Article 7 of Measures for Implementation

⁴ Article 8 of Measures for Implementation and Article 5 of Measures for Floor Area Transfer for Historic Sites

⁵ But excluding land that should be acquired by zone expropriation, urban land readjustment or by other means of overall development specified in the urban plan or by other means of acquisition or development

2.2 Application procedure and examination

2.2.1 Procedure of application for “floor area transfer”

“Floor area transfer” includes two circumstances. In one circumstance, in accordance with “Measures for Floor Area Transfer for Historic Sites”, the applicant may apply for “floor area transfer” according to the land set out in the register of historic sites announced by the historic site authority; in the other circumstance, the applicant may apply for “floor area transfer” according to the register of reserved land announced in “Measures for Floor Area Transfer for Urban Planning”⁶.

If the ‘giving’ land is a historic site, the land owner of the historic site should work out a plan for the management, maintenance, repair or reuse of the historic site, to ensure the owner undertakes the responsibility for management and maintenance of the historic site⁷. If the ‘giving’ land is “land reserved for public facilities in private urban plan”, the applicant should apply to the Department of Urban Development to inquire whether the land was purchased or requisitioned. If this land received any payment from the government for purchase or requisition, then the said land is not “land reserved for public facilities”, therefore, no application for “floor area transfer” will be granted. Before an application is lodged for “floor area transfer”, whether for a historic site or for land reserved for public facilities, the owners of the ‘giving’ and ‘receiving’ sites should negotiate with each other in advance.

For “floor area transfer” in urban planning, the applicant must be the owner of the ‘receiving’ site⁸ and the application for the historic site must be lodged jointly by the owner of the giving site and the owner of the ‘receiving’ site⁹. After the application for “floor area transfer” is examined by the government, the owner of the ‘receiving’ site will be notified to promptly register matters relating to giving, acquisition, clearance and presentation of the site. If the “floor area transfer” case is confirmed to meet the relevant provisions and the relevant rights have been clarified and registered, the government will notify the owners of the ‘giving’ and ‘receiving’ sites that “floor area transfer” is approved, and a letter of approval of “floor area transfer” will be issued¹⁰. For the “floor area transfer procedure”, refer to Appendix 1. For the “flowchart of application for floor area transfer for land reserved for public facilities”, refer to Appendix 2.

⁶ Article 5 of Measures for Implementation

⁷ Article 8 of Conditions for Examination and Approval

⁸ Article 16 of Measures for Implementation and Article 5 of Measures for Floor Area Transfer for Historic Sites

⁹ Article 10 of Measures for Floor Area Transfer for Historic Sites

¹⁰ Article 10 of Conditions for Examination and Approval

2.2.2 Examination conditions

Regarding any application for “floor area transfer”, the Examination Committee will make a decision after careful examination of the conditions of the ‘giving’ site and ‘receiving’ site. In accordance with the “Conditions for Examination and Approval of Floor Area Transfer in Taipei Urban Plan”, if the ‘giving’ site is land reserved for public facilities, its area must reach the relevant limit, and the area of park use, green space and plaza must be less than two hectares; the road must be wider than 15 meters, and approval of “floor area transfer” must be obtained from all the owners of the land within the application range¹¹. If the ‘giving’ site applied for is an undeveloped road, its holding period must be longer than five years. If the ‘giving’ site is private land including historic relics and buildings, the owner of this land should, in accordance with Cultural Heritage Preservation Law, propose a plan for the repair and reuse of the historic site¹², which is subject to examination and approval by Department of Cultural Affairs and confirmation by the city government before an application is made.

There is also a restriction on the “receiving” site in an application of the “floor area transfer”. The type of district of the ‘receiving’ site shall be subject to the type of the ‘giving’ site. If the giving site is private land including historic relics and buildings, its floor area can be transferred to any buildable land within the jurisdiction of Taipei City. If the giving site is private land reserved for public facilities, its floor area can be transferred to the following districts: the site is located within 500 m radius of the entrance and exit of a mass rapid transit station and is to face a projected urban road under development which is over eight meters wide; or there is a public park under development with an area of 0.5 hectares within 500 m radius of the site, and the site is to face a projected urban road under development which is over 15m wide or face two projected roads under development, one of which must be at least 12 m wide¹³.

There is also a restriction on the area of a ‘receiving’ site, which should exceed 1,000 m² and must not include any historical relics or buildings, or near a street, having low potential for land use, or within a preservation region, agricultural region or river region where “floor area transfer” is forbidden in the urban plan or a region not included in the urban plan¹⁴.

As the Examination Committee will also consider urban development density, total development volume and the proportion of public facilities in examining the application for “floor area transfer”¹⁵, the owner of the land within the range of the receiving site must propose a building plan, which is subject to examination and approval by Taipei Urban

¹¹ Article 4 of Conditions for Examination and Approval

¹² For the contents of the plan for repair and reuse of a historic site, refer to Appendix 4

¹³ Article 6 of Conditions for Examination and Approval

¹⁴ Article 7 of Conditions for Examination and Approval:

¹⁵ Article 4 of Conditions for Examination and Approval

Design and Land Use Development Commission and confirmation by the city government before an application is made for “floor area transfer”. If the building plan for the receiving site is changed or the floor area allowed to be transferred is not used in full because of limitations of the site so that retransfer is necessary, another building plan shall be submitted for review¹⁶. For the “examination procedure”, refer to Appendix 3.

2.2.3 Processing before application

1) **Private land in historic site preservation areas**

To urge the historic site owners to undertake the responsibility for managing and maintaining the historic sites, if the giving site is private land in historic site preservation areas, the giving site owners must work out plans for the management, maintenance, repair or reuse of the historic sites. The plans for the management and maintenance of historic sites will be filed with the historic site authorities of the relevant municipalities and counties (cities) and the plans for repair and reuse of historic sites will be examined by the historic site authorities of the relevant municipalities and counties (cities) and filed with the Department of Civil Affairs under the, Ministry of Interior.

The plans worked out by historic site owners for the management, maintenance, repair or reuse of the historic sites shall comply with the provisions of Cultural Heritage Preservation Law and the implementation rules thereof, and their content and form shall include graphic data, a historical study, an architectural style study, a survey on present conditions, a survey on damages, rules for management and maintenance, repair and reuse, estimated preservation cost and drawings of present conditions. For the “Contents of plans for management and maintenance, repair and reuse of historic sites”, refer to Appendix 4.

If the ‘giving’ site is a historic site or private land which includes buildings worthy of preservation, in the examination of an application for floor area transfer, complete or partial transfer can be selected, and the government will inform the owners of a ‘giving’ site and a ‘receiving’ site of the approval of “floor area transfer” and issue a letter of approval of “floor area transfer” to the owner of the ‘receiving’ site.

The owners of historic sites or buildings worthy of preservation still have ownership over the land, and the buildings on the ‘giving’ sites should be preserved permanently. The owners should restore any buildings on the sites the value of which has been lost or reduced¹⁷.

¹⁶ Article 4 of Measures for Implementation

¹⁷ Article 18 of Measures for Implementation

2) Private land with land reserved for public facilities

The applicant should, before the specified deadline, clarify the encumbrances relating to land improvements, lease agreements, other rights and restricted registration of the ‘giving’ site and register the land ownership transfer with the city government which can then issue an approval certificate for “floor area transfer”. The urban planning authority notifies the owners of the giving site and receiving site that “floor area transfer” is approved, and issues a letter of approval of “floor area transfer” to the owner of the ‘receiving’ site.

The registration fees, stamp tax and other taxes for “floor area transfer” and land ownership transfer shall be the responsibility of the applicant¹⁸.

Ownership of public open space and land reserved for public facilities should be transferred to the local government¹⁹. After the floor area transfer, the increase and decrease of floor area of the ‘giving’ and ‘receiving’ sites will be valid in perpetuity²⁰.

¹⁸ Article 8 of Conditions for Examination and Approval

¹⁹ Article 13 of Measures for Implementation and Article 10 of Conditions for Examination and Approval

²⁰ Floor area on a buildable site may be added by two methods at present: One is to apply for floor area reward and the other is to buy floor area through floor area transfer. Floor area increased through reward will be lost if the relevant building disappears or is rebuilt and the benchmark floor area will be restored; floor area increased through purchase will be valid permanently and will not be restored to the benchmark floor area because of rebuilding or other factors, therefore after floor area is bought for the receiving site, its building floor area will permanently be benchmark floor area plus purchased floor area.

2.3 Calculation of transferred floor area

Applications for “floor area transfer” fall under two categories in principle: One for private land which includes historic relics and buildings worthy of preservation, and the other for private land which includes land reserved for public facilities. Transferrable floor area may be calculated in different ways depending on the types of ‘giving’ land. Calculation for “floor area transfer” should be based on the benchmark floor area.

For private land which includes historical relics and buildings worthy of preservation, its transferrable floor area is its benchmark floor area minus the built floor area. For private land which includes land reserved for public facilities, its transferrable floor area is in principle its benchmark floor area, but the actual transferrable floor area is subject to decision by the relevant authority of the municipality or county (city) in the light of the actual conditions. If the ‘giving’ site has any restriction on floor area ratio, its transferable floor area should be calculated based on the average floor area ratio of neighbouring land.

The calculation of transferable floor area falls under six categories: Private land which includes buildings recognized as valuable for preservation, land set out as a preservation area or for preservation use, land not under regulation on floor area ratio before being set out as or changed into a preservation area, buildable land provided for public space, land reserved for public facilities in a private urban plan, and land the neighbouring land of which is for urban development. For calculation examples, refer to Appendix 5.

2.3.1 Recognition of built floor area

From the calculation method for “floor area transfer” mentioned in the preceding section, the transferable floor area of historic site or land which includes buildings worthy of preservation should be calculated after deduction of the built floor area. The built floor area will be reviewed by the relevant authority. The following are the methods for recognition of the built floor area of these buildings, including historic sites and buildings worthy of preservation. Historic sites and buildings are subject to recognition by local historic site authorities and there are two recognition methods. Their built floor area should be as recorded in the historic site repair or reuse plan examined and approved by local historic site authorities. Also, the local historic site authorities may, in checking historic sites eligible for “floor area transfer”, measure the buildings on the historic sites and calculate the built floor area on the historic sites.

The preservation floor area of buildings worthy of preservation is subject to recognition by the local historic site authorities and the projected floor area is subject to recognition by the urban design committee or by the urban planning authorities if there is no urban design committee.

2.3.2 Conversion of transferred floor area

The transferred-out floor area of a ‘giving’ site, when converted into transferred-in floor area of the ‘receiving’ site, should be calculated by the ratio²² of present values of ‘giving’ and ‘receiving’ sites announced in the period of the application for “floor area transfer”²¹. Therefore, the transferred-out floor area of the ‘giving’ site is not equal to the floor area of the ‘receiving’ site. The actual ‘receiving’ floor area depends on the ratio between its announced present value and the announced present value of the ‘giving’ site. The larger the ratio, the smaller the ‘receiving’ floor area will be. Therefore, if floor area is transferred from land with a larger announced present value to land with a smaller announced present value, the floor area acquired will be relatively larger. The conversion rate is calculated as follows:

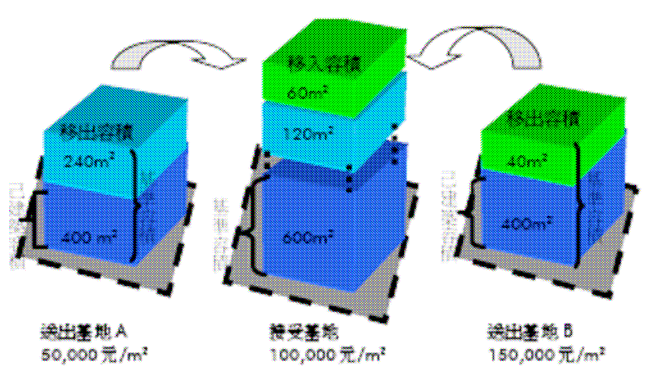
Transferred-in floor area of the ‘receiving’ site = □

Transferred-out floor area of
the ‘giving’ site

x

Present value of the ‘giving’ site in the period of
the application for floor area transfer

Present value of the ‘receiving’ site in the period
of the application for floor area transfer



‘Giving’ site A: NTD50,000/m²
‘Receiving’ site: NTD100,000/m²
‘Giving’ site B: NTD150,000/m²

²¹ Present land value announced by the municipality and county (city) government in accordance with the Equalisation of Land Rights Act (Article 12 of Land Tax Law). Announced present value is land value estimated by the government every year, primarily for assessing land value added tax.

²² Article 4 of Measures for Implementation

2.3.3 Restriction on “floor area transfer”

To avoid excessive development of a region, the transfer-out or transfer-in of floor area is clearly restricted in “Measures for Floor Area Transfer for Historic Sites” or “Measures for

Implementation of Floor Area Transfer for Urban Planning”.

The floor area that can be transferred into the ‘receiving’ site should in principle not exceed 30% of its benchmark floor area, or in particular 40% if the ‘giving’ site is a historic site. For land under integrated development, land under urban renewal, land facing permanent open space or other land specified in the urban plan, the transferred-in floor area may be increased appropriately but should not exceed 40%. If the ‘giving’ site is a historic site, the percentage may be up to 50%²³.

The ‘giving’ site, unless used as open space, may transfer out its floor area several times over. The ‘receiving’ site may take floor area transferred out from different ‘giving’ sites if the limit of transferable floor area is not exceeded²⁴.

When the ‘receiving’ site applies for building, if the floor area allowed to be transferred in is not used in full because of limitations of the site, an application can be made to transfer the unused floor area to other buildable land in the same principal planning region on a once-for-all basis²⁵.

²³ Article 8 of Measures for Implementation and Article 7 of Measures for Floor Area Transfer for Historic Sites

²⁴ Article 10 of Measures for Implementation and Article 9 of Measures for Floor Area Transfer for Historic Sites

²⁵ Article 11 of Measures for Implementation and Article 6 of Measures for Floor Area Transfer for Historic Sites

2.4 Floor area transaction mechanism

2.4.1 Transaction operation of “floor area transfer”

See the following example to obtain a better understanding of the conversion of floor area and the calculation of maximum acceptable floor area.

Simulated assessment plan of “floor area transfer”

I) Giving site: Sinyi District Elementary School Land

- 1) Section and Land No.: 396, Subsection 1, Yongji Section, Sinyi District (Yongji Elementary School)
- 2) Land use zoning: Elementary school land
- 3) Land area: 1,645 m²
- 4) Announced current value of land: NT\$357,024/ping
- 5) Market price of local homes (residential area): NT\$300,000/ping
- 6) Building cost of homes: NT\$80,000/ping



II) Receiving site: Neihu 6th Readjustment Area

- 1) Section and Land No.: 212, Subsection 4, Xihu Section
- 2) Land use zoning: Type III of Industrial Zone
- 3) Land area: 3,271.82 m²
- 4) Announced current value of land: NT\$266,357/ping
- 5) Market value of local homes (Factory facilities in industrial zone): NT\$280,000/ping
- 6) Building cost of homes: NT\$80,000/ping



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The conversion of “floor area transfer” is as follows:

Item	‘Giving’ site	‘Receiving’ site
Land area (m ²)	1,645	3,271.82
Floor area ratio (%)	225	300
Benchmark area (m ²)	3,701.25	9,815.46
Built floor area (m ²)	_____	_____
Transferable floor area (m ²)	3,701.25	_____
Maximum acceptable floor area (m ²)	_____	2,944.64
Announced current value of land: NTD /ping	357,024	266,357
Floor area conversion ratio	1.34	

Note:

- 1) Transferable floor area = Benchmark floor area – Built floor area = 3,701.25 - 0 = 3,701.25 m²
- 2) Maximum acceptable floor area = Benchmark floor area x 30% = 9,815.46 x 30% = 2,944.64
- 3) Floor area conversion ratio = Announced current value of land of ‘giving’ site / announced current value of land of the ‘receiving’ site = 357,024 / 266,357,00 = 1.34
- 4) Benchmark floor area ratio of the ‘giving’ site is calculated according to Type III Residential Area in its surrounding

The calculation result of “floor area transfer” conversion is as follows:

- 1) Floor area accepted by ‘receiving’ site = 2,944.64 m²
- 2) Floor area transferred by ‘giving’ site = 2,944.64 m² / 1.34 = 2,197.49 m²
- 3) Transferable floor area of ‘giving’ site = 1,503.76 m²
- 4) Acceptable floor area of ‘receiving’ site = 0 m²

For “Operation Demonstration for People to Apply for Floor Area Transfer”, refer to Appendix 6; for “Example of Government Examination”, refer to Appendix 7

2.4.2 Background information of Dadaocheng floor area transfer case

III) 'Giving' site: Historic Block

- 1) Section and Land No.: 309,313, Dihua Street, 178 etc., Subsection 2, Yanping, Datong
- 2) Land use zoning: Special Area (for special commerce)
- 3) Land area: 293 (m²)
- 4) Announced current value of land: NT\$167,648/m²

IV) 'Receiving' site: Area nearby Keelung River (from Jhongshan Bridge to Chengmei Bridge)

- 1) Section and Land No.: 36-6, 36-7 etc., Jiuzong Section, Neihu District
- 2) Land use zoning: Industrial Zone (for light industry)
- 3) Land area: 2,740.44 (m²)
- 4) Announced current value of land: NT\$57,000/m²

The calculation of "floor area transfer" is as follows:

Item	'Giving' site	'Receiving' site
Land area (m ²)	293	3,271.82
Floor area ratio (%)	505	200
Benchmark floor area (m ²)	1,481	5,480.88
Built floor area (m ²)	824.23	—
Transferable floor area (m ²)	656.77	—
Maximum acceptable floor area (m ²)	—	2,192.35
Announced current value of land: NTD /m ²	167,648	57,000
Floor area transfer ratio	2.9411	

Note:

- 1) Transferable floor area = Benchmark floor area – Built floor area = 1,481-824.23 = 656.77 m²
- 2) Maximum acceptable floor area = Benchmark floor area x 40% = 5,480.88 x 40% = 2,192.35 m²
- 3) Floor area conversion ratio = Announced current value of land of 'giving' site / announced current value of land of 'receiving' site = 167,648 / 57,000 =2.9411

The calculation result of “floor area transfer” conversion is as follows:

- 1) Floor area transferred by ‘giving’ site = 656.77 m²
- 2) Floor area accepted by ‘receiving’ site = 656.77x 2.9411 = 1,931.69 m²
- 3) Acceptable floor area for ‘receiving’ site = 2,192.35.77 – 1,931.69 = 260.66 m²
- 4) Transferable floor area for ‘giving’ site = 0 m²

For the layout of the sites and buildings, refer to Appendix 9

Dadaocheng Historical District

It has always been the main task of the Taiwan government to preserve the historic block around Dihua Street.. Such planning attaches great importance to the balance between urban preservation and redevelopment. On 12 January 2000, the Taiwan government published the “Detailed Plan of Dadaocheng Historical District in the Datong District of Taipei”, aiming to preserve traditional streets by defining a “historic district” and registering historic buildings, protecting the style of historic blocks, formulating urban design rules, and executing floor area transfer while balancing the preservation and development of Dadaocheng district. On the other hand, the rights and interest of owners of houses or land would be protected so as to protect historic buildings and provide an incentive for upgrading old urban blocks ushering a new page on the historic styles and features of Dadaocheng district, and bearing witness to its early economic and urban development.



Map of Dadaocheng Historical District

Objectives:

1. Preserve and continue the historic memory and ambience of the form of urban space and industrial features.
2. Introduce new urban activities and industrial functions to revitalise commercial activities in street blocks.
3. Actively guide and encourage private departments to build, develop, and invest in public facilities, so as to drive regional development.
4. Promote the redevelopment of Dadaocheng district, and balance urban development.

Incentive:

To preserve historic styles and features, all the buildings in the historic street blocks of Dadaocheng historic district can be included into floor area transfer measures. The costs of protecting buildings and providing public facilities, site scale and explanation on environmental impacts may be converted to a corresponding floor area award as strong incentives to the repair and reconstruction of buildings by the neighbourhoods.

Results:

From the implementation of “floor area transfer” until the end of February 2008, Dadaocheng issued 205 floor area transfer permits, and there were 108 ‘giving’ and 153 ‘receiving’ sites. In the last two years, the number of applications for floor area transfer increased significantly and the old buildings in blocks were frequently renovated, bringing new opportunities to strengthening traditional commercial activities and revitalising historic street blocks.

Data source: Taipei Urban Planning Committee

2.4.3 Transaction mechanism on the market

Floor area transactions are similar to residential transactions on open market. Sellers and buyers of floor area negotiate agreements independently, and usually the conclusion of the agreement may be assisted by an intermediary. The actual floor area transaction price is however less transparent than that of a residential transaction, and trading volumes are also lower than those of residential transactions. When the transaction agreement is concluded, the applicant applies to the government for floor area transfer. After review, the government would inform the seller whether he/she can transfer out floor area and inform the buyer the floor area that his/her land may receive. The limit on receivable floor area would depend on the floor area around the ‘receiving’ site.

It is possible that the deliberation committee does not accept the agreement signed between the floor area seller and buyer owing to problems related to development planning, therefore the buyer should be liable to any such risk. Once the application is refused, the buyer of the floor area may resell the floor area concerned or apply for “floor area transfer” to another parcel of land.

For “floor area transfer”, the application restrictions established by the government for historic buildings are fewer than those for common public facilities, so that historic buildings can be preserved successfully. If the ‘receiving’ site cannot accept a large building, the deliberation committee may add a height limit to permission conditions to shift part of the building underground, and add a limit on the floor area to be transferred to control the height and size of the building. Many restrictions however have been established for the application of “floor area transfer” of common public facilities or roads, for example, the land transferred should never be entitled to government compensation (see Examination Conditions in Appendix 3 for details). It is understood from the discussion with the Department of Urban Development of Taipei that the applications for “floor area transfer” of many parcels of public facility land have been refused because this land was once entitled to government compensation.

The floor area of a ‘giving’ site and its announced value may be referred to intermediary websites²⁶, and investors may directly seek intermediaries or owners of ‘giving’ sites to negotiate the transaction price, information on which cannot be easily found on the open market. The current price is based on the announced current value, and generally the transaction price is lower than the announced value. It is understood from the visit with local property staff engaging in “floor area transfer” that generally the announced value is one third of the market price of the land, and the nearer the land to urban area, the closer the announced current value to the market price. As for the “floor area transfer” of lands

²⁶. See Appendix 8 for sale information concerning floor area listed in intermediary website

reserved for public facilities, the transaction price of a road is about 70~80% of the announced current value; the price of a square, a park, and green space is over 80% of announced current value; and the price of a historic site is about 60~85% of the announced

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current value. As the price is determined according to different urban planning areas and changeable, it is difficult to know the actual price.

It is understood from the visit that Taipei's "floor area transfer" market lacks relevant information of the two transaction parties. Those demanding floor area have no way to obtain information about the floor area suppliers, and similarly the floor area providers cannot obtain the relevant information of floor area demanders. Therefore a complete transaction platform and open market information are lacking. In such a situation, although the two transaction parties intend to conduct a floor area transfer, they cannot obtain each other's information and reasonable transaction prices, so that both parties have to wait and see.

3. Analysis of strategy effectiveness

From the comprehensive analysis of “floor area transfer”, it may be inferred that the establishment of a “floor area transfer” market is a policy direction which can benefit participants in the “floor area transfer” market, government departments formulating relevant policies and the floor area owner, and investors, however its actual effectiveness depends on other relevant examination and approval factors.

In the free market of “floor area transfer”, the government may acquire the lands reserved for public facilities and preserve historic sites and buildings with historic value by non-fiscal means. These means may include formulating relevant “floor area transfer” policies and urban planning so as to save fiscal expenditure, and improve the efficiency of acquiring the lands reserved for public facilities to facilitate the development of public facilities and improve the environmental quality of residential area. Owners of land reserved for public facilities may also obtain reasonable compensation by selling floor area on the free transaction market to make up for the losses arising from the long-term restriction on land development. In addition, land developers or investors may buy the floor area needed for development on the “floor area transfer” market to increase the incentives for development and then transfer the floor area to a suitable development zone to support government policies, and promote the reasonable and effective development of the urban area.

As the government is committed to preserve historic sites and buildings with commemorative or artistic value, once a building is proved worthy of preservation, the government may try its best to assist the owner of a ‘receiving’ site to preserve the said building. The government may conduct research on certain specific projects to relax the examination conditions, so as to preserve buildings successfully.

During the implementation of “floor area transfer”, since the government hopes to control the floor area of a certain district, it is strict in reviewing and approving the applications of floor area transfer of other lands reserved for public facilities and land for public space; therefore generally the relevant review conditions cannot be met. It is understood from the interview that with regard to the acquisition of un-requisitioned lands reserved for public facilities or roads, none of the “floor area transfer” procedures of the lands reserved for public facilities had been completed from making the announcement up until now.

Therefore, most approved cases of “floor area transfer” were related to historic sites or to the lands designated by the government as worthy of building preservation. For “Taipei Dadaocheng Floor Area Transfer Case”, refer to Section 2.4.2 and Appendix 9; for “Announcement of the Applications Approved by the Government”, refer to Appendix 10; for the number of floor area transfer cases and the amount of transferred floor area in Dadaocheng, refer to Appendix 11.

In addition, no floor area was originally planned for lands reserved for public facilities in the design of the urban plan. Floor area bonus was adopted, to solve the problem that the government lacked the capacity to requisition the lands reserved for public facilities,

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however such a solution may ignore the problems of urban development and the increase in demand for public facilities. Moreover, such a compensation method actually ignores the real rights and interests of land owners because the market price of existing lands reserved for public facilities is far below the make-up price set for requisition, and is only about 20% of the announced current value, therefore the true beneficiaries may be investors.

In such a situation, some owners of the lands reserved for public facilities hope that their lands may be requisitioned by the government at a price based on announced current value. As this price is higher than that on the “floor area transfer” market calculated according to the announced current value, land owners are unwilling to get compensation for their lands reserved for public facilities by “floor area transfer”.

In the light of this, from the perspective of finance, “floor area transfer” is in favor of the government and investors, but from the perspective of land owners, it is uncertain that this solution may ensure that they can obtain fair compensation. In addition, the examination of “floor area transfer” should be strict. Except for the procedures of ‘given’ and ‘receiving’ sites, more attention should be paid to the following points: urban development density, total development volume, public facilities defining capacity etc.; when the examination procedures were not controlled properly, adverse effects on the overall urban planning and development may arise.

4. Applicability of strategy

In requisitioning antiquities and monuments and preserving regional or private public lands, Taipei adopts “floor area transfer” instead of paid requisition. According to the description and analysis in the preceding sections, readers must have known something about the advantages and disadvantages of “floor area transfer” on the society, the economy, and on promoting property development. In-depth understanding about the question that whether such an arrangement is applicable to present situations of Hong Kong may be obtained from the following analysis.

At present, while resuming private lands for public development, Hong Kong mainly refers to the *Land Resumption Ordinance* (Chapter 124), the *Mass Transit Railway (Land Resumption and Related Provisions) Ordinance* (Chapter 276) and the *Mass Transit Railway Ordinance* (Chapter 519) etc. All of these land resumption ordinances compensate the losses incurred to the private property rights held by land owners or other stake holders only in cash. Alternatively, Hong Kong may give floor area compensation for the private buildings resumed for public purpose according to the *Building (Planning) Regulations* (Chapter 123F).

Therefore, according to the existing ordinances²⁷ of Hong Kong, for the requisition of antiquities and monuments, cash compensation is mainly adopted to compensate land owners for the losses caused by acquiring their property rights for public purposes. For some particular cases, land exchange may be negotiated as a compensation solution.

According to the evaluation by the Antiquities Advisory Board last year, nearly 100 private buildings were rated as Grade I Historic Buildings. Once these buildings are under threat of demolition, the Antiquities Authority may declare the said buildings as proposed monuments according to *Antiquities and Monuments Ordinance* (Chapter 53), and freeze the related rebuilding rights. For the loss of rebuilding rights, the Government may need to allocate tens of billions of public funds to compensate for the economic losses to land owners. In addition, the compensation by floor area increase adopted in acquiring private lands for public purposes may be constrained due to the height limit restrictions or, other building or environmental protection ordinances.

In this context, the “floor area transfer” practiced in Taipei may be regarded as a compensation method for acquiring antiquities and monuments or private land for public purposes, with the advantage that “floor area transfer” may help the government to resume

²⁷ According to Article 8 of *Antiquities and Monuments Ordinance*, the Antiquities Authority may, with the prior approval of the Chief Executive, pay to the owner of a proposed monument or monument the compensation equal to the financial loss suffered by him/her (Amendment in Paragraph 3 of Article 59 of 2000)

historic sites and private public land without allocating public funds. In adopting this method, it is necessary to consider the circumstances faced by Hong Kong that the existing relevant land and property ordinances do not allow such transfers. In addition, in recent years Hong

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Kong citizens have expected higher standards in environmental protection and the quality of life, hence the Government has begun in different ways to set restrictions on plot ratio in order to reduce the impact of high density buildings on infrastructure, traffic and air quality etc. Therefore, to push ahead in adopting “floor area transfer”, it is necessary to amend appropriately relevant ordinances, to ensure fairness, and to attain environmental protection standards.

Additionally, if it is assumed that “floor area transfer” replaces cash compensation during acquisition in Hong Kong, the increase of land or floor area is only another form of compensation by public funds, since land revenue is an important element of Hong Kong fiscal revenue and fundamentally does not differ with cash compensation.

Furthermore, “floor area transfer” involves property valuation. In Hong Kong, property transactions are intense, and property prices are changeable. Although property transaction information is abundant and very open, due to the time period of a transaction, many uncertainties may arise during the transfer, hence legal proceedings for transaction disputes are common. In particular, as the government usually announces transaction prices quarterly, the price varies from market transactions, resulting in market speculation on these floor areas. In this way, the situation is similar to the letter A / B speculation which occurred in the Hong Kong property market before 1997, or similar to a situation in Taipei that as the announced value is even higher than market value, under the psychology of expectation, it is difficult to create a trading market, therefore bringing no benefit to encouraging the preservation or repair of cultural and historic buildings.

Although history may not repeat itself thanks to the many years of experience in dealing with such outcomes, if the Government does not exercise proper control, the overall development of Hong Kong may be influenced. For example, too wide a scope of application or too high a percentage of relaxation may increase the urban floor area and density suddenly, bringing adverse impacts on urban planning and land development, not to mention that the Government may cause great concerns in society if it acquires historic sites and public lands for free.

Although the “floor area transfer” system has been implemented for many years in the United States, the “win-win” for the government, land owners, residents and developers etc. cannot be achieved as imaged. Foreign governments also limit the transfer of development rights (TDR) to specific objects (for example, the preservation of historic sites or the protection of sensitive geological districts), and at the same time establish a rigorous examination system and other measures to prevent adverse effects to the urban development arising from the ordinances.

Therefore, in requisitioning antiquities and monuments, private public land, and land reserved for public facilities by “floor area transfer” instead of by paying compensation, full consideration must be giving to the advantages and disadvantages of “floor area transfer” measures, the passing of relevant ordinances and strict management and restrictions, or the relevant restrictions imposed on “floor area transfer”. Failure to do so will deal a serious blow to the development of the urban environment.

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5. “Rights exchange” policy of Tokyo

5.1 Introduction

5.1.1 The Purpose of Urban Redevelopment

Urban redevelopment²⁸ refers to the government’s, planning, full renovation, partial rebuilding or preservation of the urban areas which inhibit economic activity due to deteriorating building structures, old or unused public facilities, or poor urban function, in order to rebuild the urban function, optimise the development and effective utilization of land and to enhance public security and welfare. The purposes of urban development mainly include improving the quality of life and the environment, preventing potential urban disasters and providing urban housing and public facilities.

5.1.2 The History of the *Land Redevelopment Act*

The Land Redevelopment Act was promulgated in 1969 (Showa 44). It is a new act combining the *Urban Renewal Act*, which focuses on the arrangement of public facilities (station forecourts, streets etc.), and the *Fire-proof Building Block Construction Act*, which focuses on promoting the construction of fire-proof buildings. The “urban redevelopment project” specified in this new Act focuses on the integration and comprehensive development of existing blocks.

The *Land Redevelopment Act of Japan* was combined with the *Urban Renewal Act* and *Disaster Prevention Building Block Construction Act* in 1969 in order to mirror the changes in economic and social conditions and to meet the requirements of urban construction and development. It has however been amended many times in its 40 odd years of enactment.

Since the original *Urban Renewal Act* lacks regulations for the requisition of land for necessary public facilities and adjoining areas, small rather than large scale urban area renovation can only be undertaken. As the original *Disaster Prevention Building Block Construction Act* can be executed only with the consent of all the obligees in a disaster prevention area, any large scale land renovation cannot be implemented either. Therefore the revised *Land Redevelopment Act* introduces and legalises new renovation methods²⁹ to enable integrated block renovation.

To make the conduct of large-scale land redevelopment construction practicable, the “*Land Redevelopment Act*” introduces the “right exchange” of “equivalent exchange” in the handling of the ownership of lands or buildings.

²⁸ *Land Redevelopment Act* (“the Act”) Article 1 (Purpose)

²⁹ Data source: Urban Redevelopment Association of Japan

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The urban redevelopment projects are categorised into Type I urban redevelopment projects and Type II urban redevelopment projects where the former achieves urban regeneration by “right exchange”, and the later achieves it by acquisition³⁰.

By 31 March 2008, Tokyo completed the redevelopment projects for 166 urban blocks, of which 70% were implemented by associations and 10% were conducted by individuals³¹.

5.1.3 Land Redevelopment Act of Japan

The existing *Land Redevelopment Act of Japan* (promulgated on 8 June 2006 (Heisei 18)) has 9 chapters and 149 articles. Chapter 1: General Provisions, Chapter 2: Implementer Chapter 3: Type I Urban Redevelopment Project. Chapter 4: Type II Urban Redevelopment Project. Chapter 5: Bearing of Cost etc. Chapter 6: Supervision. Chapter 7: Confirmation of Redevelopment Project Plan. Chapter 8: Detailed Regulations. Chapter 9: Regulations on Punishment. Table 1 lists the outlines of Land Redevelopment Act of Japan.

Table 1-- Outlines of the Urban Redevelopment Act of Japan.

Land Redevelopment Act of Japan	Description
Chapter 1 General Provisions Types of urban renewal (Article 2) There are two types: Type I of Urban Redevelopment Type II of Urban Redevelopment	
Restrictions on renewal: 2/3 of both the people and land (Article 7~2)	Basic conditions for land redevelopment
Chapter 2 Implementer Falls into: Individual (Article 7~9) Several persons: More than 5 persons (Article 11)	Can be handled individually
Organisation: Assessments of members are part of the amount of utility buildings and the dues are organisation fee. (Article 40)	Specify the assessments (public facilities) and dues (fees).
Local public bodies (Article 51). The Urban Development Corporation (Article 58)	Specify the participation of public bodies
Chapter 3 Type I of Urban Redevelopment Project	Specify the applications for not participating

³⁰ Clause 1 of Article 2 of the Act (Definition)

³¹ Bureau of Urban Development Tokyo Metropolitan Government

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Application for absence from “right exchange” (Article 71)	
Individual implementation and the agent of business organization (Article 112)	In the event of any interruption of implementation by individuals or organisations, prefectures will act as the business agent.
Chapter 4 Type II Urban Redevelopment Project.	Specify the formalities of Type II redevelopment
Joint implementation of land zoning and development (Article 118-32, 118-33).	Specify the implementation method of renewal and land readjustment
Chapter 5 Bearing of Cost	Subsidies for expenditure (Article 122), Financing (Article 123)
Chapter 6 Supervision	Assign supervision staff
Chapter 7 Confirmation of Redevelopment Project Plan	Plan submission and approval
Chapter 8 Detailed Regulations	Reduction and exemption of fixed assets tax
Chapter 9 Regulations on punishment	

5.1.4 Basic Regulations of the Act

The urban redevelopment project may be implemented if it meets the conditions listed in the Act by the government. The Type I urban redevelopment project can be implemented in an urban redevelopment promotion area if it meets the following conditions³²:

- 1) Located in the intensively used areas, urban regeneration special areas or specific planned areas;
- 2) The statutory floor area ratio is less than one third;
- 3) The land is utilised imperfectly or inefficiently; and
- 4) The height utilisation in the said area has contributed greatly to the recovery of the overall urban function.

³² Article 3 of the Act (Implementation area of Type I of Urban Redevelopment Project)

5.2 Introduction of “rights exchange”

“Rights exchange” refers to the exchange based on equal value of the rights or compensation related to the regenerated site or building by the obligees and investors in the area after the redevelopment project was finished according to the assets provided by the obligees and investors. In short, “rights exchange” refers to the rights adjustment through which the rights relationship before redevelopment is changed into the new rights relationship.

Property rights in Japan include land, surface, and building rights and the right to lease buildings, hence the “right exchange” may be achieved in various ways. The following introduction will be based on non-surface-right default type “right exchange”³³.

According to non-surface-right default type “rights exchange”, the building lands will be combined and jointly owned by all the obligees after the “right exchange” and each obligee will obtain a share of the redeveloped buildings according to the assets provided by the obligee.

Obligees or right-related persons refer to land or building owners and land or residential lessors etc. who have provided lands or building-related rights in the redevelopment area. Investors refer to the persons providing funds to participate in rebuilding.

5.2.1 Surface right non-default type

The feature of surface right non-default type of “right exchange”³⁴ is that after the redevelopment, the lands are jointly owned by all the obligees with building rights, including the obligees existing prior to redevelopment and buyers in the reserved area. Such “rights exchange” is expected to be widely used, because the joint ownership of land rights may solve many future problems. In this light, such “right exchange” is the most suitable residential redevelopment method³⁵.

³³The surface right default type “right exchange” can be divided into ‘principle’ type or ‘special’ type. The principle type is also known as the surface right default method, that is, after the redevelopment project is finished, the surface right is jointly owned by all the floor area owners and the land is jointly owned by those land owners who exist before the redevelopment project. The special type is categorised into urban renewal type (surface right non-default-type) and disaster prevention block type (full-consent type). The surface right non-default type refers to the situation that after the redevelopment project was finished, the ownership of surface right is the same as that of the principle type, and the land is also jointly owned by all the floor area owners; the full-consent type is a comparatively free right exchange method. See Appendix 12 for details of the aforesaid exchange modes.

³⁴Article 111 of the Act

³⁵Data source: Urban Redevelopment Association of Japan

5.2.2 Evaluation criterion

In the of “right exchange” plan, obligees may obtain the redeveloped building floors or units according to the value of the rights³⁶ owned by them before the redevelopment.

Therefore, the evaluation of the value of the rights owned by obligees and the value of new building floors or units should be fair. The evaluation date should be selected properly. This evaluation date is called the “evaluation criterion day”, namely the 31st day after the issuance of the “confirmation of individual implementation” or the “confirmation of organization implementation”.

The pre-redevelopment evaluation on the value of rights of building land, land leasehold, buildings, and residential leasehold will be determined³⁷ according to the transaction price during the 30 days before the confirmation of the evaluation criterion day by referring to similar properties or lands in the vicinity of the redevelopment site.

The post-redevelopment value evaluation on the criterion for estimating the value of lands, burgage, or buildings will be determined³⁸ according to the transaction price within the aforesaid 30 days by referring to the expenses of redevelopment projects, and the rights of the same category of similar lands or buildings of the same category in the vicinity of the redevelopment.

5.3 Formalities and procedures

The “rights exchange” plan must be implemented after government approval of the establishment of a relevant organisation and project plans. After announcing the approval, conducting registration including, property right registration and preparing the “right exchange” plan for handling the “right exchange”, the obligees may apply to not participate during this period. The completed “rights exchange” plan will be exhibited to the obligees for their opinions. After the finalisation of the “rights exchange” plan, the organisation will apply for government approval of the plan. Once deliberated by the government, relevant procedures, including registration of the “rights exchange”, announcement of completion of construction engineering and registration of utility buildings, will be executed on the “rights exchange day” specified in the “rights exchange” plan. See Appendix 13 for the “flow of Type I of urban redevelopment project” and relevant details are introduced in the following sections.

³⁶ The right value before renewal refers to the value of the existing ownership, excluding its developable potential value.

³⁷ Article 80 of the Act (calculation standards of price of curtilage, etc.)

³⁸ Article 81 (calculation standards of appropriate price of utility building land, etc.)

5.3.1 Establishment of organization

A type I urban redevelopment project may be handled by an individual or several persons. For individuals, the implementer should formulate rules and a project plan. If the number of owners or obligees of leasing land are more than 5, the rules and project plan should be formulated jointly, and an organization³⁹ should be established upon the approval of the

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governor of the prefecture and in line with the ministry of construction ordinance. The urban redevelopment organization ("organisation") has legal person status⁴⁰.

The rules⁴¹ formulated by the organisation should include: the name of the organisation, names of regions in the implementation area (implementation area and work area if any), the scope of the Type I of urban redevelopment project, the address of the organization, matters relating to organization members, the issue of expenses, the quorum of cadres, the service term, job sharing and election, the relevant matters of election method, matters relating to conference, matters relating to all representatives and congress if any, project year, the method of announcement, the matters relating to jurors⁴² and accountants. The project plan should specify the implementation area, design outline and financial plan⁴³ pursuant to the ministry of construction ordinance.

The organisation requires the approval⁴⁴ of over 2/3 of the owners of buildings and land and obligees of leasing land on over 2/3 of the area. The project plan should be implemented upon approval⁴⁵ by the managers of the public facilities in the implementation area and provide inhabitants of the public fund buildings with opportunities⁴⁶ to participate. All owners of the curtilage or obligees of leasing land in the implementation area are regarded as the organisation members. Except organisation members, other persons who intend to participate in Type I urban redevelopment project implemented by the organisation and who have formulated rules, will be regarded as participating organisation members or future organisation members⁴⁷.

³⁹ Article 11 of the Act (approval)

⁴⁰ Article 8 of the Act (legal person status)

⁴¹ Article 9 of the Act (rules)

⁴² Article 43 of the Act (jurors): The organization should have more than 3 jurors, who have special knowledge and experience in rights and valuation of land and buildings, and are elected at a meeting.

⁴³ Article 12 of the Act (project plan and basic project guidelines), and Paragraph 11 of Article 7 of the Act (project plan)

⁴⁴ Article 14 of the Act (approval by the owner of curtilage and obligee of leasing land), and Article 15 of the Act (declaration of burgage)

⁴⁵ Paragraph 12 of Article 7 of the Act (approval by public facilities managers)

⁴⁶ Article 13 (providing opportunities for participation for participating organisation members)

⁴⁷ Article 20 of the Act (organisation members) and Article 21 (participating organisation members)

The application for the project plan will be submitted to the governor of the prefecture (“the government”). The project plan will be announced by the governor of the said area and will be exhibited in public for 2 weeks. In the event of any opinion on the project plan, the obligee of Type I of urban redevelopment project may submit the opinion to the government within 2 weeks after the expiry of the exhibition period. If the government thinks the opinion is adoptable after examination, the project plan will be revised.; If the opinion is not adoptable, the government will also inform the proponent⁴⁸ of the corresponding intent and decision.

After the project plan is approved, the governor will display the name of the organisation, the project implementation period, the implementation area and design outline in the office of the said city, town or village for the public’s reading⁴⁹. See Appendix 14 for the “procedure of establishment of organisation”.

5.3.2 Registration at the very beginning of “right exchange” formality

After the individual implementation or establishment of an organisation is approved and announced, all lands and buildings will be restricted by the “rights exchange”. If an unwitting third party buys the land or building in the said scope, many unnecessary issues on property rights will arise, trapping both the buyer and implementer. Therefore, the “rights exchange” should be registered⁵⁰ at the very beginning in order to avoid unnecessary disputes on property rights. The registry will register all lands, buildings and land tenancies.

After the “right exchange” registration, the sales or mortgage of property rights within the implementation scope must be approved by the implementer in advance, because the “rights exchange” plan and design may need corresponding changes.

⁴⁸ Article 16 of the Act (citizen hearing of the project plan and the disposal of opinions)

⁴⁹ Article 19 of the Act (announcement about approval, etc.)

⁵⁰ Article 70 of the Act (registration of rights exchange procedure)

Before the implementation of the rights exchange plan, all existing property rights must be listed clearly. After the establishment of the organisation is approved and announced, the implementer must register⁵¹ all lands and buildings within the implementation area. Save with any objection, all investigation data will be deemed as true⁵², and be used as the basis for the “rights exchange” in future. The earlier the property rights are registered, the earlier the outlines of the “rights exchange” will be exhibited to relevant obligees.

5.3.3 Application for non-participation

All obligees in the implementation area have the right to choose whether to participate in the renewal project or not, and can propose to the implementer that they do not want to exchange rights according to the “rights exchange” plan within 30 days after the announcement date of the project plan. After the submission of the application for non-participation, the obligees of land, leasing land and buildings will be deemed as wishing to replace their property rights with money. The obligees of residential leases may also propose to decline the residential leasehold during this period. All obligees must propose, within the specified period, their final intentions⁵³ that they want to move out of or participate in the redevelopment plan.

5.3.4 Preparations for rights exchange

After the registration of property rights and the determination of the number of people participating in the “rights exchange”, the implementer will conduct the valuation and determine the standards of “rights exchange” on the valuation benchmark day for the property rights before and after development respectively. Such work will be set out in the “rights exchange” plan⁵⁴ including a layout design drawing which shows the locations of buildings after redevelopment and the “rights exchange” plan before and after redevelopment. The design outline according to regulations should lay out the distribution and uses of what the obligees receive, the location plans of facility building land, and the layout of public facilities. The “rights exchange” plan should include the following items:

⁵¹ Article 68 of the Act (land agreement and object agreement)

⁵² Data source: Urban Renewal Association

⁵³ Paragraph 1 of Article 71 of the Act (proposal of application for right exchange)

⁵⁴ Article 73 of the Act (content of the right exchange plan)

- Types, contents and prices of rights before and after the “rights exchange” of the obligees of land, leasing land, buildings, residential leases and of mortgages in the “rights exchange” plan;
- Types, contents and prices of rights, methods and dates of payment of obligees not participating in the “right exchange” plan;
- Types, contents and prices of rights of the obligees who are not allowed to participate due to enlying rights to too small an area;
- Details of distribution of the participating organisation members;
- Management, lease conditions and standard rent of the leased properties;
- Outlines of values of utility buildings, land and surface rights and land leasing conditions;
- Land belongingness of new public facilities; and
- Date of the “rights exchange”, specified time of land transfer, and specified time of completion of engineering.

5.3.5 Exhibition

As the implementation of the “rights exchange” will have impacts on the obligees in the implementation area and other related obligees, the “rights exchange” plan should be open to the public so as to create a democratic atmosphere. The organisation should exhibit the “rights exchange” plan to the public for two weeks at least, during which relevant obligees may propose any opinion⁵⁵ to the organisation. If upon examination the Examination Committee thinks the opinion is adoptable, the plan will be changed accordingly and will be exhibited to the public again.

If the exhibition date of the “rights exchange” plan does not fall within the 6 months following 30 days after the announcement of the approval of the establishment of the organization, the obligees have another chance to apply for non-participation in the “rights exchange”. If the redevelopment plan has unanimous approval, it will be not necessary to exhibit it.

⁵⁵ Article 83 of the Act

5.3.6 Application for the “rights exchange” plan

The implementer should formulate or change the “rights exchange” plan upon the approval of over ½ of the jurors or the resolution⁵⁶ of the Urban Redevelopment Examination Committee. According to laws and regulations, the “rights exchange” plan should be determined under the condition of completely considering the balance⁵⁷ among all obligees. The “rights exchange” plan approved by most people will be submitted to the government for review⁵⁸. The reviewed “rights exchange” plan will be exhibited to the public and relevant obligees will receive notice.

5.3.7 “Right exchange day”

The “rights exchange” plan will be implemented according to the specified formalities and procedures on the “rights exchange day”. The land within the implementation scope is shared by all obligees, while the buildings belong to the implementer who is entitled to dismantle the buildings on the land to conduct renewal engineering⁵⁹. The leaseholds of all lands or buildings will be cancelled on the “rights exchange day”.

The implementer should handle the cancellation registration of the mark of the original land and the registration of the mark of the new land in the implementation area as soon as possible, and should apply for the necessary registration⁶⁰ of relevant land rights after the “rights exchange”.

The implementer may require land transfer to the objects occupying the land or on the land within the implementation area within a specified period. This period will expire on the 30th day⁶¹ following the proposal of the requirement.

At the time of land transfer or moving objects, the implementer should compensate land occupiers and persons with interests in the objects for related losses. The compensation for the losses should be determined⁶² by the implementer and relevant obligees upon negotiation.

⁵⁶ Article 30 of the Act (resolutions of the national association), Article 32 of the Act (procedure of the national association, etc.), and Article 84 of the Act (participation of jurors and Urban Redevelopment Examination Committee)

⁵⁷ Article 74 of the Act (standards of determining the rights exchange plan)

⁵⁸ Article 72 of the Act (finalisation and approval of the rights exchange plan)

⁵⁹ Article 87 and Article 88 of the Act (the rights exchange taking effect on the rights exchange day)

⁶⁰ Article 90 of the Act (registration of rights exchange)

⁶¹ Article 96 of the Act (land expropriation)

⁶² Article 97 of the Act (compensation for losses arising from land expropriation)

In addition, relevant obligees within the curtilage of or buildings in the implementation area who lose their rights on the “rights exchange day” and cannot obtain building land, buildings, a joint ownership portion or residential leasehold after the renewal project, should be compensated by the implementer. The compensation should be estimated by

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comparison with the transaction prices within 30 days of similar rights of nearby similar lands or buildings. Interests⁶³ will be paid as per 6% of the estimated compensation every year.

The utility building land and land rights are deemed as they have been set on the “rights exchange day” pursuant to the “rights exchange” plan. The implementer should pay land owners the estimated land price⁶⁴ from the “rights exchange day” to the day when the completion of construction engineering is announced.

The implementer should make an announcement and notify all obligees responsively after the completion of construction engineering, and responsively handle the registration⁶⁵ of buildings and relevant obligees.

⁶³ Article 91 of the Act (compensation, etc.)

⁶⁴ Article 88 of the Act (the right exchange taking effect on the rights exchange day)

⁶⁵ Article 100 of the Act (announcement about completion of construction, etc.) and Article 101 (registration of utility building)

5.4 Disposal mechanism

5.4.1 Distribution of the “rights exchange”

Excepting applications for non-participation in the “rights exchange”, all owners of land and legal buildings in the implementation area can participate in the “right exchange” in accordance with the Land Redevelopment Act⁶⁶. The obligee of a residential lease may accept the residential leasehold from the person with a legal building in the implementation area, but if the owner of the building proposes application for non-participation, the obligee of a residential lease may obtain the residential leasehold⁶⁷ in a utility building of the implementer. Therefore, all landowners and obligees of buildings and of residential leases in the implementation area have the right to participate in the “rights exchange”.

As specified in the definition of “rights exchange”, the obligees can “equivalently exchange” the rights of a building site or buildings or compensation according to the asset value. If during liquidation there is any spread between the value of any distributed utility building land, the joint ownership portion or a part of a utility building and the original asset value in the implementation area, the implementer should lawfully collect the spread from the related obligee or make compensation to the related obligee⁶⁸.

The part of the utility building that the obligee receives is determined⁶⁹ according to the position, area, floor area, environment and use conditions of the land or building of the obligee in the implementation area, as well as the position, floor area and environment of the relevant part of the utility building. Land parcels beyond the utility building land belong to the implementer⁷⁰.

⁶⁶ Article 76 of the Act (utility building land) and Article 77 (part of utility buildings, etc.)

⁶⁷ Article 88 of the Act (the rights exchange taking effect on the rights exchange day)

⁶⁸ Article 104 of the Act (liquidation)

⁶⁹ Paragraph 2 of Article 77 of the Act (part of utility buildings, etc.): The utility building to be distributed must be evaluated upon consideration of the position, land area or usable area, environment and use conditions of the land or building of the transferee in the construction area, and the position, usable area and environment of the part of the utility building to be distributed to the transferee, in a bid to avoid unbalance among obligees, and obvious spread between the current price and original price.

⁷⁰ Paragraph 4 of Article 77 of the Act (part of the utility building, etc.)

5.4.2 Example of the “rights exchange”

The following is an example of the “rights exchange” of non-surface-right setting type, which explains how the obligee exchanges his original assets for property rights after

project renewal.

Suppose the total value of the building in the said implementation area before renewal is 180 and the total value of land is 400; the project after renewal is a 4-floor building and the land is distributed among all owners by the floor and value. The first, second, third, and fourth floor respectively occupies 10 shares, 5 shares, 2.5 shares and 2.5 shares of the land rights which adds up to 20 shares. The land value is equivalent to the value before renewal, so the first floor occupies the land value of $10/20 \times 400 = 200$, the second floor occupies that of $5/20 \times 400 = 100$, the third floor and the fourth floor occupy that of $2.5/20 \times 400 = 50$ respectively. In addition, assume that the building value of each floor after completion of renewal engineering is 200, and the total building value is 800,

Obligee A has open land with an original value of 80. Given that he receives the first floor, he will get a building with the building value of $80 \times 200/400 = 40$ and a land share value of $80 \times 200/400 = 40$.

Likewise, Obligee B has a piece of land with an original value of 100 and a building with value of 40. He will then be distributed with a building with a land share value of $140 \times 200/400 = 70$ and a building value of $140 \times 200/400 = 70$.

Obligee C has a piece of land with an original value of 120, but he leases a part of the land to Obligee E. Given the value of the part leased to Obligee E is 80, the original land value of Obligee C is 40. Given that the unit distributed to him is also on the first floor, he will receive the building with the land share value of $40 \times 200/400 = 20$ and a building value of $40 \times 200/400 = 20$.

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Obligee E has a building with building value of 60 on the land (with land value of 80) rented from Obligee C, so the value of the net property of Obligee E is 140 in all. Given that a unit distributed to Obligee E is on the second floor, he will receive the land share value of $140 \times 100/300 = 47$ and building value of $140 \times 200/300 = 93$.

Obligee D does not intend to participate in the “rights exchange” plan. He has a piece of land with value of 100 and a building with value of 80, and the building is leased to a tenant, so Obligee D can obtain compensation equivalent to his original asset value. Obligee D’s assets will belong to the implementer. Given that the tenant chooses to select the unit on the third floor after renewal, Implementer S will get a building with a land share value of $180 \times 50/250 = 36$ and a building value of $180 \times 200/250 = 144$. The implementer must lease the unit to the said tenant.

Implementer X can receive all remaining buildings of total value of 620, including the building value of 367 and the land share value of 187.

See Table 2 below and Appendix 15 for the aforesaid analysis and conclusions.

Table 2 – Exchange of property rights after project renewal with assets before renewal

	Before renewal			After renewal			Distributed floor
	Building	Land	Total value	Building	Land	Total value	
Total asset value (1)	180	400	580	800	400	1200	
A	0	80	80	40	40	80	1/F
B	40	100	140	70	70	140	1/F
C	0	40	40	20	20	40	1/F
D	80	100	180	0	0	0	Non-participation
E	60	80	140	93	47	140	2/F
S	0	0	0	144	36	180	3/F
Subtotal (2)	180	400	580	367	213	580	
X((1)-(2))	0	0	0	433	187	620	

Value of land and building after renewal

	Building	Land	Total value
1/F	200	200	400
2/F	200	100	300
3/F	200	50	250
4/F	200	50	250
Total value	800	400	1200

5.4.3 Management of public facilities land

As public facilities land is often involved during the development, the person who applies for approval on development should get the consent⁷¹ of public facilities managers relating to the development action. The land for new public facilities replacing the original public facilities as per the “right exchange” plan belongs to the state if the original land owner is the state, and belongs to public body if the owner is the public body. The land of the newly set public facilities belongs to the public facilities manager, which is appointed⁷² upon negotiation before determination of the rights plan.

5.4.4 Resettlement measures

The people, who provide land for the development of the renewal project and thereby lose residence or living dependence during the project implementation, may require resettlement measures from the implementer, including obtaining buildings of suitable curtilage, residence and shops, land for farmland development, receiving vocational introduction, guidance or training. The implementer should carry out⁷³ the application for resettlement measures where possible.

5.4.5 Agreement and rules of residential leasing conditions

In the “rights exchange” plan, where some buildings which may accommodate obligees of residential leases, by laws and regulations should be negotiated⁷⁴ for their rents and other residential leasing conditions, including lease purpose, rent, date and method of payment, payment of deposits or an amount equivalent to the residential leasehold.

⁷¹ Paragraph 12 of Article 7 of the Act (approval by public facilities manager)

⁷² Article 82 of the Act (regulations on ownership of the land used for public facilities) and Article 32 of the Planning Act (approval by public facilities managers, etc.)

⁷³ Article 74 of the Planning Act (measures of renewal after disaster)

⁷⁴ Article 102 of the Act (valuation of part of utility buildings, etc.)

If the agreement on residential leasing conditions has not been concluded before the announcement date of the completion of engineering, the implementer may lawfully rule as per the proposal of either party or two parties. This ruling will depend on the approval of more than half of the jurors or on the resolution of the Urban Redevelopment Examination Committee. If the ruling is not satisfactory, an appeal may be lodged within 60 days after the date of validation of the ruling.

5.4.6 Valuation of renewal rights and objection disposal mechanism

The lands, land tenancy or buildings in the implementation area are valued in 30 days with reference to the transaction price of similar property rights of similar nearby land or building. The lands, burgage or buildings are valued⁷⁵ after development with reference to the of the redevelopment project expenses, and the transaction price of similar rights of similar nearby land or buildings in the last 30 days.

In case of any objection to the valuation, the owner may apply to the expropriation committee for the ruling of the said valuation within 30 days after the valuation notice date. The application for the ruling does not affect the progress of the renewal project according to Paragraph 1 of Article 85 of the Act.

The implementer may determine the related expenses at the time of completion of the renewal project, and according to the government decrees, refer to the transaction price of similar rights within 30 days of similar nearby land or buildings to determine the value of facility building land or facility buildings, or the rent of the facility buildings leased out by the implementer. In case of any objection to the price notice, the obligee may lodge an appeal to require an increase or decrease⁷⁶ within 60 days after receiving the notice.

⁷⁵ Article 80 of the Act (calculation standards of price of curtilage, etc.) and Article 81 (calculation standards of appropriate price of utility building land, etc.)

⁷⁶ Article 103 of the Act (valuation of part of utility buildings, etc.)

5.4.7 Expenses of buildings

The expenses of the renewal project are paid by the investor in principle, and must be returned to the investor from the reserved area according to the implementation mode of the “rights exchange” plan. The reserved area refers to the remaining floor area arising from the high use of land during the renewal project after distribution of the floor area to the owners of the original land and buildings according to the original proportion of rights values. As the obligee does not need to pay any renewal project expenses, the expense will not affect the distribution of the renewed land/buildings to the obligees.

The following briefly describes the expense burden pursuant to the “Urban Redevelopment Act of Japan”:

- I. The expenses necessary for the redevelopment project are borne⁷⁷ in principle by the implementer;
- II. Cost share⁷⁸ of local government: The public body may require the local government to bear part of the expenses for the interests to be obtained by the government in the redevelopment project. The expenses and method of undertaking may be negotiated by the public body and local government. If the negotiation fails, the minister of construction will rule according to the application of the party after listening to the opinions of the party and consulting with the minister of home affairs; and
- III. Cost share⁷⁹ of public facilities management body: In view of the important public facilities in the redevelopment project, the implementer may require the related management body to bear all or part of any necessary expenses. The implementer should get the approval and agreement of the public facilities management body for its assessment and specify it in the project plan.

⁷⁷ Article 119 of the Act (undertaking of expenses)

⁷⁸ Article 120 of the Act (cost share of local public body)

⁷⁹ Article 121 of the Act (cost share of public facilities managers)

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The revenues and expenditure of the redevelopment project generally include⁸⁰:

Revenue	Generally including: General accounting subsidy from the state, capital and prefecture Assessments of public facilities managers including the state and other relevant managers Distributed area in the reserved area Assessments of participating organization members
Expenditure	Generally including: Expenses of investigation, design and plan, expenses of land development, compensation including land compensation, building compensation and other compensation. Engineering expenses: Building facilities engineering expenses, public facilities engineering expenses, other accessory compensation. Office expenses. Interests on loans.

⁸⁰ Data source: Urban Renewal Association of Japan

5.4.8 Subsidy

Japanese Central Government subsidises⁸¹ the renewal project for the local government and implementer with a subsidy ratio within 1/3 of the subsidized project. The subsidy given by the Central Government to the implementer is an “indirect subsidy”. That is to say, the Central Government appropriates the subsidy to the local government, through which the subsidy is appropriated to the implementer. The Central Government requires the local government to raise the matching grant equal to 1/2 of the subsidy. Generally, the subsidy for the implementer is borne by the Central government for 1/3, the prefecture for 1/6, the city, town or village for 1/6, and the implementer for the remaining 1/3.

The subsidy of the Central Government for the implementer covers the expenses of investigation, planning and design, architectural design, land formation and dismantling buildings, expenses of public facilities development, and the allowance for improvement of public facilities, disaster prevention and region activation. The subsidy of the Central Government for the local government covers the expenses necessary for the formulation of the basic plan of the renewal area, the basic plan of urban comprehensive regeneration and the promotion of renewal.

These subsidy measures show that the subsidy given by the Central Government to the local government targets the expenses of investigation and planning necessary for the overall and wide basic plan of renewal while the subsidy to the implementer aims at the specific cases of the renewal project. Actually, not all renewal projects may be subsidised and the actual subsidy depends on the relevant planning and circumstances of the case, however all subsidy cases must meet the Central Government subsidy conditions in Table 3 :

⁸¹ Article 122 of the Act (subsidy of expenses) and Urban Renewal Association of Japan

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Table 3 – Conditions Applying to the Central Government for the Allowances on Renewal Project

Implementer	Organization	Individual implementer
Conditions of implementation areas	-	1. Type I renewal project in the widely utilised areas, urban regeneration special areas and specific planned areas 2. The areas in the urban redevelopment promotion areas
District area	Over 0.5 hectares (on the basis of the central line of roads)	Over 1,000 m ²
Renewal buildings	Building area is over 500 m ²	
	The total floor area is over 2,000 m ² and the buildings should have over four floors	The total floor area is over 1,000 m ² and the buildings should have over three floors
Rate of open area	The rate of open area in the district area should be over 45% (including roads, squares, parking lots)	The rate of open area in the district area should be over 30% or the rate in the project site area should be over 10%
Parking space	In accordance the regulations on parking	Complies with the parking regulations

In addition, if the fire-resistant buildings in the widely utilised areas are in line with the urban plan, the fixed assets tax of the renewal project can be reduced⁸².

It is very important for the government to manage the finance of redevelopment project because urban redevelopment project should make both ends meet. The settlement of the redevelopment project involves the expenses of land acquisition, the removal of buildings, development works and the study and research of the adjustment of rights as well as the expenses of disposing of the lands and buildings after the completion of the development. See Appendix 16 for the explanation of financial revenue and expenditure of the urban redevelopment project.

⁸² Paragraph 2 of Article 6 of Local Tax Act and Paragraph 1 of Article 8 and Article 138 (tax cut of fixed-asset tax) of Planning Act

5.4.9 Floor area incentive

As for the development of renewal projects, the Japanese Government grants a certain amount of floor areas to ensure the effective development of the renewal project and the

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areas for investors, that is, the revenues can make up the renewal projects expenses after the lands in the reserved area are sold. In addition, the Examination Committee and the obligees of the projects will discuss every renewal project and grant different floor area incentives⁸³ to different projects.

⁸³ Data source: Urban Renewal Association of Japan

5.4.10 Financing System

At the outset of carrying out the renewal project, the Japanese Government realised that it would cost a large sum of money to pull down old and dilapidated buildings and replace them with new and sound buildings over a long investment payoff period. Although a renewal project can obtain a steady income, it cannot obtain high returns. Meanwhile, those with rights in a renewal project are at a disadvantage in financial means, and credit worthiness, so a long-term low-interest loan is the key to the success of a renewal project. Therefore, when drawing up the Redevelopment Act, Japan definitely specified that public and private financial institutions should provide long-term low-interest loans⁸⁴ to promote urban renewal projects.

In financing by public institutions, the Housing Finance Corporation mainly provides loans for the renewal of residences, which should account for over 50% of the gross site area. The financing object of the Development Bank of Japan is commercial office buildings. In addition, private financial institutions include the institutions promoting urban development and the Shoko Chukin Bank. Meanwhile, the urban development capital system also provides loans, in particular, the Shoko Chukin Bank provides loans for small and medium enterprises and the Japan Finance Corporation for Small and Medium Enterprise and the National Life Finance Corporation in turn provide loans for relevant renewal projects.

⁸⁴ Data source: Urban Renewal Association of Japan

5.4.11 Debt guarantee

If the redevelopment projects initiated by the urban redevelopment organisation, personal implementer and redevelopment cooperative intend to obtain loans from the public and private financial institutions such as the Housing Finance Corporation to promote their new projects, they can apply to the “Private Redevelopment Promotion Fund” set by the “Urban Renewal Association of Japan” for the debt guarantee. The application scope includes the consulting fee at the preparatory stage of the plan and the expenses for land acquisition and renewal projects. In general, the unincorporated applicants receive very strict inspection from the financial institutions, so it is not easy for them to obtain loans. See Table 4 for the summary⁸⁵ of debt guarantee provided by the Association:

Table 4 – The Summary of Debt Guarantee of Organisation Redevelopment Promotion Fund

	Initial Capital	Construction Capital
Guarantee project	1. Consulting fees for investigation, planning and design	
	2. The expenses for using the lands of the out-migrants	
	3. Settlement allowances for the out-migrants	
	4. Compensation	
	5. Other necessary capital	
Object of guarantee	1. Personal implementer and urban redevelopment organisation	
	2. Right-related persons	
	3. Relevant consulting firms and specific builders	
	4. Development companies	
	5. Members of the Renewal Association and participants in special businesses	
Limit of guarantee	The expenses for obtaining the lands are ¥0.5 billion and other expenses are ¥0.1 billion	Within 80% of borrowings of financial institutions (within 90% under special circumstances)
Guarantee period	The period should be no more than five years (the period of the implementer who implements his project by stages should be calculated from the date of his initial financing)	
Assurance and joint guarantor	1. If the limit of guarantee is less than ¥30,000,000, the assurance and guarantor are not needed	Assurance should be provided in principle, but if the applicant cannot provide any assurance in fact, he should have a joint guarantor
	2. If the limit is over ¥30,000,000, the assurance and guarantor are needed in principle	
Guarantee fee	1. 0.3%~0.75% of the guarantee loan amount of the current year 2. The fee should be paid once a year	1. The half of 0.3%-0.45% of the balance of the guarantee loan amount of the current year should be subsidised by the government of the area where the project is developed 2. The fee should be paid once a year

⁸⁵ Data source: Urban Renewal Association of Japan

6. Redevelopment in Roppongi Area

6.1 Introduction

6.1.1 The Process of renewal

TV Asahi was relocated in 1986 after the completion of Ark Hills, and the Tokyo Metropolitan Government then considered that this area should be renewed entirely and defined the area as the “representative area of renewal” and convening talkfests on building streets and consultations to coordinate the landowners.

The feasibility of the overall renewal plan in Roppongi Area was gradually improved by convening consultations. In 1990, after getting approval of 80% of those people with land rights, the executor set up the Preparatory Committee for Urban Renewal, drew up the renewal plan and the “rights exchange” plan and sought to reach agreements, as exemplified by the facts that the urban plan was changed in 1995, the “Renewal Association” was established in 1998, the “rights exchange” plan was examined and approved and construction work was started in 2000, which was completed in April 2003.

6.1.2 Economics

The renewal project in the Roppongi Area was developed in the period of the bubble economy from the mid 1980s to the 1990s. Therefore, the sharp increase and decrease of the market price of real estate caused the rights integration and “rights exchange” of the project to become difficult.

6.1.3 A Survey before renewal

In the scope of renewal, TV Asahi was one of the biggest landowners which had three-hectare of uneven land. Due to the severity of the fall between the Company land and the land opposite over the road, it was difficult to effectively use the land. Apart from the TV station, the commercial area was at the roadside and residences were located between the TV station and the commercial area, hence it was a typical mixed-use housing and commercial area. See Appendixes 17 and 18 for the information on the area before renewal. On the basis of the existing circumstances and features of the area, the Committee suggested that it should be developed into a comprehensive project including housing, offices and recreation in order to make full use of the land.

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6.1.4 Roppongi Hills after the renewal

After 14-years of discussion and three years of renewal, the Roppongi Hills was developed into a comprehensive project, which includes Blocks A, B and C. There are squares, shops and special beauty schools in Block A; the new landmark tower-Mori Tower and TV Asahi in Block B. Meanwhile, an art gallery, a platform for observation, and an education center and a membership club in the highest building. There are four large residential buildings which can contain 840 households and temples in Block C. Therefore, the whole residential site is surrounded by parks, greenbelt and shops. The Mori Garden, which beautifies Roppongi Hills, is established in a bid to reserve the 350-year-old historical park. In addition, a 1,300 m² hanging plantation 45 m above the ground has also been built, showing the local people attach great importance to environment⁸⁶. See Table 5 and Appendixes 19 and 20 for the overview on the development project in Roppongi Hills, locality and contents.

Table 5 – Overview on the Development Project in Roppongi Hills

Block	Name of building	Contents	Floor area	The number of storey
A 6,600 m ²	Hollywood Beauty Plaza	Beauty and hair salons and shops	24,500 m ²	12F/B3
	Metro Hat	Exit and entrance of metro and restaurants		2F/B
B 57,200m ²	Roppongi Hills Mori Tower	Offices, shops and art gallery	380,100 m ²	54F/B6
	Grant Hyatt Hotel	Hotel (380 rooms) and shops	69,100 m ²	21F/B2
	Keyakizaka Roppongi Comprehensive Building	Virgin TOHO Film City and shops	23,800m ²	6F/B2
	TV Asahi	Studio, shops and offices	73,700m ²	8F/B3
C 21,000 m ²	Residence A	Housings and shops	The total area of the four residential buildings is 150,000m ²	6F/B2
	Residence B			43F/B2
	Residence C			43F/B2
	Residence D			18F/B2
	Famous shops in Keyakizaka	Offices and shops	6,900 m ²	6F/B1
	Wooden building at the entrance	Offices and shops		
	Jomyo-ji Temple	Temple	500m ²	2F
Storage		200m ²	1F	

⁸⁶ Data provided by Mori Building Co., Ltd.

6.1.5 Development schedule

Roppongi Hills has had a six-year history since its opening on 25 April 2003, and the renewal project took 17 years starting from the coordination of rights-related persons to the completion of the renewal from the 20th to the 21st Century. This renewal completed by the Renewal Association is the largest scale renewal project in Japan. See Table 6 for the developing process of the above renewal⁸⁷.

Table 6 – The Schedule of Development of the Renewal Project in Roppongi

November 1986	The Roppongi 6-chome area was set as the "representative area of renewal" by Tokyo
1988	The 'talkfests' on building streets were convened
1990	The consultations on building streets were convened
December 1990	Preparatory committee for renewal in Roppongi 6-chome area established
April 1995	The Type 1 of urban redevelopment project (the approval of urban planning) ⁸⁸ in Roppongi 6-chome area was approved by the Urban Planning Commission in Tokyo
October 1998	The Renewal Association in Roppongi 6-chome area was established
December 1998	The architectural design was developed
May 1999	The architectural design was completed
2 October 1999	The rights exchange plan was announced
29 October 1999 – 11 November 1999	The public exhibition of the "rights exchange" plan was developed
December 1999	The application for approval of the "rights exchange" plan
February 2000	The governor of Tokyo granted the permit of the rights exchange plan (the approval of the rights exchange plan)
April 2000	The renewal project was developed
September 2000	The name of Roppongi Hills was agreed
March 2003	The renewal project was completed
25 April 2003	Opening

⁸⁷ Data source: URCA Renewal Research No. 24 translation and Code of Renewal of Cities in Japan

⁸⁸ 90% members of the Renewal Association agreed to the plan

6.1.6 Method of consultation

As the largest-scale renewal project in Japan, the renewal plan case in Roppongi Hills covered an area of 11 hectares with 380 owners, so the biggest problem was how to integrate the opinions of all the land owners of and reach agreement.

The key to integrating the opinions of all the landowners of and making them come to agreement in promoting the renewal was to balance the existing principles of the whole organisation and the requirements of individual obligees. When the Preparatory Committee of Renewal was established, it at one time convened over 100 meetings within a year. Meanwhile, the Renewal Committee issued monthly reports to explain the progress of the renewal to each of the obligees and receive individual consultation during the 17 years of promoting the renewal project. Therefore, the Renewal Association, which had been established for about one year at that time, could complete the “rights exchange” plan and achieve the approval of most obligees.

6.2 “Rights exchange”

6.2.1 The application of the “rights exchange” plan

On 2 October 1999 when the Renewal Association had been set up for one year, the “rights exchange” plan was announced for two weeks. The obligees should then decide within two months in which they could change their willingness to participate at any moment. After the two months, the “rights exchange” plan application was submitted to the Government for approval on 2 December 1999. On 8 February 2000, the “rights exchange” plan was approved by the Government and launched formally on 13 February.

6.2.2 The process of tentative calculation

The base date of the evaluation of the land price in the “rights exchange” plan was 1999. The land price in 1999 was a quarter of the tentative price calculation determined in 1991. In addition, the renewed area was wide and the land price declined at different rates in different locations, so it is difficult for the Renewal Association to promote the renewal project. The planners of the renewal project brought forward four different tentative calculation methods of the “rights exchange” in 1991, 1993, 1995 and 1996 until the Renewal Association was established formally, and gradually made every obligee understand the preconditions of the tentative calculation, the situation at different point in time and the predicted result of the tentative calculation.

6.2.3 Floor area ratio of land

Before the development, the floor area ratios were different ranging from 100% to 350%⁸⁹ and averaging at 327%. Upon negotiation with the Government, Mori Building Co., Ltd. would provide public facilities for the project, including roads and parks, so the average floor area of the whole development project increased to 723%⁹⁰.

6.2.4 Rights distribution of obligees and developers

The “rights exchange” plan clearly divided the whole area into the rights area and reserved area. As for the distribution proportions, the obligees accounted for 30% of Blocks A and B as the commercial areas and the investors accounted for 70%; the obligees accounted for 55% of the Block C as the residential area and the investors accounted for 45%. The residential area includes Buildings A, B, C and D. The reserved area includes Building C and the high floors of the commercial building (Roppongi Hills Mori Tower) in the hope of guaranteeing the “rights exchange” and the feasibility of the renewal project.

6.2.5 Distribution after the renewal

The distribution after the renewal should be conducted in accordance with relevant regulations on the basis of the values of lands or buildings. Owing to the unique features of each unit, the willingness of obligees should be considered in the distribution at first. When there are at least two choices on the same unit, the voluntary consultation is the preferential solution. If the consultation fails, the distribution will be determined in the light of the result of the draw. In the development case of Roppongi, only one unit was distributed on the basis of the result of the draw. After the renewal, about 95% of the people did not move out. The interview with Mori Building Co., Ltd. shows that the Mori Building Co., Ltd. provided the obligees with more compensation than the statutory compensation. Most obligees obtained the larger area than their original area and the average area was 2.5 times of the original average area.

⁸⁹ The floor area of 90% lands before the renewal was 300%; that of the commercial lands was 840% and that of the lands for housing was 630% after the renewal. The land area was 89,400 m² and the area for buildings was 646,362 m²

⁹⁰ Data source: Interview with the Mori Building Co., Ltd.

See Appendix 21 for the illustration of rights of Roppongi before renewal and Appendix 22 for the illustration of the distribution of “rights exchange” of Roppongi after renewal.

6.2.6 Rights distribution of non-participation

According to relevant acts, the obligees have rights not to take part in the “rights exchange” plan. In view of the plan case, the Mori Building Co., Ltd. spent 14 years negotiating with the obligees. In particular, some obligees declared that they would not participate in this plan at different stages and sold their property rights to the Mori Building Co., Ltd. The compensation the above obligees obtained were calculated on the basis of the market price of their property rights at that time. Because of the economic fluctuation at that time, the obligees obtained different compensation.

6.2.7 Arrangement of management fees

The numerous obligees in the area were worried that the residential management fees would be increased after the renewal. To remove these worries, though the building areas some obligees’ would decrease, they could possess a part of the “income area” (one storey of the office building of the Mori Building) after the renewal. This one storey was handled in the form of master lease and it should be rented by the Mori Building Co., Ltd. to ensure the rental incomes of the obligees. There were 120 obligees taking part in the above distribution planning, who were also the co-owners of the one storey. This mode could allow the obligees of land to obtain rental incomes after the renewal and reduce their burden of paying the residential management fees. The surplus of rental incomes should be given to relevant obligees and the remaining incomes were set as the fund to stabilise the future management fees.

6.2.8 Rental incomes

The distribution of the “rights exchange” is on the basis of the original asset value, so if the unit value distributed after the renewal is less than the value of the original asset, the shortage should be made up. In this case, there were 150 obligees jointly possessing the income area, which was also specified in the “rights exchange” plan. The “income area” covered five storeys of the office building, which were leased by the Mori Building Co., Ltd. to ensure the rental incomes.

6.2.9 Management of common assets

The common real estates could increase incomes and integrate assets, but the numerous obligees make management and decision-making difficult. In order to solve this problem, the income area set up the legal person of land obligees in December 2002, who started to integrate rights in the form of civil trust and transact trust businesses after the completion of the renewal.

6.2.10 Compensatory measures during the construction

Because the project took three years, all obligees should leave their original homes and suspend all businesses in the area during the construction. The Mori Building Co., Ltd. compensated and resettled obligees elsewhere to reduce the losses and the effect of the project on all obligees.

The obligees of the original commercial office buildings and shops could continue to work in the office buildings and shops possessed by the Mori Building Co., Ltd. or in other buildings or shops rented by the Corporation. As for other obligees and owners, the Mori Building Co., Ltd. negotiated compensation with them one by one. The data provided by the Mori Building Co., Ltd. shows that the compensation was equal to the rental incomes lost by the owners during the construction.

Settling the obligees who once lived in the area in the temporary residences was the priority of promoting the renewal project. In the development project of Roppongi, most houses were located in the south of the area and each residential unit had about 30 ping⁹¹. Settling the obligees in temporary residences with the same area as their original homes was the main object.

However, as the main houses in Roppongi were the 15-ping apartment buildings at that time and there were exclusive residential districts in Moto-Azabu and Yuan Mawei, it is difficult to settle the obligees in the original area of Roppongi. At last, the Mori Building Co., Ltd. determined the land construction residence for the temporary residences of the obligees, which was in Moto-Azabu and Nishi-Azabu around the Roppongi 6-chome area,. The construction was started in 1998 (Heisei 10) and four residences were built up as the temporary residences in the early 2000 (Heisei 12). All obligees moved to the temporary residences in mid March 2000 (Heisei 12) and demolition started on 27 April 2000 (Heisei 12).

⁹¹ A ping is 36 square foot

6.2.11 Financial plan

The investors⁹² should be responsible for raising money for the renewal project. According to the interview with the Mori Building Co., Ltd., the Government subsidised the project due to the facilities provided by the project such as parks, roads, public spaces and residences. The subsidy accounted for 4% of the project fees. However, it was understood from the interview with the Urban Renewal Association of Japan that the formalities of applying for the subsidy were complicated, so the expenses paid by implementers should be obtained from the reserved area in the “rights exchange” plan. To raise money for the project, the Mori Building Co., Ltd. adopted the project finance by the real estate securitisation of SPC (Special Purpose Company)⁹³, which is rarely seen in real estate development. Obtaining a loan however through the above method during the construction is of great significance to the renewal plan. See Appendix 23 for the structural diagram of real estate securitisation finance.

⁹² The investors are the participating organisation members specified in the Land Redevelopment Act of Japan

⁹³ The method of SPC (i.e. the company with special purpose established for the renewal project) establishing financial planning.

7. Applicability of Strategy

The feature of the urban redevelopment project of Japan is that the expenses for renewal projects should be made up by selling the reserved area, that is, the earnings of selling the reserved area should offset the expenses for the renewal project. According to the Land Redevelopment Act of Japan and Planning Act, the urban redevelopment area should be set as the intensively used (e.g.downtown) area and the building coverage ratio and floor area ratio should be improved in the area. If the urban redevelopment area is set as the urban regeneration special area, its floor area ratio could be at least 25%~30%⁹⁴ higher than the benchmark floor area ratio. The builders, who conduct landscaping and provide roads, could obtain additional floor areas or the cash grants of the Government.

From the date of the publication and implementation of the Land Redevelopment Act of Japan to late March 2006, about 955.1 hectares of land in 651 areas in Japan have completed renewal projects and the floor area of lands increased from 0.9 times before the renewal to 5.86 times after the renewal, that is, the current floor area is the 6.5 times of the original floor area.

Because the residential density in the urban regeneration area of Japan is very low, the builders have a lot of room to negotiate the conditions of renewal with obligees on the basis of the conditions which are superior to the requirements of “equivalent exchange” stipulated in relevant laws. However, in the Roppongi project, the average development intensity increased from 3.27 times to 7.23 times⁹⁵ of the original density, but the increased floor area ratio was only 2.2 times of the original ratio, so the Mori Building Co., Ltd. established more commercial areas with high value and allowed the original owners to use most residential units. The obligees obtained compensation which was on average 2.5 times that of the original floor area, so the Mori Building Co., Ltd. gave the obligees generous conditions.

The Japanese Government encouraged developers to negotiate and cooperate with the owners of the properties in order to jointly develop these renewal plans. It is reported that only two enforcement cases were among the nearly 700 urban renewal cases of Japan by the end of 2007. Though the laws permit enforcement actions, developers or builders usually spent a lot of time obtaining 100% approval of obligees and then they developed the renewal projects, so they had to spend a long time on the urban renewal of Japan.

⁹⁴ The floor area ratio of the Japanese Industry Club Hall increased from 1,000% to 1,231.8%; that of the Marunouchi Building increased from 900% to 1,152.88%; that of the Marunouchi OAZO Building increased from 1,000% to 1,272.3% and that of the Meieki 4-chome (Toyota-Mainichi Building) increased from 1,000% to 1,420%.

⁹⁵ The number is 7.22 times provided by other information

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In Hong Kong, most the real estate development projects of private developers or the urban renewal plan of public bodies purchase the properties of the obligees by cash, and they complete the purchase procedures and unite the properties of the project in line with the schedule of the whole project as soon as possible. This mode is conducive to stepping up transactions, indirectly promoting the construction of renewal projects and preventing negotiators from getting involved in these problems relating to laws, time and agreement when they negotiate conditions with each other. In addition, the buyers and sellers cannot be restricted by the project cooperative development agreement but they can respectively freely handle their own properties.

Apart from purchasing the properties by cash, the developers also adopt other diversified ways to conduct the real estate development projects in Hong Kong, as exemplified by the famous cooperative development plan of the Civil Servants' Co-operative Building Society of The Belcher's in Sai Wan and Shun Tak Holdings Limited.

In 1988, some real estate developers submitted the cooperative development plan to the Civil Servants' Co-operative Building Society of Hong Kong and Shun Tak Holdings Limited put forward a takeover offer in 1989. After negotiating with each other for several years and settling the relationship between the Belcher's and the Co-operative Building Society in Chatham Road, the developers devised favourable terms such as exchanging one house for two houses and providing three-year housing allowances within the development period, and together they jointly developed the Belcher's⁹⁶. Owing to the fluctuating property market during this period, Shun Tak Holding Limited invited Sun Hung Kai Properties, Liu Chong Hing Investment Limited and New World Development Company Limited to jointly develop the project. They spent 16 years inviting all participants to develop the Belcher's, which was completed on 18 May 2004.

In addition, some small and medium developers possess adjoining sites, but they cannot reach agreement to sell or purchase these sections, so they have to cooperate with each other for their joint development. When the project is completed, they can obtain their buildings upon draw result or their agreement to complete the whole cooperation process.

⁹⁶ Because the original development terms of the Belcher's had special restrictions, the developers should pay money on behalf of all members to the local government for redeeming the lands and they could not obtain development right or new development floor area until they paid about HK\$4.9 billion for changing the land deed. The cooperative of the Belcher's once had 224 units with a land area was 29,998 m² and a total floorspace of about 21,000 m². After paying to redeem the land, the land area is 30,125 m² and the permitted total floorspace for renewal is 247,273 m², of which 20,000 m² is commercial land. The floor area ratio is the 8.2 times of the original ratio.

Other than the time factor, this cooperation mode is to some extent applicable. Whether however the cooperative mode or the renewal project will succeed or not mainly depends on the increased floor area after the renewal. For example, according to the urban renewal plan of Japan, the Japanese Government required that the increased floor area of the plan should make up for the expenses for development. As described above, the average floor area in the renewal plan in Japan was about 6.5 times the original area for development, so the plan in Japan could be conducted smoothly.

The density of old areas in Hong Kong is 4 to 6 times of that in Japan. According to the Buildings Ordinance, a renewal project can obtain about a nine to eleven-fold plot ratio. If the project is used for commercial purposes, it can obtain about 12 to 15 times the plot ratio. The Building (Planning) Regulations (Chapter 123F) specify that private buildings which are used for public purposes can be granted with compensatory floor area.

It can be seen from the above rough figures that the increased floor area is two to three times of the original buildings. After prewar and postwar buildings with relatively low density are renewed, the remaining buildings with relatively high density are buildings developed in the early 1960s in accordance with the Buildings Ordinance of 1962, so the renewal of these buildings cannot bring a lot of benefits to the developers nor even the interests make up for the costs of the renewal. As described above, Hong Kong has fewer increases in plot ratio than Japan to make up for the costs of renewal. Apart from the original properties with high development intensity in Hong Kong, Hong Kong does not set up the same “urban regeneration special areas” as those of Japan, which can obtain greater plot ratio. In recent years, Hong Kong citizens have placed increasingly higher requirements for environmental protection, the quality of air, living environment and landscaping, so the Government in Hong Kong strictly examines applications for compensatory floor area.

In addition, the permitted plot ratio in accordance with the Buildings Ordinance was also reduced through the outline zoning plans in the past ten years, such that the permissible development density of some high density areas was reduced to plot ratio 9 to 7.5. This trend of reducing development density has also been extended to “Comprehensive development area” renewal plans, which are restricted to only plot ratio 6.0 or a specified development floor area. This shows the attitude of the Government toward the development intensity of land.

From these aspects, we can notice that the planning of urban regeneration in Japan is similar in mode to the plan adopted by developers in Hong Kong, and the only difference is that Hong Kong did not relax the floor area bonus. Therefore, this redevelopment method of using higher floor area in exchange for developable site is difficult to implement for the lack of sufficient development revenues to pay development project costs, unless it is a valuable land like the Belchers with a low density of original buildings of the Civil Servants Society or is dominated by commercial properties with high value.

Besides, the key to the success of a project lies in the time required for the development of these projects. From the above examples and other examples on rights exchange in Japan, it takes more than 10 years to complete a project conducted in this development mode. The expenses, interests and venture management involved are not only the criteria for the success of a project but also the important factors considered for each real estate development project during research and preparation.

However, in comparison with other development modes, this cooperative development mode has a risk advantage in for the developer. That is, the developer does not need to pay a huge land price and interest expenditure and only bears the construction cost of property development and the rental of the small owners' temporary residences during the development period. Therefore the developer does not bear any risk of the land arising from the fluctuation of the property market during the development period. The development risk however still exists for the property of the land stakeholders, because stakeholders do not have land or could not sell their land for cash to achieve the real-time loss or profit.

In addition, the expenditure on construction by developers is determined when they sign the contract with the contractors who bear the construction risk.

If the property market continues fluctuating when the project is completed, both land stakeholders and developers need to bear the impact of that fluctuation on the price of their properties. Therefore, this cooperative mode does not transfer the risk of one person to another.

8 Definition of terms

8.1 “Floor area transfer”

Floor area:	Total buildable floor area of land.
Benchmark floor area:	The product of floor area and the upper limit of floor area ratio specified in the urban plan or other relevant laws and regulations
Given residential site:	The land with transferable floor area to be entirely or partly transferred to other buildable area for construction.
Taken residential site:	The land accepting the transferable floor area of the given residential site.

8.2 “Right exchange”

Urban Redevelopment Project:	With the view of seeking reasonable, sound and intensive use of urban areas and of regenerating the urban functions, the building and building site development, relevant projects of public facilities development, and accessory projects implemented by the Urban Planning Act or Land Redevelopment Act of Japan are all urban redevelopment projects. They fall into the Type I and Type II of urban redevelopment project respectively specified in Chapter 3 and Chapter 4 of Land Redevelopment Act of Japan.
Implementer:	Person who implements the urban redevelopment project.
Implementation area:	Area for the implementation of the urban redevelopment project.
Public Facilities:	Facilities like roads, parks, squares available for public use.
Curtilage:	The land beyond the land for public facilities and the land of the state, local public bodies and other persons as specified in other laws.
Utility buildings:	Buildings built in accordance with the urban redevelopment project.
Utility building land:	The building land planned by the urban redevelopment project.

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Part of utility buildings:	Part of utility buildings different from special buildings with ownership.
Part of utility buildings, etc.:	Part of utility buildings and the portion of the surface right under joint ownership aiming at holding the building.
Part of building facilities:	Part of utility buildings and portion of the land under joint ownership of the said building.
Burgage:	The surface right and leasehold that aim to hold buildings, other than with obvious temporary facilities and the building set for other temporary uses.
Renting land:	Curtilage used for renting.
Residential leasehold:	The leasehold of buildings, save with the building obviously set for temporary use.

9. Reference data

9.1 “Floor area transfer”

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9.2 “Right exchange”

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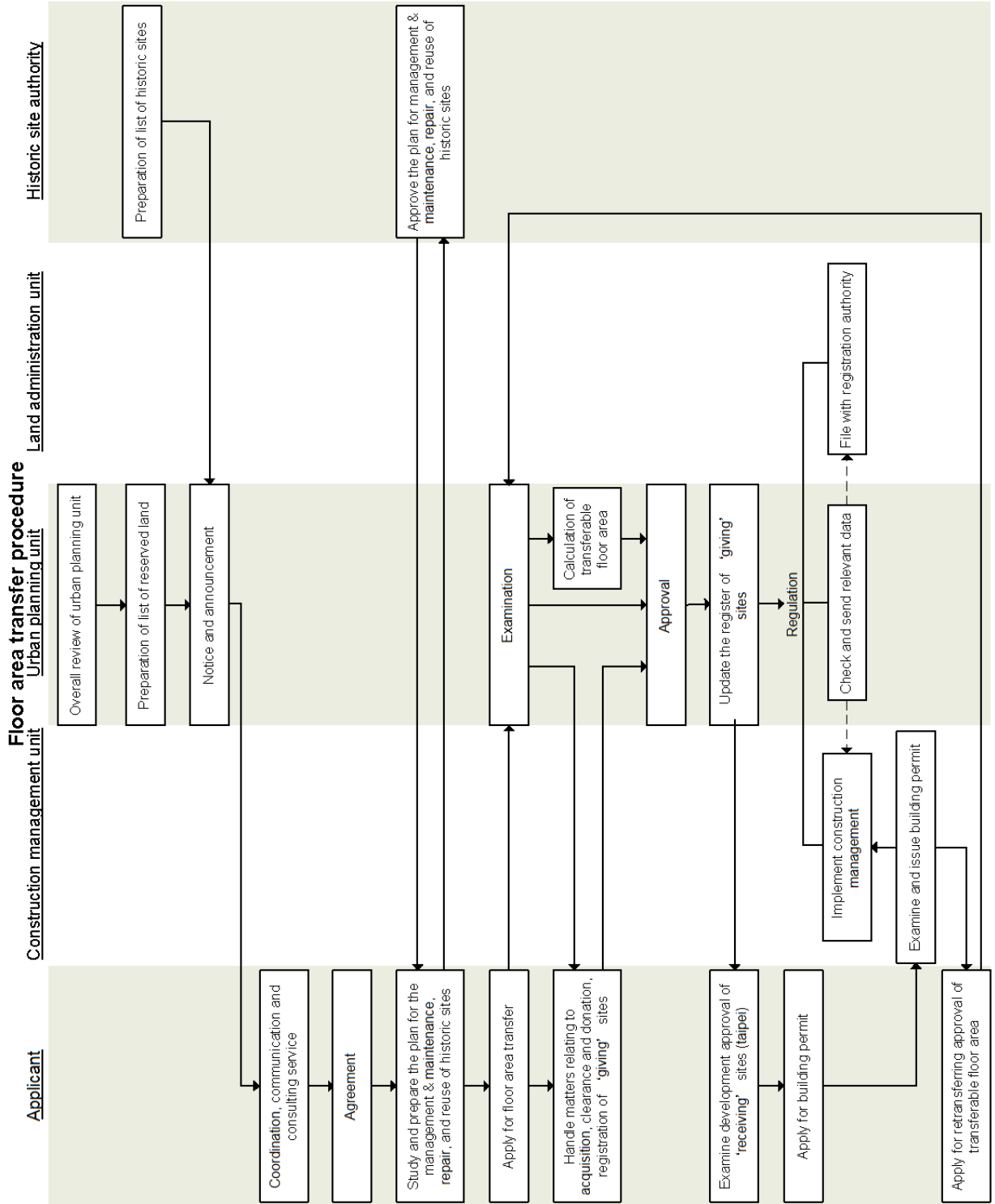
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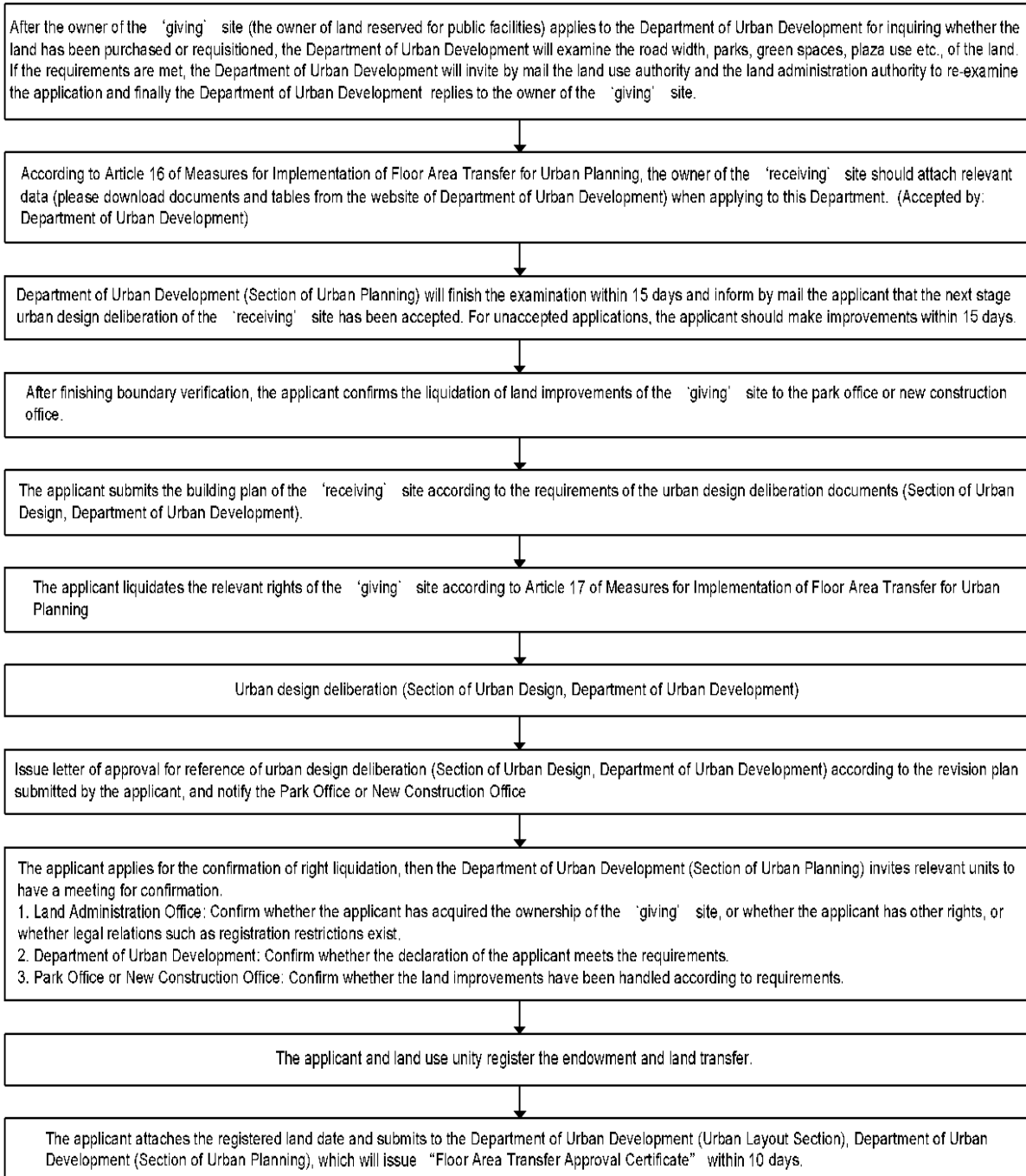
Overall review phase — Application and approval phase — Regulation phase



Data source: Construction and Planning Agency of Ministry of Interior

Flowchart of Application for Floor Area Transfer for Land Reserved for Public Facilities

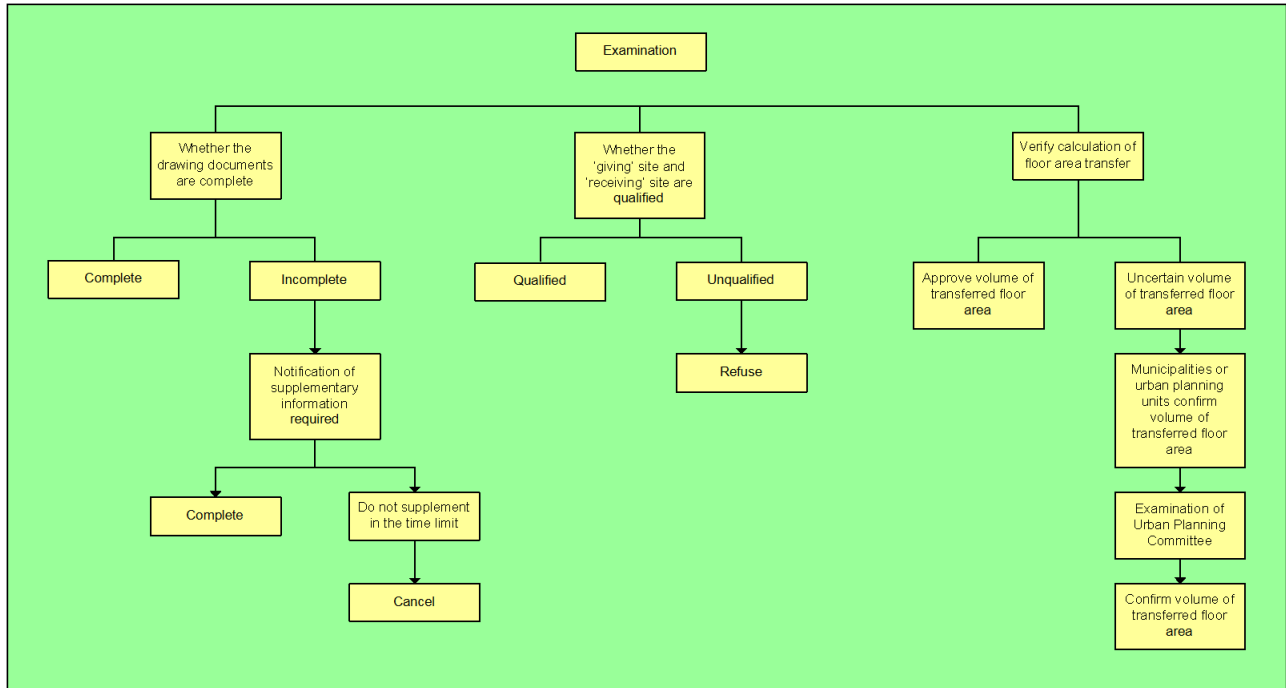
Flowchart of Floor Area Transfer Application for Lands Reserved for Public Facilities 980219



Data source: Construction and Planning Agency of Ministry of Interior

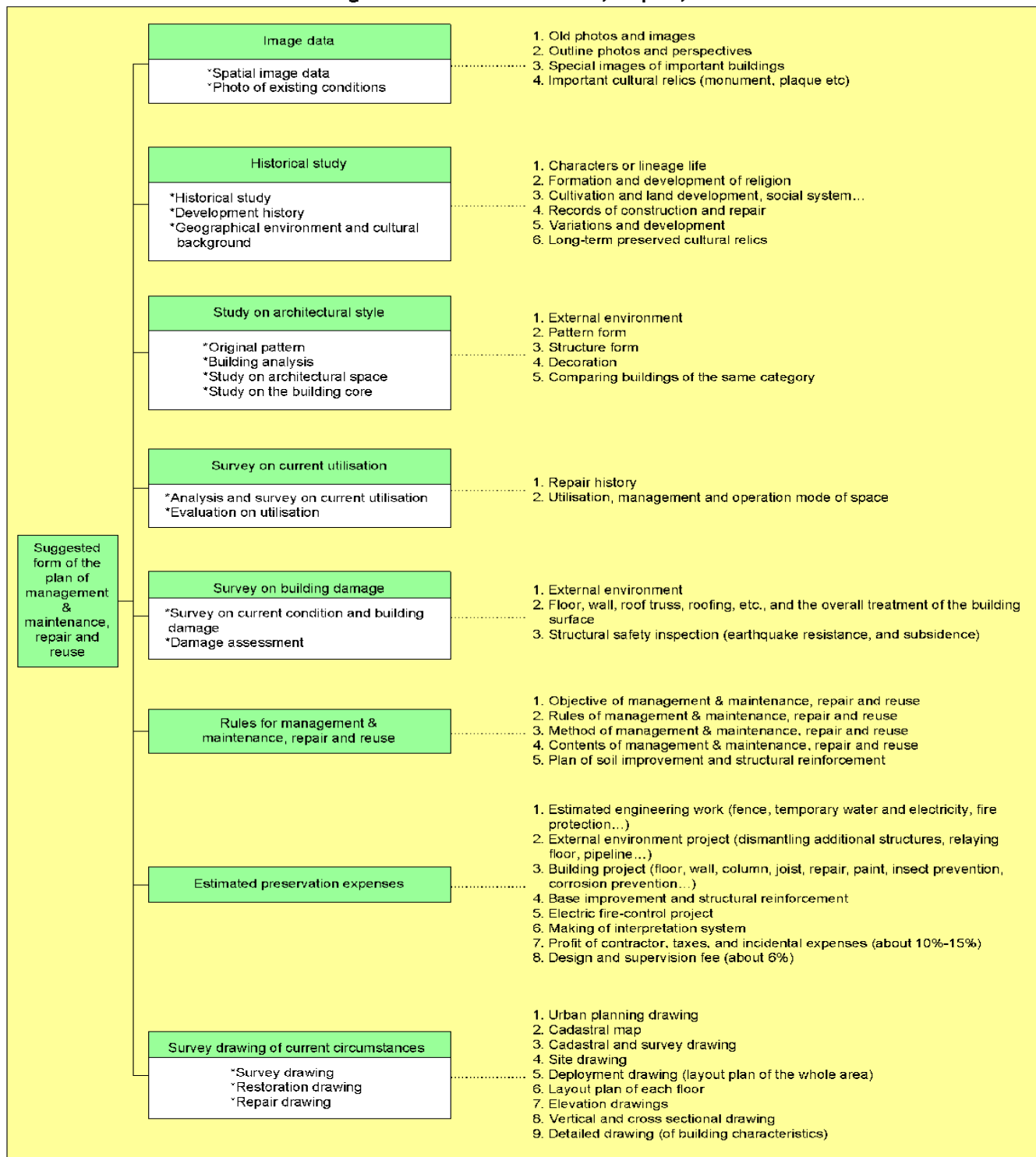
Appendix 3

Examination Procedure



Data source: Construction and Planning Agency of Ministry of Interior

Contents of Plan for Management and Maintenance, Repair, and Reuse of Historic Sites



Data source: Construction and Planning Agency of Ministry of Interior

Calculation of Floor Area Transfer

Type I: Private land attached to buildings with preservation value upon confirmation

Transferable floor area = Benchmark floor area - Built floor area

Example: Land area: 1,110 m²

Floor area ratio specified by urban plan or relevant regulations: 300%

Benchmark floor area = 1,110 m² × 300% = 3,330 m²

Built floor area = 1,605 m²

Transferable floor area = 3,330 m² - 1,605 = 1,725 m²

Type II: The defined reserved area or land

Transferable floor area = Benchmark floor area before the definition - Built floor area

Example: Land area: 1,110 m²

Floor area ratio before the definition (specialised area) 225%

Benchmark floor area = 1,110 m² × 225% = 2,497.5 m²

Built floor area = 1,605 m²

Transferable floor area = 2,497.5 m² - 1,605 = 892.5 m²

Type III: Land without floor area ratio regulation before being defined as or changed to reserved area.

Transferable floor area = Maximum average floor area ratio of adjacent land use zoning × Land area - Built floor area

Example: Land area: 1,110 m²

The maximum average floor area ratio of adjacent land use zoning (all belong to Type III of residential area) is 225%

Benchmark floor area = 1,110 m² × 225% = 2,497.5 m²

Built floor area = 1,605 m²

Transferable floor area = 2,497.5 m² - 1,605 = 892.5 m²

Type IV: Buildable land provided for building public space

Transferable floor area = Benchmark floor area × (1±20%)

The actual transferable floor area of each ‘given’ site should still be confirmed by the authorities of municipalities, counties (cities) according to actual conditions.

Example Land area: 1,110 m²

The floor area transfer ratio (Type III of residential area) is 225%

Benchmark floor area = 1,110 m² × 225% = 2,497.5 m²

Transferable floor area = 2,497.5 m² × (1±20%) = 1,998 m² ~ 2,997 m²

Type V: Land reserved for public facilities in private urban planning

Transferable floor area = Maximum average floor area ratio of adjacent land use zoning × Land area (1±40%)

The actual transferable floor area of each ‘giving’ site should still be confirmed by municipality and county (city) authorities according to actual conditions.

Example: Land area: 1,110 m²

The maximum average floor area ratio in adjacent land use zoning (all belong to type III of residential area) is 225%

Transferable floor area = 1,110 m² × 225% × (1±40%) = 1,498.5 m²~3,496.5 m²

Type VI: Land where all adjacent land use zonings are not urban development land.

The transferable floor area should be confirmed by municipality and county (city) urban planning authorities by referring to adjacent urban development and the announced current value of land¹, and should be examined by the relevant Urban Planning Committee.

Date source: Construction and Planning Agency of Ministry of Interior, Measures for Floor Area Transfer for Historic Sites and Measures for Implementation of Floor Area Transfer for Urban Planning

¹ Refer to the current value of land (Article 12 of *Land Tax Act*) announced by the municipality, and county (city) government according to *The Equalisation of Land Rights Act*. The announced current value of land refers to the land value estimated by the government each year.

Operation Demonstration for Floor Area Transfer Applicants

I) Basic information of simulation area

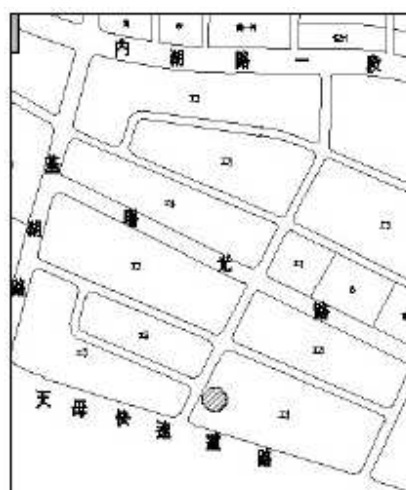
i) 'Giving' site: Sinyi District elementary school land

1. Section and land No.: 396, Subsection 1, Yongji Section, Sinyi District (Yongji Elementary School)
2. Land use zoning: Elementary school land
3. Land area: 1,645 m²
4. Announced current value of land: NT\$357,024/ping
5. Market price of local properties (residential area): NT\$300,000/ping
6. Building cost of properties: NT\$80,000/ping



ii) 'Receiving' site: Neihu 6th Readjustment Area

1. Section and land No.: 212, Subsection 4, Xihu Section
2. Land use zoning: Type III of Industrial Area
3. Land area: 3,271.82 m²
4. Announced current value of land: NT\$266,357/ping
5. Market price of local properties (factory facilities in industrial zone): NT\$280,000/ping
6. Building cost of properties: NT\$80,000/ping



II). Flow of floor area transfer and simulation form

i) The owner of 'giving' site is informed to transfer floor area

After the government of Taipei publishes the urban plan of floor area transfer, the owner of the 'giving' site located in 396, Subsection 1, Yongji Section, Sinyi District may transfer the floor area with development restrictions.

ii) Inquire about floor area transfer

To know relevant procedures of floor area transfer and his rights and obligations, the owner of the said private land reserved for public facilities inquires of the Department of Urban Development of the government of Taipei.

Type III of industrial area of Neihu 6th Readjustment Area is located in the floor area receiving area defined by the Department of Urban Development according to the overall review procedure in the urban plan. To know relevant regulations and application procedures for floor area transfer, the owner of the aforesaid land also inquires of the Department of Urban Development.

iii) Agreement

The owner of the ‘giving’ site refers to the list of floor area transfer implementation areas stored in the Land Administration Office and inquires of the Department of Urban Development about the procedures and acts for applying for floor area transfer. Through tentative financial calculation, the two parties find the transfer acceptable. Upon negotiation, the two parties agree to be the matching sites for floor area transfer, and they assign respective representatives to sign the agreement of floor area transfer.

III) Apply for floor area transfer permission

After signing the negotiated agreement, the owners of the ‘giving’ site and the ‘receiving’ site fill in the floor area transfer application and check the documents required to be attached to the application. Next, the owner of the ‘receiving’ site applies to the Department of Urban Development for floor area transfer.

1. Copies of national ID card of applicants
2. Agreement
3. Land registration transcript of the ‘giving’ site
4. Copy of ownership certificate of the ‘giving’ site
5. Land registration transcript of the ‘receiving’ site
6. Copy of ownership certificate of the ‘receiving’ site
7. Copy of national ID card of the owner of the ‘giving’ site or the registration certificate of the legal person and the proof of his representative status or the overseas Chinese identification document of the owner of the ‘giving’ site.
8. Copy of national ID card of the owner of the ‘receiving’ site or the registration certificate of the legal person and the proof of his representative status or the overseas Chinese identification document of the owner of the ‘giving’ site.
9. The diagram and land use zoning certificate of the ‘giving’ site
10. The diagram and land use zoning certificate of the ‘receiving’ site
11. The lease deed of the ‘giving’ site and the declaration of dealing with other rights

IV). Calculation of transferable floor area

The calculation of “transferable floor area” conversion is as follows:

Item	‘Giving’ site	‘Receiving’ site
Land area (m ²)	1,645	3,271.82
Floor area ratio (%)	225	300
Benchmark floor area (m ²)	3,701.25	9,815.46
Built floor area (m ²)	—	—
Transferable floor area (m ²)	3,701.25	—
Maximum accepted floor area (m ²)	—	2,944.64
Announced current value of land: (NT\$/ping)	357,024	266,357
Floor area conversion ratio	1.34	

Note:

1. Transferable floor area = Benchmark floor area - Built floor area = 3,701.25 – 0 = 3,701.25
2. Maximum accepted floor = Benchmark floor area × 30% = 9,815.46 × 30% = 2,944.64
3. Floor area conversion ratio = Announced current value of land of the ‘giving’ site / Announced current value of land of ‘receiving’ site = 357,024 ÷ 266,357 = 1.34
4. The benchmark floor area ratio of the ‘giving’ site is calculated according to type III of the residential area in its adjacent area.

Calculation result of floor area transfer conversion:

1. Floor area accepted by ‘receiving’ site = 2,944.64 m²
2. Floor area transferred by ‘giving’ site = 2,944.64 m² / 1.34 = 2197.49 m²
3. Transferable floor area of ‘giving’ site = 1,503.76 m²
4. Acceptable floor area of ‘receiving’ site = 0 m²

V) The owner of the ‘receiving’ site obtains the ownership of the ‘giving’ site, and registers the site acquired as public property

The owner of the ‘receiving’ site should, in accordance with Article 19 of *Measures for Implementation of Floor Area Transfer for Urban Planning*, obtain the ownership of the ‘giving’ site and liquidate the land improvements, lease deed and other rights of the ‘giving’ site, and the legal relations such as registration limit, and then register the ‘giving’ site as public property according to Article 14 of the aforesaid Measures for Implementation.

VI) Obtain floor area transfer permit

After calculating the volume of transferable floor area of the ‘giving’ site and ‘receiving’ site respectively, and confirming that the said volumes and the forms required for application meet the regulations, the Department of Urban Development approves the application and issues a floor area transfer permit.

VII) Deliberate the development application of the ‘receiving’ site (such procedure is required only in Taipei at present)

The “Essentials of Deliberation Committee of Approval on Urban Design and Land Use Development in Taipei” clearly specify that the construction development case of a ‘receiving’ site should be submitted to the Deliberation Committee of Approval on Urban Design and Land Use Development in Taiwan for consideration. Therefore, the land owner should draft a development plan and apply to the Urban Design Deliberation Committee for development permission.

VIII) Application for building permit

After acquiring the approval for developing the ‘receiving’ site, the land owner applies to the Construction Management Department for a building permit, together with the floor area transfer permit and other relevant required documents.

IX) Obtain building permit and begin to develop

After confirming the application for building permit meets the regulations, the Construction Management Department issues a building permit, after which the applicant should develop lawfully and notify the Department of Urban Development, Land Administration Office of the issuance of the building permit.

X) Apply for retransferring approval of acceptable floor area

In this case, as all the floor area transferred to the ‘receiving’ site can be utilised in the site, it is unnecessary to apply for the retransfer of acceptable floor area.

Source: Construction and Planning Agency of Ministry of Interior

**Example of Government Examination –
Simulation Operation of Government Department**

I) Overall review in the urban plan

Take Taipei for example:

1. Confirm the purpose of floor area transfer policy
Example: To improve the urban landscape, enhance the utilisation of urban land, facilitate the acquisition and development of lands reserved for public facilities and to promote the preservation and maintenance of buildings with commemorative or artistic value, it is necessary to transfer part or all of the buildable floor area of the ‘giving’ site confirmed by the government to the scope of the ‘receiving’ site in the plan area.
2. Designate the scope of areas of acceptance
Example: The areas of accepting floor area in the plan are as follows:
 - i. Neihu 4th Readjustment Area
 - ii. Neihu 6th Plan Area
 - iii. Keelung River Straight Channel Area
3. Confirm the maximum transferred floor area of areas of acceptance
Example: For the application of applicants for transferring floor area to the areas of acceptance specified in the plan, the acceptable floor area of each site should not exceed 30% of the statutory floor area of the said site.
4. Others
Example: Matters not specified in the Plan should be subjected to *Measures for Floor Area Transfer for Historic Site* and *Measures for Implementation of Floor Area Transfer for Urban Planning*.

II) Inspection and documentation of the ‘giving’ site

1. Inspect and report
 - i. ‘Giving’ sites include historic sites, buildings with preservation value, lands reserved for public facilities in private urban plans and public space.
The Department of Urban Development invites various land authorities to inspect and report on the former three types of land.
 - ii. The ‘giving’ site in this case belongs to land reserved for public facilities in the private urban plan.
2. Confirm the sequence of floor area transfer of lands reserved for public facilities
 - i. The Department of Urban Development confirms the zoning priority of development in the urban plan, the future building sequence and the sequence of defining the land reserved for public facilities in order to establish the priority for floor area transfer.
 - ii. Assume that the ‘giving’ site in this case is the site judged to have floor area transfer priority.
 - iii. Documentation of private land reserved for public facilities with floor area transfer priority.

Taking the ‘giving’ site in this example, the contents included into the plan album are as follows:

Categories of public facilities		Elementary school land
Land use zoning		Culture and education district
Section and land No.		396 Subsection 1, Yongji Section
Land area (m ²)		1,645
Owners of land		Hsu X X
Portion		1/3
Content of other rights		None
Benchmark floor area(m ²)		3,701.25
Transferable floor area(m ²)		3,701.25
Floor area transferred this time(m ²)		
Transferable floor area(m ²)		
Announced current value of land (NT\$/m ²)		108,000
Previous transfer	Volume of transferred floor area (m ²)	
	Section and land No. of ‘receiving’ site	
Remarks	Date of data updating	

- iv. Send the plan album of the ‘giving’ site to construction management unit and Land Administration Office with letter.

III). Notice/announcement/ reference

1. Notice and announcement

The Department of Development of the municipal government should inform the owner of the ‘giving’ site promptly, and announce the atlas of the ‘giving’ site to the Department of Urban Development and various district offices, and publish the date and place of the announcement in the newspaper.

2. Publish the plan album of the ‘giving’ site for public reference

Place the plan album with complete announcement procedures in the Department of Urban Development, various districts offices and land administration offices for public reference.

Based on the principle of non-disclosure of property, the contents for the public to refer to do not include the ownership data of the ‘giving’ site.

Categories of public facilities		Elementary school land
Land use zoning		Culture and education area
Section and land No.		396 Subsection 1, Yongji Section
Land area (m ²)		1,645
Benchmark floor area(m ²)		3,701.25
Transferable floor area (m ²)		3,701.25
Floor area transferred this time (m ²)		
Transferable floor area (m ²)		
Announced current value of land (NTD/m ²)		108,000
Previous transfer	Transferable floor area(m ²)	
	Site of ‘receiving’ site	
Remarks	Date of data update	

IV) Negotiation contact and consulting service

For any doubt about acts concerning floor area transfer, the owner of the ‘giving’ site or the ‘receiving’ site may inquire of the Department of Urban Development about relevant acts, application procedures, and the rights and obligations of the two parties. As Taipei has established a Community Planner System, a community planner can also act as a consultant.

In this case, after the owners of the ‘giving’ site and the ‘receiving’ site express the wish for the floor area transfer and conditions thereof, the Department of Urban Development acts as coordinator and communicator between the two parties. Upon the coordination and communication of the Department of Development, the owner of the ‘giving’ site in this case negotiates and bargains with the owner of the ‘receiving’ site without the interference of Department of Urban Development.

V) Acceptance of floor area transfer application

The owner of the ‘receiving’ site applies to the Department of Urban Development with documents and drawings required.

VI) Examination

1) Examination of application for floor area transfer

Taipei Department of Urban Development examines the application for floor area transfer and fills in results in the application form.

IV, Examination results (filled in by urban planning unit)	‘Giving’ site		‘Receiving’ site	
	Approved floor area transferred (m ²)	Transferable floor area (m ²)	Approved floor area accepted (m ²)	Acceptable floor area (m ²)
	2197.49	1503.76	2944.64	0
Director seal	section chief seal	group leader (chief) seal	underwriter seal	

i. Filling in an examination form

Examine the following items:

- (1) Whether the application documents are complete
- (2) Whether the ‘giving’ site and the ‘receiving’ site are earmarked in accordance with the law
- (3) Whether the volume of transferred floor area and accepted floor area comply with regulations

Table of Examination result of Application for Floor Area Transfer

Examination authority: Taipei Department of Urban Development Examination date: 2 October 2000 Types of 'giving' site	<input type="checkbox"/> —historical sites (names), section and land No. of the site <input type="checkbox"/> —historical buildings (names), section and land No. of the site <input type="checkbox"/> —public space (types of the public space), section and land No. of the site <input type="checkbox"/> — <u>land for elementary school</u> , private land reserved for public facilities (types of land reserved for public facilities), section and land No. of site: 396, Subsection 1, Yongji Section, Sinyi District, Taipei		
Examination items	Conformities	Nonconformities	Reason for nonconformities
Whether the transferred floor area of the 'giving' site is correctly calculated			
The accepted floor area of the 'receiving' site can be re-transferred once only			
Whether the accepted floor area of the 'receiving' site is correctly calculated			
Whether the total accepted floor area of the 'receiving' site is within the upper limit			
Whether necessary documents of the application for floor area transfer are complete			
Remarks:			
Director seal section chief seal group leader (chief) seal underwriter seal			

- ii Notify the owner of 'receiving' site to responsively handle the matters relating to the acquisition, clearance, donation and registration in the 'giving' site

VII) Approval

After the application is examined and approved and the owner of the ‘receiving’ site completes the acquisition, clearance, donation and registration of the ‘giving’ site, the owner of the ‘giving’ site should be notified of the approval of the floor area transfer through the floor area transfer permit.

台北市政府都市發展局容積移轉 九十年四月二十五日 ○市都字第○○○○○○○○○									
申請人		姓名	王 X X	住址	台北市南京東路三段一三六號				
送出基地土地所有權人		姓名	許 X X	住址	台北市忠孝東路三段三二一號				
建築地點		地址	臺北市松山路二八七巷○○號						
基地		地號	信義區永吉段一小段三九六地號						
所在都市計畫地區名稱		臺北市都市計畫							
建築設計容積		基地面積	一六四五平方公尺	允建容積	國小用地				
接受基地		地址	臺北市內湖路一段五四八巷○○號						
建築地點		地號	內湖區西湖段四小段二一二地號						
所在都市計畫地區名稱		臺北市都市計畫							
基地面積		三七二一平方公尺	允建容積						
可接受容積量上限		二九四四・六四平方公尺	移入容積		二九四四・六四平方公尺				
經本局審議通過，准予照辦。 局長 ○ ○ ○ ○ ○ 中華民國九十年四月二十五日 署									

○○○政府都市發展局 函

受文者：

地別：

密等及解密條件：

發文日期：中華民國○○年○○月○○日

發文字號：

附件：

機關地址：
傳真：
連絡人及電話：

主旨：有關○○○申請將「信義區永吉段一小段三九六地號部分建築容積移出」乙案，業經擬本局同意，復請 查照。

說明：一、復

二、貴事務所申請將台北市○○○字第○○○號容積移轉申請書。

該等土地之土地使用分區為○○○區，基地面積○○○平方公尺，允建容積為○○○平方公尺，扣除

除本基地建築設計容積○○○平方公尺，剩餘可移出之容積為○○○平方公尺；另查位於○○○區，面積○○○

畫業範圍內，接受基地內湖區西湖段四小段二二地號土地，使用分區為○○○區，基地面積○○○

平方公尺，允建容積為○○○平方公尺，業經本局審議通過，准予照辦。

三、本業已核定之內容或容積移轉量，後續若另有異動或調整，應循程序辦理申請內容或容積移轉量變

更。

四、業內送出基地、接受基地涉及建管法令部分，仍請依相關建管程序辦理。

五、同函復送本府工務局建築管理處，請於核發本案使用執照時，檢送該案使用執照影本過局供參。

號：限
正本：○○○
副本：○○○
保存年限：
檔：政府都市發展局

VIII) Deliberation on application for development approval of ‘receiving’ site (currently only for Taipei)

The “Essentials of Deliberation Committee of Approval on Urban Design and Land Use Development in Taipei” clearly specify that the construction of the development project on the ‘receiving’ site should be submitted to the Deliberation Committee of Approval on Urban Design and Land Use Development in Taiwan for consideration.

IX) Updating the plan album of the ‘giving’ site /preparing the (update) plan album of the ‘receiving’ site

1) Update the plan album of the ‘giving’ site

Categories of public facilities	Elementary school land	
Land use zoning	Culture and education district	
Section and land No.	396, Subsection1, Yongji Section	
Land area (m ²)	1645	
Owners of land	HsuXX	
Portion	1/3	
Content of other rights	None	
Benchmark floor area (m ²)	3701.25	
Transferable floor area (m ²)	3701.25	
Floor area transferred this time (m ²)	2197.49	
Transferable floor area (m ²)	1503.76	
Announced current value of land (NT\$/m ²)	108,000	
Previous transfer	Volume of transferred floor area (m ²)	2197.49
	Section and land No. of ‘receiving’ site	212 Subsection 4, Xihu Section
Remarks	Date of data updating	89.11.9

2) Prepare the plan album of the 'receiving' site

Site No.		
Land use zoning		Type 3 of industrial zone
Section and land No.		212 Subsection 4, Xihu Section
Land area		3721.82
Owners of land		Wang XX
Portion		All
Benchmark floor area		9815.46
Acceptable floor area		2944.64
Accepted floor area		0
Floor area accepted this time		2944.64
Acceptable floor area		0
Announced current value of land		80,573
Previous transfer	Volume of accepted floor area	2944.64
	Section and land No. of 'giving' site	396, Subsection 1, Yongji Section
	Types of 'giving' site	<input type="checkbox"/> Historical sites <input type="checkbox"/> Historical buildings <input type="checkbox"/> Public space <input type="checkbox"/> Private land reserved for public facilities
Remarks	Other rewarded floor area	0
	Data of updating information	89.11.9

Note:

1. The bonus floor area is calculated on the basis of the benchmark floor area before application for transfer-in of floor area
2. The announced current value of land and portions are regularly renewed every July.

X) Regulation

- 1) The Development Council shall record the transfer results on the Land Use Zoning Certificate
- 2) The renewed atlas should be transferred to the construction management unit. The Department of Urban Development will send the renewed atlas to the construction management unit for construction management matters.
- 3) The renewed atlas should be transferred to the land registration authority. The Department of Urban Development will give the renewed atlas to Sinyi District land office and Neihu District land office for filing.
- 4) Open for public inquiry
In the public service inquiry window of Taipei city government and the district office and land office of Sinyi District and Neihu District, the atlas will be open for public scrutiny.

XI) The Application, examination and issuance of construction licence

The construction management unit handles the application construction license, confirms that the laws and regulations are met upon examination, then issues the construction license.

Data source: Construction and Planning Agency of Ministry of Interior

Appendix 8

Floor Area Sale Information

刊登日期	土地規格	價格 (單位:元)
2009/5/13	台中市北區文正段，持分全，公告總值884,000	電洽
2009/5/13	台中市北區文正段，持分全，公告總值3,458,000	電洽
2009/5/13	台中市西屯區信安段，持分5/12，公告總值7,506,826	電洽
2009/5/13	台中市西屯區信安段，持分5/16，公告總值7,836,571	電洽
2009/5/13	台中市南屯區楓樹段，持分全，公告總值1,848,000	電洽
2009/5/13	台中市南區樹子腳段，持分4/40，公告總值467,003	電洽
2009/5/13	台中縣神岡鄉圳堵段，持分全，公告總值3,757,600	電洽
2009/5/13	台北縣八里鄉大八里坵段，持分1/12，公告總值9,522,683	電洽
2009/5/13	台北縣八里鄉大八里坵段，持分1/12，公告總值6,268,734	電洽
2009/5/13	台北縣八里鄉大八里坵段，持分1/12，公告總值683,702	電洽
2009/5/13	台北縣八里鄉大八里坵段，持分1/12，公告總值1,580,238	電洽
2009/5/13	台北縣八里鄉大八里坵段，持分1/12，公告總值2,115,176	電洽
2009/5/13	台北縣三重市二重埔段，持分2546/10000，公告總值578,858	電洽
2009/5/13	台北縣三重市正義北段，持分1/2，公告總值1,606,895	電洽
2009/5/13	台北縣三重市正義北段，持分1/2，公告總值1,839,255	電洽
2009/5/13	台北縣三重市永德段，持分1684/22221，公告總值226,988	電洽
2009/5/13	台北縣三重市幸福段，持分全，公告總值1,499,200	電洽
2009/5/13	台北縣永和市中信段，持分1/8，公告總值2,062,125	電洽
2009/5/13	台北縣永和市信義段，持分全，公告總值2,068,200	電洽
2009/5/13	台北縣永和市信義段，持分全，公告總值3,370,400	電洽

資料來源：<http://www.54168.com.tw/Capacity/CapacityRoad.asp> 日期13.05.2009

Dadaocheng Floor Area Transfer Case

大稻埕容積移轉案例

大同區延平段二小段178等地號（迪化街309、313號）容積移轉案

大稻埕歷史風貌特定專用區



延平段2小段178、179、179-2、180、181、182、182-1、183、183-1、184地號等10筆土地

基地位置圖




平面配置圖



建築物完工照片

送出基地：使用分區：特定專用區（一）（供特定商業使用）
 基地面積：293平方公尺 本次移出容積：656.77平方公尺
 允建容積：1481平方公尺 尚可移出容積：0平方公尺
 建築設計容積：824.23平方公尺 平均公告現值：167648元/m² 89年度
 可移出容積：656.77平方公尺

基隆河（中山橋至成美橋）附近地區



內湖區舊宗段36-6、36-7地號等2筆土地

基地位置圖



平面配置圖



建築物透視圖

接受基地：使用分區：工業區（供輕工業使用）
 基地面積：2740.44平方公尺 本次移入容積：1931.69平方公尺
 允建容積：5480.88平方公尺 尚可移入容積：260.66平方公尺
 可接受容積上限：2192.35平方公尺 平均公告現值：57000元/m² 89年度

資料來源：內政部營建署



Pictures of Dadaocheng historical district
Data source: Taipei Urban Planning Committee

Announcement of Floor Area

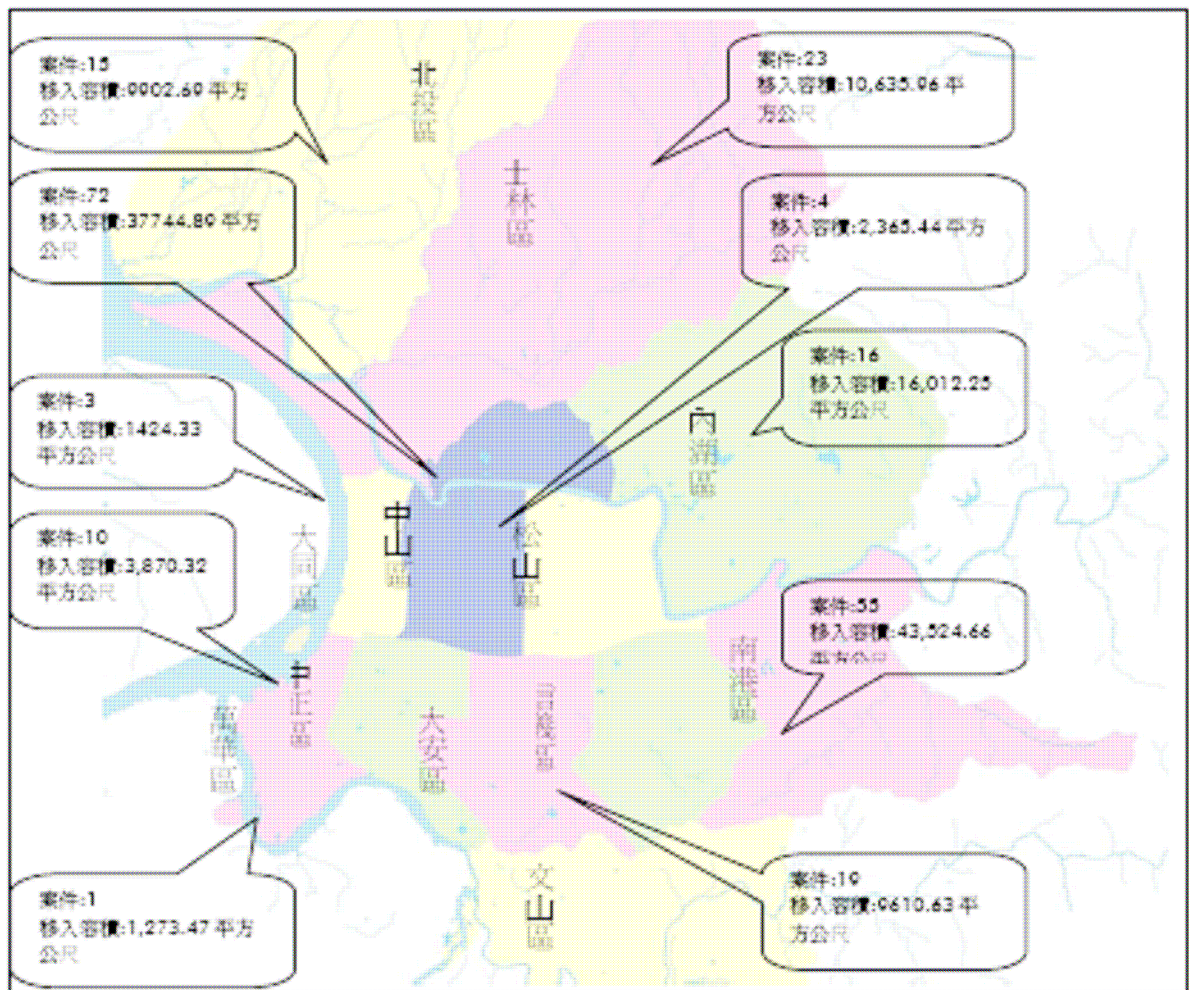
容積公告

2008 年 5 月 2 日起至 2009 年 5 月 2 日迄 請輸入搜尋關			
容積轉移公告 [內政部函釋] [審查許可條件法令說明會簡報檔] [都市計			
送出基地地號	接受基地地號	核准日期	文號
288 臺北市大同區文昌段1小段88、88-1、92-2、92-5、93、93-1、93-2等7筆地號	臺北市南港區經貿段80-3、80-4、81-3地號	2009/4/24	98年4月24日府都規字第09831045000號
261 臺北市大同區文昌段1小段88、88-1、92-2、92-5、93、93-1、93-2等7筆地號	臺北市南港區經貿段80-3、80-4、81-3地號	2008/9/26	97年9月26日府都規字第09734247500號
260 臺北市大同區文昌段1小段88、88-1、92-2、92-5、93、93-1、93-2等7筆地號	臺北市松山區民生段115-6地號	2008/6/30	97年6月30日府都規字第09732790100號
219 臺北市北投區新民段四小段5-2、9-1、12、12-1、13、14等6筆地號	臺北市大安區通化段6小段21、22、23、24、25等5筆地號	2008/3/17	府都規字第09730823700號
221 臺北市大安區金華段2小段188、189、191、197、203-2等5筆地號	臺北市北投區關渡段2小段390、390-1、391、391-1、392、392-1等6筆地號	2008/1/30	府都規字第09636548700號
220 臺北市大安區金華段2小段188、189、191、197、203-2等5筆地號	臺北市內湖區潭美段5小段47地號	2008/1/30	府都規字第09636548700號
222 臺北市大安區金華段2小段188、189、191、197、203-2等5筆地號	臺北市中山區金泰段32-4、32-5等2筆地號	2007/12/11	府都規字第09635724100號
223 臺北市大安區金華段2小段188、189、191、197、203-2等5筆地號	臺北市內湖區潭美段5小段60地號	2007/12/3	府都規字第09635680500號
224 臺北市大安區金華段2小段188、189、191、	臺北市內湖區潭美段5小段137、138、146、147	2007/11/26	府都規字第09635531300號

資料來源：台北市政府都市發展局

Dadaocheng Floor Area Transfer Processing in Taipei

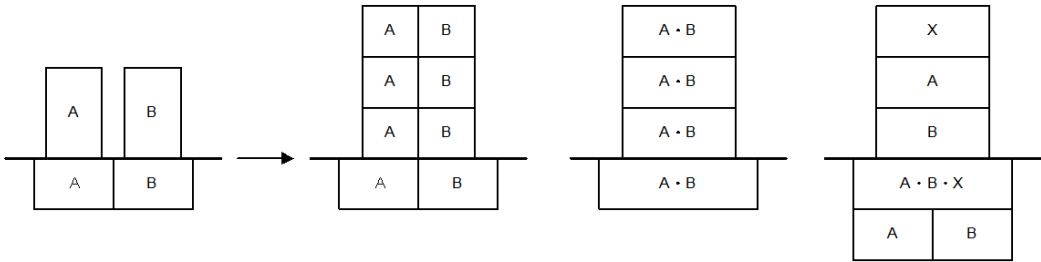
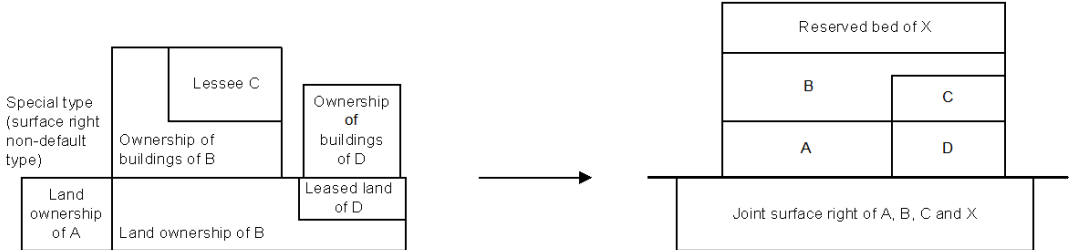
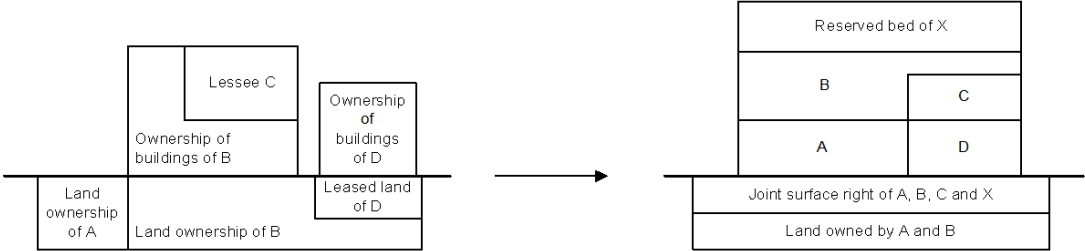
台北市大稻埕容積移轉辦理情況



資料來源：台北市建築開發商業同業公會

Rights Exchange Mode

Principle type (also called surface right default method)

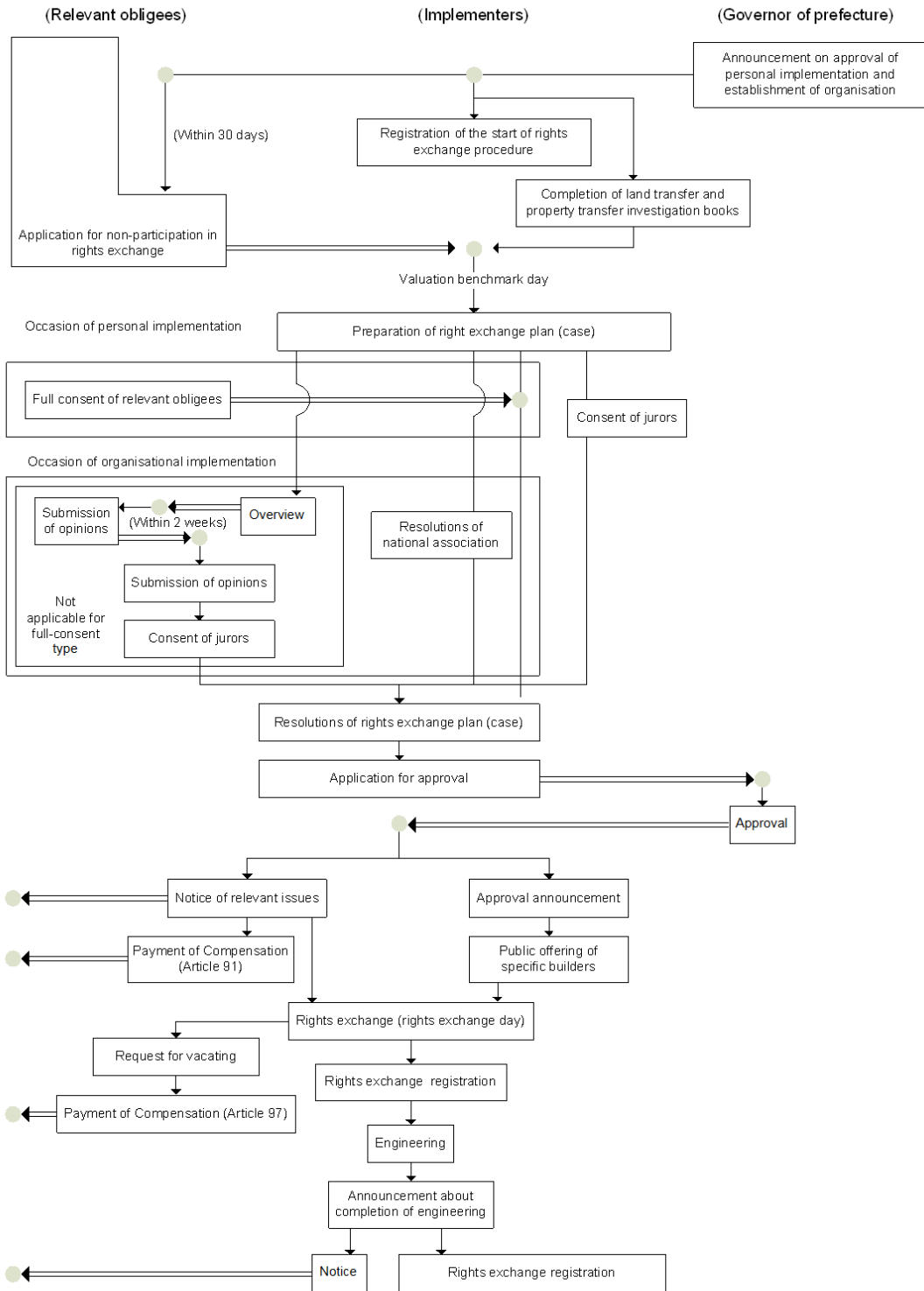


Special type (full consent type)

Flowchart of Type 1 of Urban Redevelopment Project

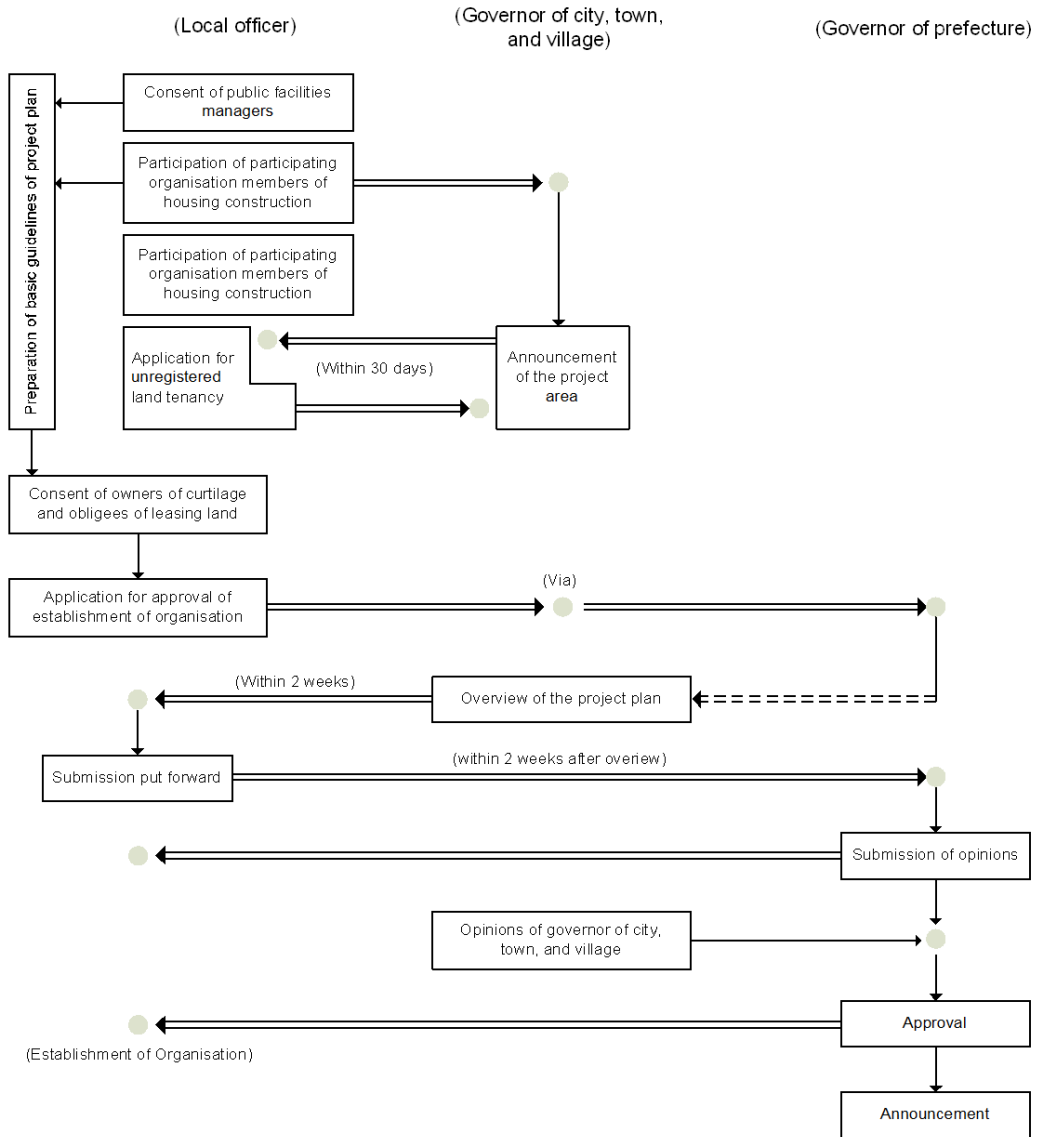
Appendix 13

Rights exchange procedure



Data source: Urban Renewal Association of Japan

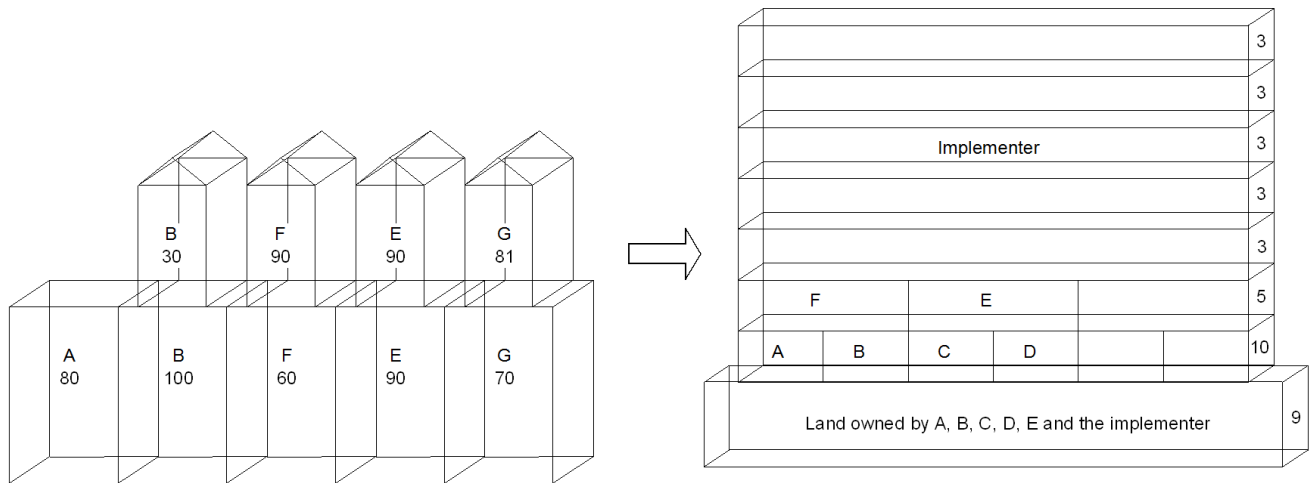
Organisation Establishment Procedure



Data source: Urban Renewal Association of Japan

Appendix 15

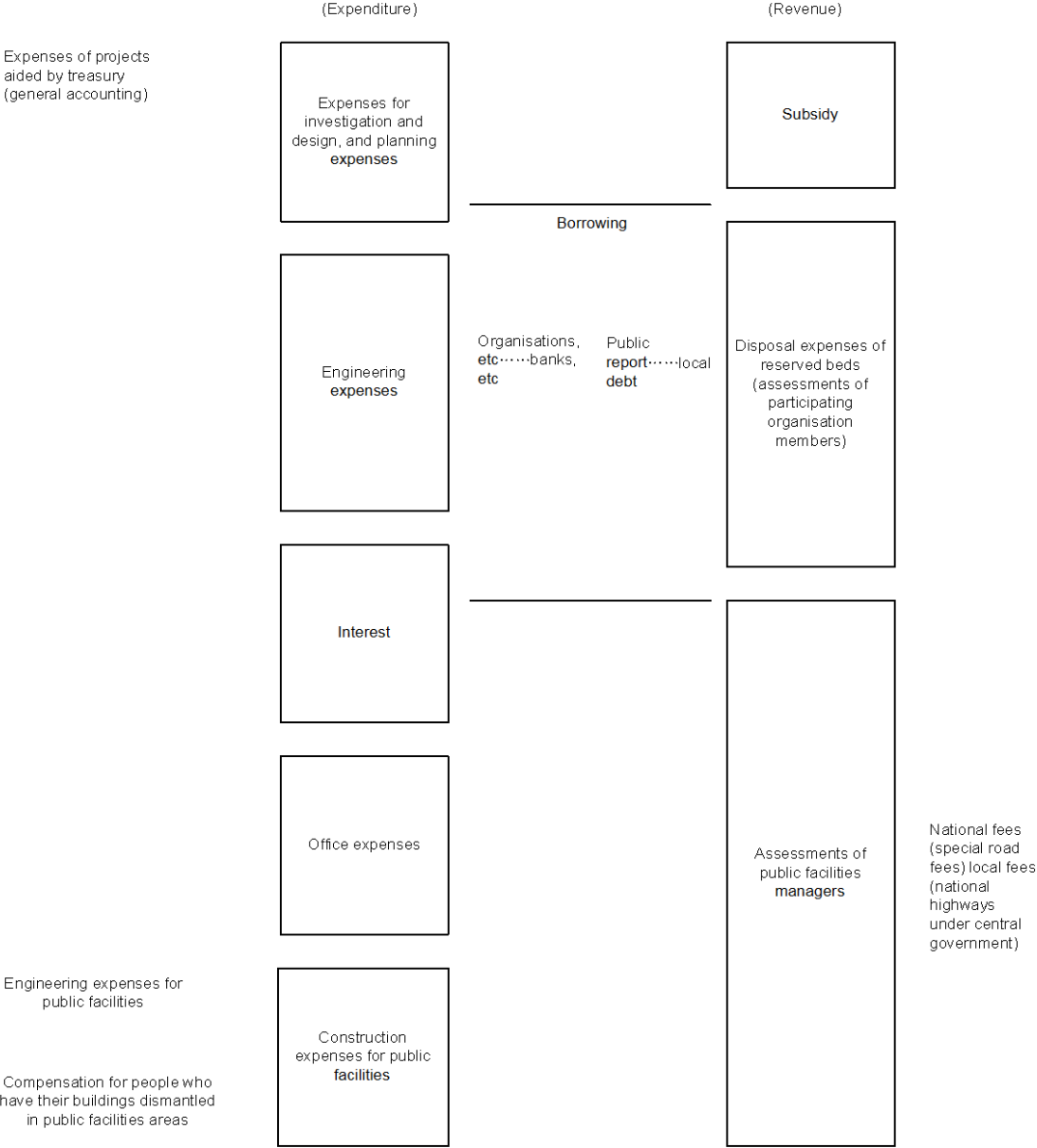
Example of Rights Exchange



Data source: Urban Renewal Association of Japan

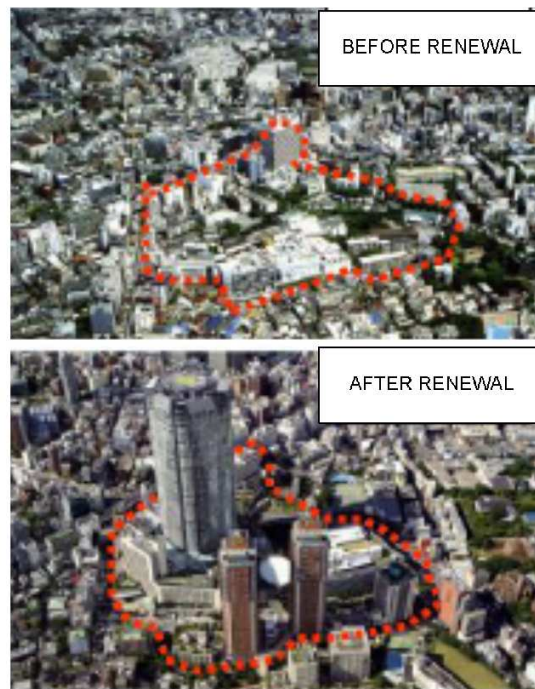
Appendix 16

Explanations of Financial Revenue and Expenditure of Urban Redevelopment Project



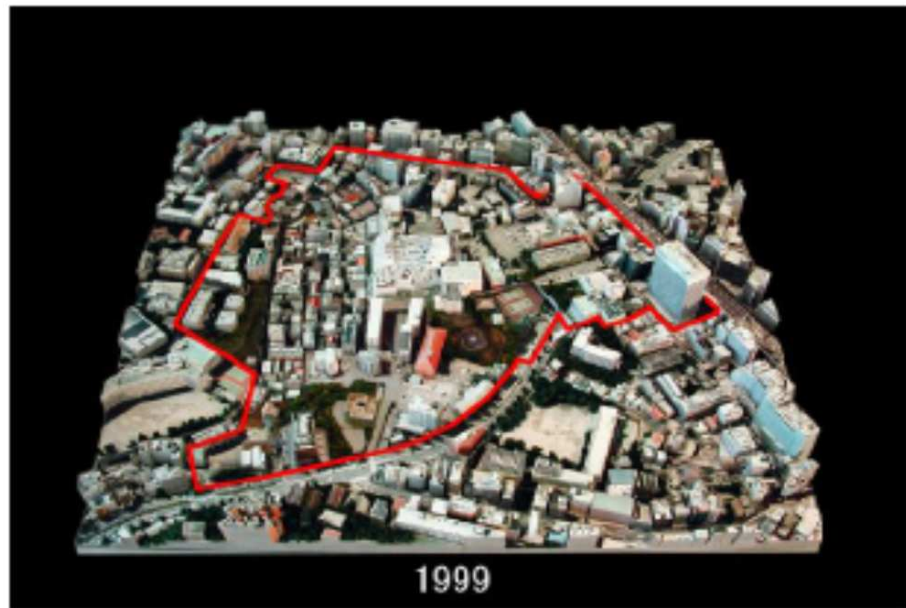
Data source: Urban Renewal Association of Japan

Changes of Roppongi before and after Renewal



Pictures source: He Fangzi, Ding Zhicheng (2006), 2006 Code of Renewal of Cities in Japan: Urban Renewal Cases and System, Urban Regeneration R&D Foundation

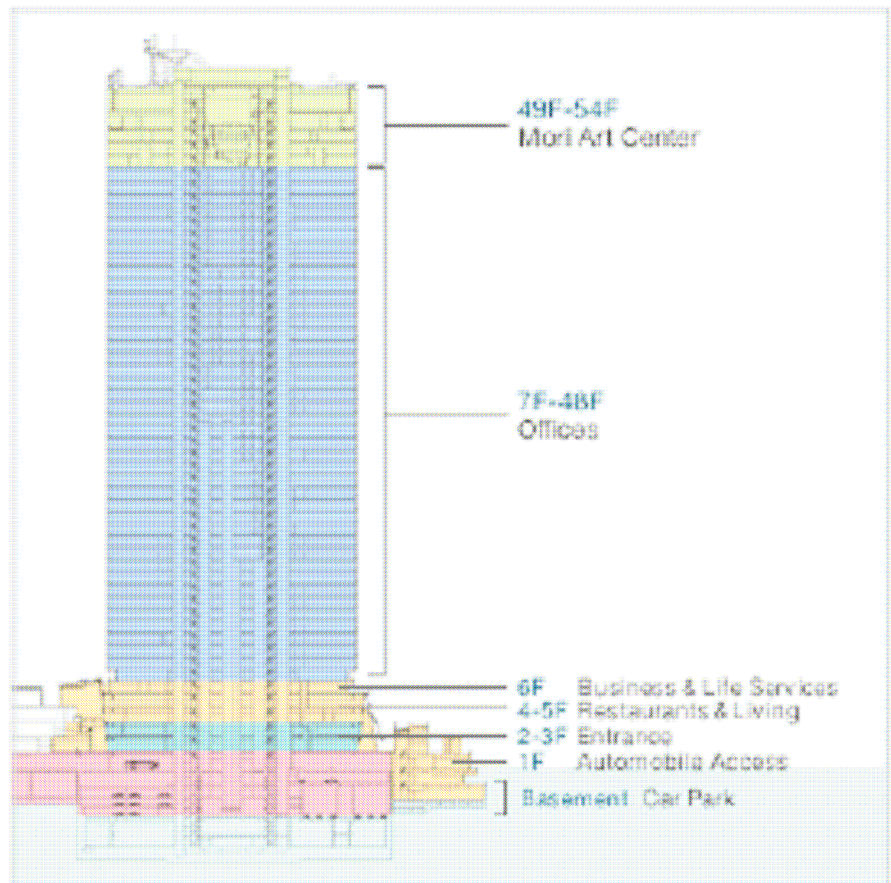
Building Pictures of Roppongi Hills before Renewal



Pictures source: Mori Building Co., Ltd.

Roppongi Hills Mori Tower

六本木森大廈



圖片來源: http://www.skyscrapers.cn/images/asia/jp/Roppongi_Hills-Mori_Tower-plan.gif

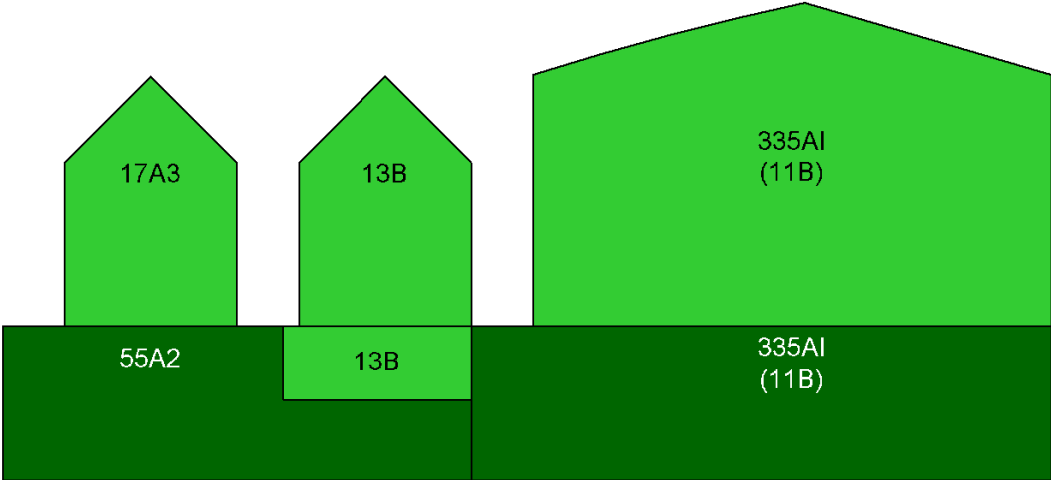
Development Plan of Roppongi Hills

六本木之丘發展圖



圖片來源：何芳子、丁致成(2006)·2006 日本都市再生密碼-都市更新的案例與制度·財團法人都市更新研究發展基金會。

Illustration of Rights of Roppongi before Renewal

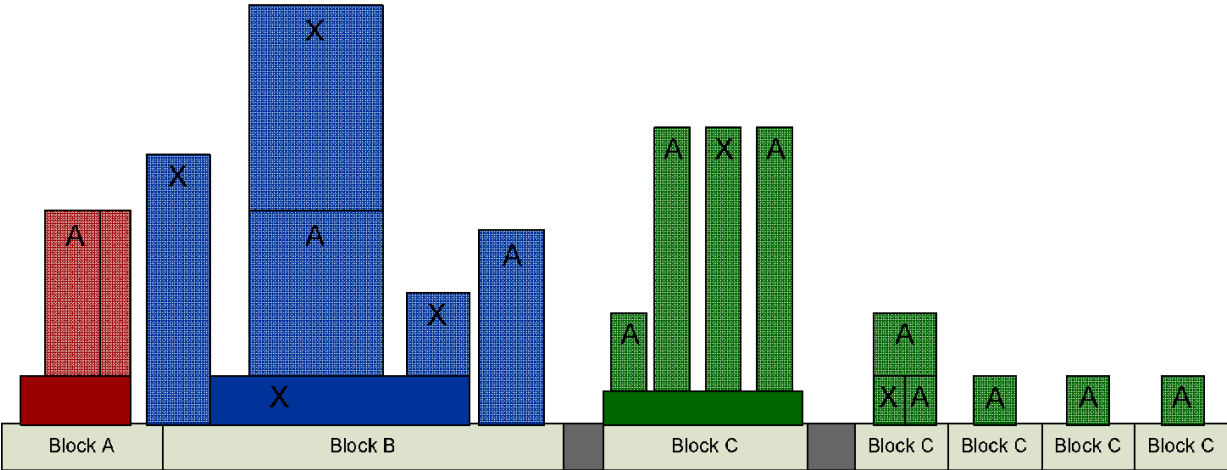


A1: Owners of land and buildings A2: Owners of land A3: Owners of buildings (with land leased)

B: Obligees of leasing land (24 in all including 11 owners of land and buildings) C: 99 obligees of leasing housing

Picture source: He Fangzi, Ding Zhicheng (2006), 2006 Code of Renewal of Cities in Japan. Urban Renewal Case and System, Urban Regeneration R&D Foundation

Illustration of Distribution of Right Exchange of Roppongi after Renewal

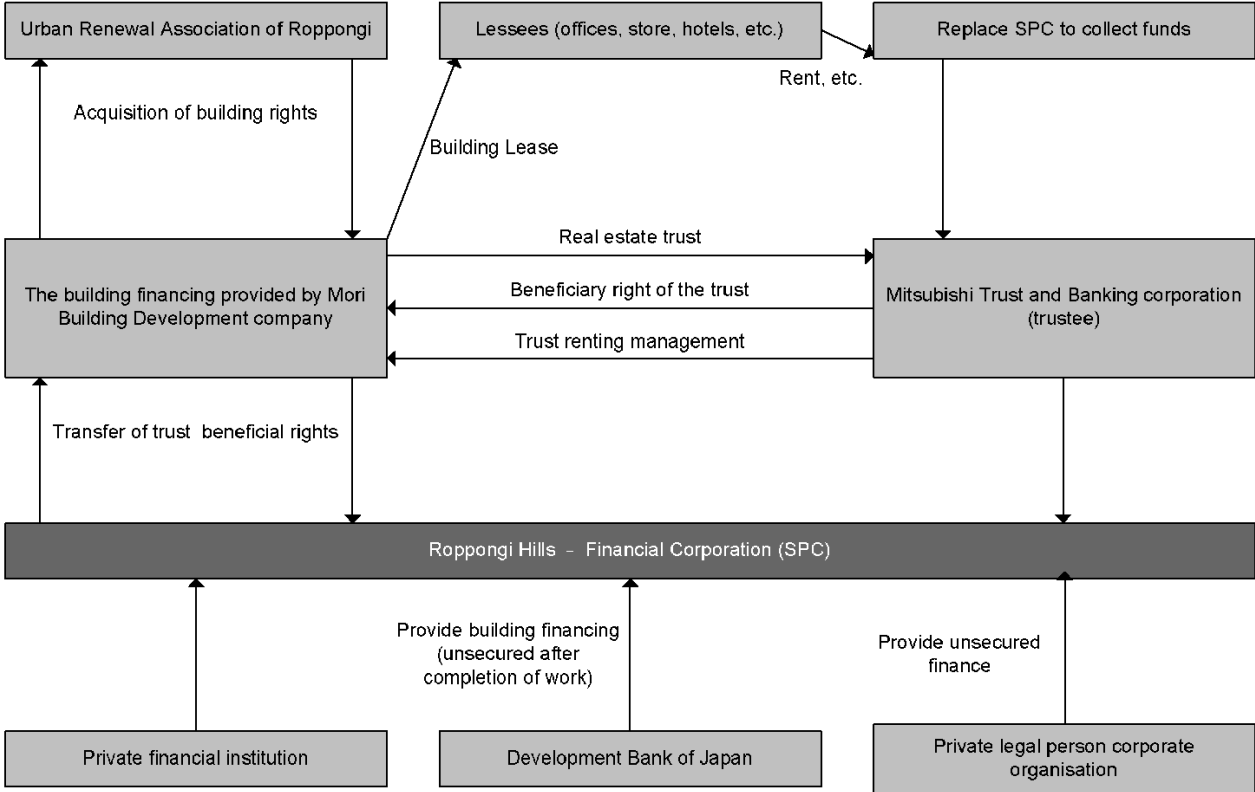


A: Floorage of right building (distributed among the obliges of original lands and buildings)

X: Floorage of reserved right (distributed among investors)

Picture source: He Fangzi, Ding Zhicheng (2006), 2006 Code of Renewal of Cities in Japan: Urban Renewal Case and System, Urban Regeneration R&D Foundation

Structural diagram of Securitisation Financing of Real Estate



Picture source: He Fangzi, Ding Zhicheng (2006), 2006 Code of Renewal of Cities in Japan: Urban Renewal Case and Mechanism, Urban Regeneration R&D Foundation