

Boundary Determination in Land Titles Ordinance

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A stylized silhouette of a mountain range in shades of teal, located in the bottom right corner of the slide.

- u 1988 Working group in the Land Registry
- u 1994 The Land Titles Registration Bill
- u 2004 The Legislative Council passed the Land Titles Ordinance
- u 2004 – 2006 preparation period
- u 2018 Convert to Titles Register

Land Registration in Hong Kong

u Deeds Registration

- 15 years of title search

u Titles Registration

- Mirror Principle (50%) to show all land rights
- Curtain Principle (Yes) to show ownership
- Insurance Principle (95% *) US\$4M

Adjudication

- u Verify land rights on the register
- u Verify land boundary rights by cadastral survey
- u To save money : Hong Kong Govt chooses to wait for 12 years

Design of land boundary right protection in HK

- u Not a main consideration
- u Land boundary right is created in the original lease and the later subdivision deed
- u Problems:
 - No technical standard in lease plans
 - The older the plan; the more simple and higher chances of lost or damaged

Theme of land boundary clause in Land Titles Ordinance

u Section 18 Boundaries

- A title plan indicates the approximate situation and approximate boundaries

u Section 89 Discrepancy in area and boundary

- No claim to indemnity

u Section 28 Overriding Interests

- Statutory
- Customary

Overriding Interests

- u A significant drawback to the registration of title
- u can't refer to the Land Register to ascertain the nature of the title and the incumbrances that affect the title
- u the rationale for OI : impracticable for the OI to be registered, e.g. short term tenancies are not registered

Overriding interests

- u Rights which may be ascertained by inspection of the property
- u e.g. adverse possession, public rights of way & overhead electric cables

Overriding Interests by Statute

- u Chinese customary rights in the part II of New Territories Ordinance (Cap 97) applies to land as OI
- u Public rights
- u Easements & covenants existing on the date of first registration. Subsequent claims were registered as incumbrances

- u Rights under the Government lease
- u statutory rights in favour of the Govt. e.g. Lands Resumption Ord (Cap 124)
- u Statutory charges
- u Short term lease
- u adverse possession
- u legislative rights in respect of services
- u trustee & donee as OI must be registered

- u Section 51 easement
- u Section 52 Covenant
- u Section 53 Deed of Mutual Covenant

- u No requirement on plan

Determination of lot boundaries

- u Section 94
- u Voluntary application
- u Sub-divided land not included
- u Determination means direction, dimension and coordinates
- u New determined boundaries must not differ from original records

Remarks

- u The HK Govt makes a start in legal boundary determination
- u (prima facie evidence)

Cadastral Survey Task Force

- u An application to illustrate cadastral surveying systems globally
 - Legal coordinate cadastre
 - Cadastres with survey law / boundary sanction
 - Cadastres
 - Titles / Deeds Registration + Survey law

Cadastral Survey Task Force

- u Report from the framework based from the Cadastral Template
 - Guild-line, Analysis & comparison
- u Individual Organization perspectives
 - Aim, procedure, product, result evaluation

Cadastral Survey

u Law

- Cadastre law / Registration law
- Survey law / Surveyors law

u Institution

- Government setting
- Professional setting
- Cost / Benefits (contributions & justification of installing a good system)

Cadastral Survey

u Technology

- Working procedure & products
 - u Title plans, Digital land records ...
- Accuracy
- Maintenance

FIG7 Publication – Objectives 1

- u Concerns of land surveyors, particularly those from common law countries
- u Attract participation from more countries

FIG7 Publication – Objectives 2

- u A considerably detailed record of significant cadastral surveying systems for professionals as well as students.

FIG7 Publication – Objectives 3

A base for further investigation on

- Benefits of a good cadastral survey system
- Analysis of difficulties in improving a system

FIG7 Publication - format

- u A framework of cadastral survey w.r.t. law, institution, technology
- u Comparison by the aims of the system
- u Individual country report by delegate/author
- u Booklet / Web

Proposed Schedule

u 2004

- Development of a detailed template for cadastral surveying system of a country

u 2006

- Author / Delegate makes a report on the cadastral survey system

u 2008

- Requests to other member countries

Thank You

