

One New Omnibus Charge for Land Development/ Land Use

The Land Betterment Charge Bill (“**Bill**”) was passed by Parliament on 10 May 2021. The Bill provides for the imposition of a new land betterment charge (“**LBC**”), which is a tax on the increase in land value resulting from a “chargeable consent” given in relation to the land.

The money collected as LBC can be used by the Government to fund infrastructure development and public programmes. In this connection, the collection of LBC is intended to ensure that an appropriate proportion of the economic benefits from the grant of rights to develop or otherwise use land will be returned to the community.

The Bill was gazetted on 8 June 2021 but the Land Betterment Charge Act will only come into effect on a date to be notified in the Gazette. In the meantime, the various charges that currently apply to the development of land (i.e., (a) development charge (“**DC**”) or temporary development levy (“**TDL**”) collected by the Urban Redevelopment Authority under the Planning Act; and (b) differential premium (“**DP**”) collected by the Singapore Land Authority (“**SLA**”) upon the lifting of restrictive covenants in State titles) will continue to apply.

When the LBC comes into effect, it will replace the DC, TDL and DP and in so doing, consolidate the collection of all such charges for land development under the SLA. The Bill also aims to provide certainty in the process of determining the charge payable by making reference to fixed formulae and a table of rates in the large majority of cases where no valuations are required. This will allow LBC to be determined upfront for most cases, hence reducing overall project risk for landowners and developers. It is therefore anticipated that the LBC will provide greater transparency for landowners and developers and simplify the process of tax collection. There is a separate method for assessing the amount of LBC by way of valuation of the enhancement in land value. This will apply where a taxable person chooses this method or in cases where the table of rates might not be applicable.

Liability to Pay LBC

The concept of “chargeable consent” introduced by the Bill and upon which LBC is leviable includes, *inter alia*:

- the grant of planning permission or conservation permission in relation to land, as a result of which a person is entitled to carry out a development of the land;
- the variation by the SLA of restrictive covenants in a State title in relation to land (in respect of development control, subdivision control, or controlled activity(ies) that can be carried out on the land); and
- the acceptance of a lodgement of any plans for a development of land that is deemed to be authorised without express written permission.

In this regard, the Minister moving the Bill (Second Minister for Law, Mr Edwin Tong) has clarified that LBC does not apply to the renewal of State leases, for which a lease renewal premium is instead payable. Landowners who wish to purchase remnant State land will have to pay a land premium to acquire the remnant land and pay LBC for any chargeable consent thereafter.

Under the Bill, LBC is payable by landowners. However, a third party may assume liability to pay LBC by way of a notice in the prescribed form delivered to the SLA. In the event that a landowner is a charitable institution and the land will be used for charitable purposes, that landowner may apply to the SLA for a determination to defer the payment of LBC.

LBC Rates

While the precise LBC rates remain to be prescribed by regulations, the Minister mentioned in his Parliamentary speech that, in general, the LBC rate will be set at 70% of the increase in land value arising from the grant of consent for proposals involving the development of land.

However, in the following three situations, the LBC rate will be higher, based on 100% of the increase in land value:

- where the State title contains a restrictive covenant on change of land use, because the land was previously sold by the State directly to the lessee without a tender;
- where the State title contains an “additional land premium” condition (e.g., one which allows for the collection of the value enhancement arising from an intensification or change of use of that land, prior to a certain cut-off date, such as before the Temporary Occupation Permit of a development is obtained, or until certain conditions are met); and
- the varying of State title restrictions against subdivision, or against controlled activity(ies) which are unconnected to the development of the land.

The Minister also clarified that stamp duty is not payable on the LBC as LBC is a tax, unlike the current DP regime where stamp duty is leviable on DP paid when enhancing or intensifying the use of land.

If you would like information or assistance on the above or any other area of law, you may wish to contact the Partner at WongPartnership whom you normally work with or any of the following Partners:



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