

Development Rights for All

Give all Hong Kongers a stake in building much-needed housing

A version of this essay was published in the South China Morning Post on March 31, 2021. A news report including the Hong Kong Development Bureau's response to the proposal can be found [here](#).

By [Shitong Qiao](#) & [Roderick M. Hills Jr.](#)

Housing in Hong Kong is among the least affordable in the world. The problem is not lack of land, but lack of development. Three quarters of Hong Kong's land is vacant, and much of it is reasonably buildable. In particular, Hong Kong contains 1,414 hectares (5.46 square miles) of brownfield sites and 1,200 hectares of country development land reserved for indigenous villagers that is all suitable for high-density residential construction. However, Chief Executive Carrie Lam's Lantau Tomorrow Vision is focused on reclaiming 1,700 hectares from the ocean at the stupendous cost of 624 billion Hong Kong dollars (US \$80.4 billion).

Why reclaim new land at such high cost when existing land is just sitting there ready for new construction? The problem is the absence of an efficient bargaining process by which low-value uses can be converted into uses that everyone would value much more highly. Developers,

indigenous villagers, and the government have been locked for decades in endless dickering over how to divide the gains from converting land uses, with the result that nothing gets done. Opposition to new construction also comes from existing Hong Kong property owners who worry that increasing housing supply might lower the value of their own housing investment.

We suggest that this deadlock could be solved using "transferable development rights" or TDRs. Under our proposal the government would give every Hong Kong citizen 50 square feet of TDRs. By requiring developers and indigenous villagers to purchase TDRs from the general population in order to build high-density housing, the government could give the entire population a stake in moving land from low-value to high-value uses while simultaneously providing ample compensation to existing stakeholders.

To understand the appeal of TDRs, one must first consider how a bad bargaining framework prevents housing that everyone wants from getting built. Developers and indigenous villagers currently hold the rights to use large amounts of land for low-value uses. Developers can use brownfields (previously developed land) for warehouses, while indigenous villagers are entitled to use country development land for three-floor houses or *ding* (丁屋) with each floor no bigger than 700 square feet. Both of these groups would like to convert their current use rights into much more valuable high-density housing. But the mechanism for such conversion leads to endless haggling between developers and the Hong Kong government about the premium that developers should pay. Fearing accusations of being in collusion with developers if they do not demand the highest premium, the government has instead tried to expropriate

developers' land rights through its power of land resumption, which is subject to judicial review and quite time-consuming.

The same dynamic afflicts bargaining over villagers' traditional rights to build and occupy three-floor small houses. It is evident that villagers would gladly trade these rights for the value of high-density housing. Developers have repeatedly purchased use rights from indigenous villagers to develop large buildings, despite the dubious legality of these transactions. Villagers, however, have incentives to oppose the government's proposal of higher-density *ding* housing as a strategy to preserve and even enlarge their land rights.

This stalemate in converting land to high-density residential uses has cost Hong Kong dearly, with most ordinary Hong Kongers struggling to purchase a decent home. The average living area per person in Hong Kong is about 215 square feet, much less than in New York City, Shanghai, or nearby Shenzhen. The waitlist for public housing is on average 5.7 years, according to government data at the end of 2020.

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How can TDRs help? The concept originated in New York City to compensate owners of landmarked buildings for their loss of air rights. TDRs are simply any right to sell building rights to the owner of a "receiving site." By purchasing the TDR from a "sending" owner, the owner of the receiving site can build taller or bulkier than would otherwise be permitted. The TDR seller gets some share of that extra value in the form of the price she receives for her TDR. [The Chinese](#)

central government, based on long-term experimentation in Zhejiang, Sichuan, Chongqing, and other places, created a nationwide market of TDRs, or land use permits, in 2018 to promote equitable development across different regions and different socio-economic classes. The market of TDRs, like carbon emission trading, uses market mechanisms instead of regulation to align business incentives with social welfare.

Under our proposal, both developers and indigenous villagers would be entitled to develop their land for high-density residential uses to the extent that they purchased TDRs from their fellow Hong Kong citizens. TDRs would give developers, indigenous villagers in the New Territories, and property owners a shared incentive to promote housing development in Hong Kong. To consolidate TDRs holders' incentives to lobby for housing development, payment for TDRs would be suspended until the completion of a corresponding real estate project in which those TDRs were used. There is even precedent for our scheme: the Hong Kong colonial government issued land exchange entitlements commonly known as Letters A and B, which were essentially TDRs, to landowners in the New Territories between 1960 and 1983, and thus promoted development in the New Territories. Our proposal is more encompassing and more inclusive than this historical practice because we would grant every Hong Kong citizen a certain number of TDRs.

TDRs would promote social consensus through a market mechanism that would give every citizen in Hong Kong a direct and focused incentive to push for more housing. In fact, everyone in Hong Kong benefits from increased housing construction, but that benefit is now diffuse and

unfocused, leading most people to sit on the sidelines while current entitlement holders squabble over gains from increasing the housing supply. By requiring those stakeholders to go to the public to purchase valuable building rights, TDRs would give Hong Kong citizens an immediate interest to push for the housing essential for Hong Kong's future.

The government could further reduce bargaining costs by simplifying the fee for new construction. Rather than dicker over the details of infrastructure for each project, the government could impose a uniform price – say, dedicating 20% of the land for public amenities like transit. Such a standardized deduction is similar to the Shenzhen government's mandated dedications in its urban redevelopment during the past decade, which has proven to be quite successful. It is also a practice in NYC and other places where the government requires developers to contribute to public facilities that support a real estate project.

There is growing recognition across the world that over-stringent land use regulations have been a barrier to housing supply and economic development. Economists estimate that “[l]ifting all the barriers to urban growth in America could raise the country's GDP by between 6.5% and 13.5%, or by about \$1 trillion-\$2 trillion.” TDRs are one way to give stakeholders and ordinary citizens incentives to reform Hong Kong's over-stringent urban planning and zoning systems. Unlocking land now used for warehouses and villagers' tiny houses would not only significantly alleviate the housing affordability crisis in Hong Kong but also release the city's potential for economic growth suppressed by inefficient land use institutions.

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