

Hong Kong



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A. Country Context

Geographical Context:

Hong Kong, geologically a submerged highland area, is a deepwater port in Southeast China, with an area about 1100 km². Most of the 7.0 million of population dwell in Hong Kong Island, Kowloon Peninsula and flat land in the New Territories and outskirt islands. Metropolitan development covers near half of the area and the rest half hilly area is designated as country parks.

Historical Context:

Immediately after the Opium War Hong Kong was occupied by the UK in 1841 and was ceded by the late Ching Dynasty of China to Britain in 1842. Kowloon Peninsula was ceded in 1860 and the New Territories was leased for 99 years since 1898. Pursuant to an agreement signed by China and the UK on 19 December 1984, Hong Kong became the Hong Kong Special Administrative Region (SAR) of China on 1 July 1997. In this agreement, China has promised that, under its "one country, two systems" formula, China's socialist economic system will not be imposed on Hong Kong and that Hong Kong will enjoy a high degree of autonomy in all matters except foreign and defense affairs for the next 50 years.

Current Political and Administrative Structures:

Basic Law approved in March 1990 by China's National People's Congress is Hong Kong's "mini-constitution". After the repatriation in July 1997, Hong Kong will remain 50 years of no change to the previous common law legal system. Hong Kong is now a Special Administrative Region of China.

Historical Outline of Cadastral System:

The Land Registration Ordinance was first enacted in 1844 and continued to be in force to this moment. It is an English system of deeds registration for transaction. Land parcels are disposed through auction, tender and private treaty grant such that land rights are held in leasehold, except an Anglican church which enjoys a freehold title. Land boundary right, like any other rights, is to be traced from the attached plan and content of the lease or other land grant document. The boundary system is only designed for the Identification of the location of a parcel. An easy and traceable transaction is purpose of the original design.

B. Institutional Framework

Government Organizations:

The Housing, Planning and Lands Bureau steers the government policy on land use, land supply, property development, public and private housing, building regulations and so on. The Lands Department is responsible for the administration of the disposal, acquisition and management of land, and the Survey and Mapping Office (SMO) is one of the three functional units under the department. SMO is the custodian of land boundary record for the government and its head is assigned the Land Survey Authority under the Land Survey Ordinance. Many land related data are kept by different departments, for examples, Planning Department keeps the legal land use data, Rating and Valuation Department keeps real property valuation data, Land Registry keeps the register of deeds and so on.

Private Sector Involvement:

After the enactment of Land Survey Ordinance in 1996, Authorised Land Surveyors (private sector) takes up the bulk of cadastral surveying services which include the subdivision, re-definition old lot boundaries and setting out of boundary points. The Survey and Mapping Office accepts submission of boundary reports from Authorised Land Surveyor and Registered Professional Surveyor.

Professional Organization or Association:

There exists a three-tier structure of land surveying professional organizations. The Hong Kong Institute of Surveyors (HKIS) is the professional organization for surveyors and the institute is incorporated under ordinance Cap 1148. The ordinance Cap 417 forms the Registered Professional Surveyors and the ordinance Cap 473 forms the Authorised Land Surveyors.

Licensing:

A land surveying division corporate member of the Hong Kong Institute of Surveyors may apply for the Registered Professional Surveyor after one year of local practice and Authorised Land Surveyor after one year of local cadastral surveying practice. Both registration boards are formed under the Professional Surveyors' Registration Ordinance and Land Survey Ordinance respectively.

Authorised Land Surveyor needs to renew their annual practice license from the Survey Authority.

Education:

Current applicants to the Land Survey Division of the HKIS needs a land survey degree from the Department of Land Surveying and Geo-Informatics or any other land surveying degrees which is acceptable to the Royal Institute of Chartered Surveyors in England. Hong Kong produces in average 40 geomatics degree holders per year.

C. Cadastral System

Purpose of Cadastral System:

Hong Kong started as a British colony in 1842 and its purpose of cadastral system is defined in the Land Registration Ordinance (1844) mainly for the transaction of land ownership, and has remained largely unchanged since then. Hong Kong emphasizes free trade and minimum government intervention. Other cadastral functions like recording and securing property rights and land boundary rights remain legally unimproved under a deeds registration system.

Types of Cadastral Systems:

Leasehold land grant under a deeds registration system is the dominant cadastral mode in Hong Kong. It is claimed by the Land Registry that nearly all properties are recorded in the land register.

Cadastral Concept:

Hong Kong has only a deeds registration law. The land register serves as an identifier of registered landowners. Building units are registered as an exclusive use right attached to an undivided share of the land. Other land rights as well as boundary rights have to be traced back to the original land grant document.

Adverse possession is allowed. To acquire a title by adverse possession under the Limitation Ordinance, it takes 12 years for private lots and 60 years for government land.

Content of Cadastral System:

The document kept by the Land Registry, including the register, memorial, government lease and land grant document, are the basic legal textual components. The land register and memorial are kept in database and lease documents are stored in scanned images. Other government departments keep land related data without direct cadastre related law prescription. Survey and Mapping Office keeps the graphic components of a cadastre. The correlated land boundary layers and the detailed mapping layers form the computerized database covering all 3100 sheets of 1:1000 large scale maps in Hong Kong. Planning Department keeps the land use designation data. Rating and Valuation Department keeps the property valuation data.

D. Cadastral Mapping

Cadastral Map:

In 1989, the Survey & Mapping Office of the Lands Department set up its Land Information System using ARC/INFO as its basic application software. This Computerized Land Information System (CLIS) aims to convert the existing 1:1,000 maps into digital base information. The conversion work was being carried out by Bureau Service and was completed in 1996. The digital map features are separately coded thereby enabling selective retrieval and display in definable colors and symbols.

The System contains some of the most commonly used land data, the maintenance of which requires considerable manpower. This includes:

- Basic Mapping at scale 1:1,000 covering the developed areas in the territory.
- Land Records Plans, which show the locations of all land lots and land disposal proposals.

The System comprises three main application sub-system: the Basic Mapping System (BMS), Cadastral Information System (CIS) and the Geographic Information Retrieval System (GIRS).

There are 15 layers of geographical features maintained in the map library of the BMS. The CIS maintains the land boundary record database, facilitates the preparation of cadastral plans and answers inquiries on land status. There are many types of land disposal and different standards for recording their positions. Temporary land parcels occasionally overlap due to their different development schedules.

To record all different types of land parcel boundaries to meet land administration needs, a total of 33 data layers have been created in the CIS map library.

The GIRS supports the BMS and CIS and has been developed to facilitate access to both the graphic and textual information of an area via a number of identifiers, such as the house address, building name, street intersection, lot number, planning zone unit and geographic coordinates. Generally, the textual attributes are stored with some of the graphic data in the CIS data layers. Besides using the textual data of the CIS, data layers can be used as identifiers for information retrieval. Three special data layers, however, derived from the BMS data layers are also maintained in the GIRS for spatial inquiries.

Many house lots have been left as block numbers and have not been annotated in the Lot Index Plans. It must be emphasized that these are internal records and are not intended to be the sole definitive records of boundary definition. Field verifications need to be carried out for land administration actions of individual house lots.

Lot Index Plans are the result of repeated correlations and have been employed as the basis of private land boundaries for all land administration actions including resumption in the New Territories

Example of a Cadastral Map:

1:20,000 and others, provide updated and reliable spatial information for all sorts of social and engineering activities.

Land related data are kept by various government departments and public utility companies. The Hong Kong Government is still in an initial planning stage to form a regional spatial data infrastructure.

E. Reform Issues

Cadastral Issues:

Hong Kong cadastre functions well in transaction, however, it is less secure in protecting other land rights, especially land boundary rights.

Current Initiatives:

The Land Registry has tried to adopt a titles registration system in parallel with the existing deeds registration. The Titles Registration Bill is expected to become an ordinance in the near future.

The Hong Kong Institute of Surveyors proposes a systematic re-survey of all the land lots in New Territories. The cost of this project is estimated at 240 million US dollars or 1,200 US dollars per lot.

References

- <http://www.info.gov.hk/landsd/mapping/mapping.htm>

1. Cadastral Principles

1.1 Registration System:

deeds registration / title registration / other: ...

1.2 Registration of Land Ownership:

compulsory / optional / other: ...

1.3 Comment:

Due to the high value of properties, it is extremely rare for a registration is not exercised, nevertheless, a very small percentage of the properties is not updated in the register.

1.4 Approach for Establishment of Cadastral Records:

systematic / sporadic / both / all properties already registered / other: ...

2. Cadastral Statistics

2.1 Population:

7.026 millions in 2009

2.2 Population Distribution:

urban: 97%

rural: 3%

2.3 Total Number of Land Parcels:

300,000

--> 44,800 land parcels per 1 million population

2.4 Total Number of Registered Strata Titles or Condominium Units:

2,000,000

--> 298,500 strata titles per 1 million population

2.5 Land Parcels in URBAN Areas:

properly registered and surveyed: 99.9%
legally occupied, but not registered or surveyed: 0.01%
informally occupied without legal title: 0.09%

2.6 Land Parcels in RURAL Areas:

properly registered and surveyed: 100%
legally occupied, but not registered or surveyed: 0%
informally occupied without legal title: 0%

2.7/2.8 Number of Active Professional Land Surveyors:

Total: 20
Proportion of time committed for cadastral matters: 50%
--> 10 full-time equivalent committed to cadastral matters
--> 1.5 full-time equivalent per 1 million population

2.9/2.10 Number of Active Lawyers / Solicitors:

Total: 2,000
Proportion of time committed for cadastral matters: 33%
--> 660 full-time equivalent committed to cadastral matters
--> 98.5 full-time equivalent per 1 million population