

# Valuation Conference 2014

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## Valuation Under Land (Compulsory Sale for Redevelopment) Ordinance

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## Land (Compulsory Sale for Redevelopment) Ordinance

- ❑ Statutory requirement
- ❑ Non-Statutory requirement

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## Statutory Requirement

- ▶ Valuation report filed with an application to the Lands Tribunal (Section 3(1)(a))
  
- ▶ Part 1 of Schedule 1
  - market value of each unit
  - Prepared not earlier than 3 months before filing of application
  - On vacant possession basis
  - Assuming not subject to compulsory sale
  - Not taking into account of redevelopment potential
  
- ▶ For apportioning sale proceed of auction

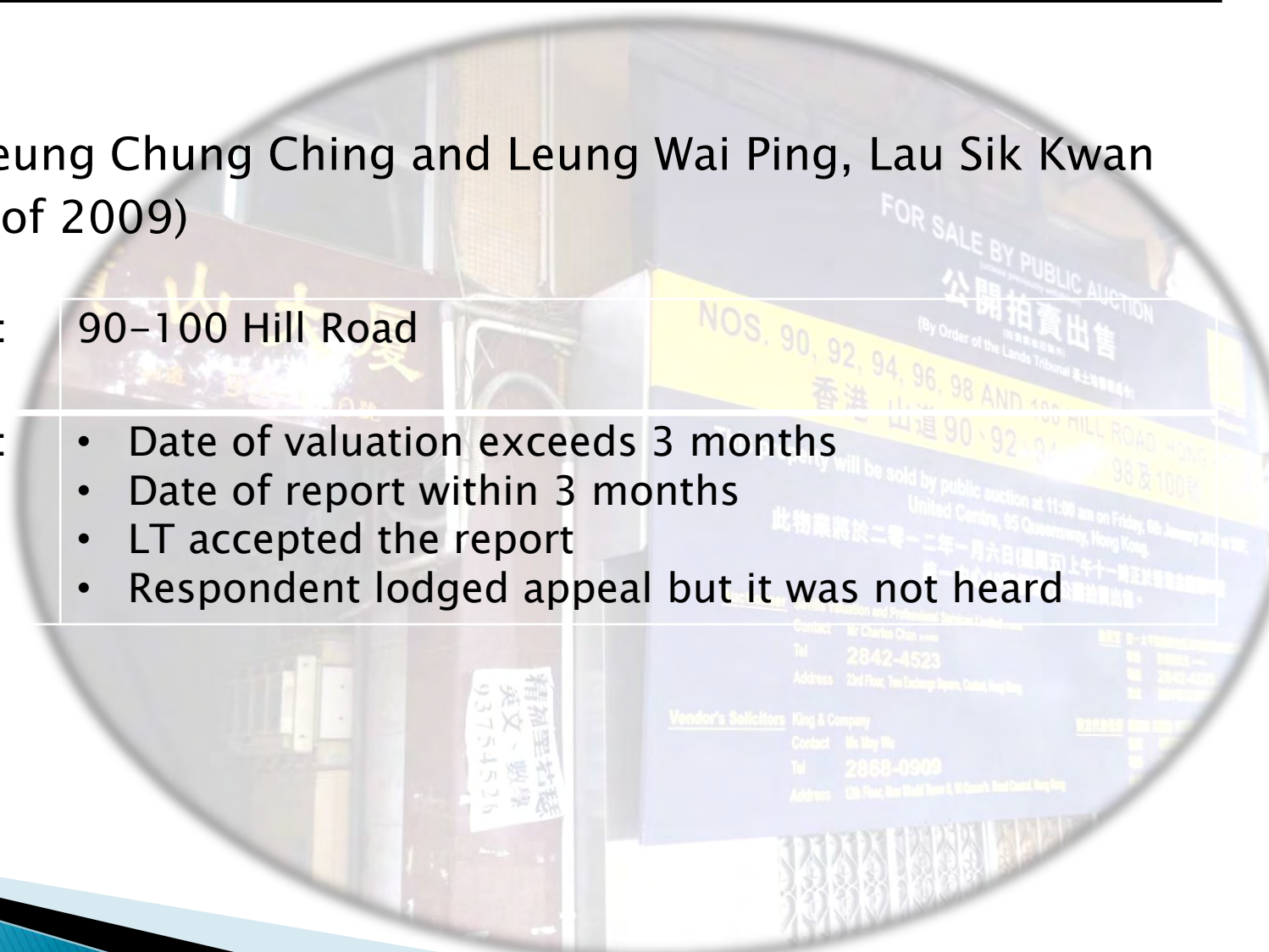
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## Case Law

Vennex Ltd vs Leung Chung Ching and Leung Wai Ping, Lau Sik Kwan  
(LDCS No. 6000 of 2009)

- Property : 90-100 Hill Road
- Key Issues :
  - Date of valuation exceeds 3 months
  - Date of report within 3 months
  - LT accepted the report
  - Respondent lodged appeal but it was not heard



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## Case Law

Eversound Investments Ltd vs Chan Ying Kai and Chan Ming Wai and Others

(LDCS No. 35000 of 2012)

- Property : 22 & 24 Wan On Street / 1 Wan Shun Street / 2 Wan Fuk Street
  
- Key Issues :
  - G/F residential unit occupied as shop with unauthorised cockloft
  - LT decided that the unit should be valued in accordance with permitted use, disregarding value due to unauthorised use and unauthorised cockloft

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## Case Law

Many Gain Investment Ltd vs Chan Fai Ho & Others  
(LDCS No. 28000 of 2012)

- Property : 16, 16A, 18 & 18A Ka Shin Street
  
- Key Issues :
  - G/F residential unit occupied as shop
  - Potential for conversion into shop accepted by the LT
  - Property valued as a shop with 5% discount for time, cost and risk for the required conversion

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## Non-statutory Requirement

- ▶ Valuation report(s) may be produced by the Applicant to support his application for order for sale:
  - (1) Redevelopment is justified due to age or state of repair of the existing building; and
  - (2) The Applicant has taken reasonable steps to acquire all the undivided shares in the building.

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## Non-statutory Requirement

- ▶ Reserve price for auction is to be determined by the LT, which takes into account the redevelopment potential of the lot on its own.
- ▶ The Applicant may submit a valuation report on RDV for LT's reference in fixing the Reserve Price for public auction.



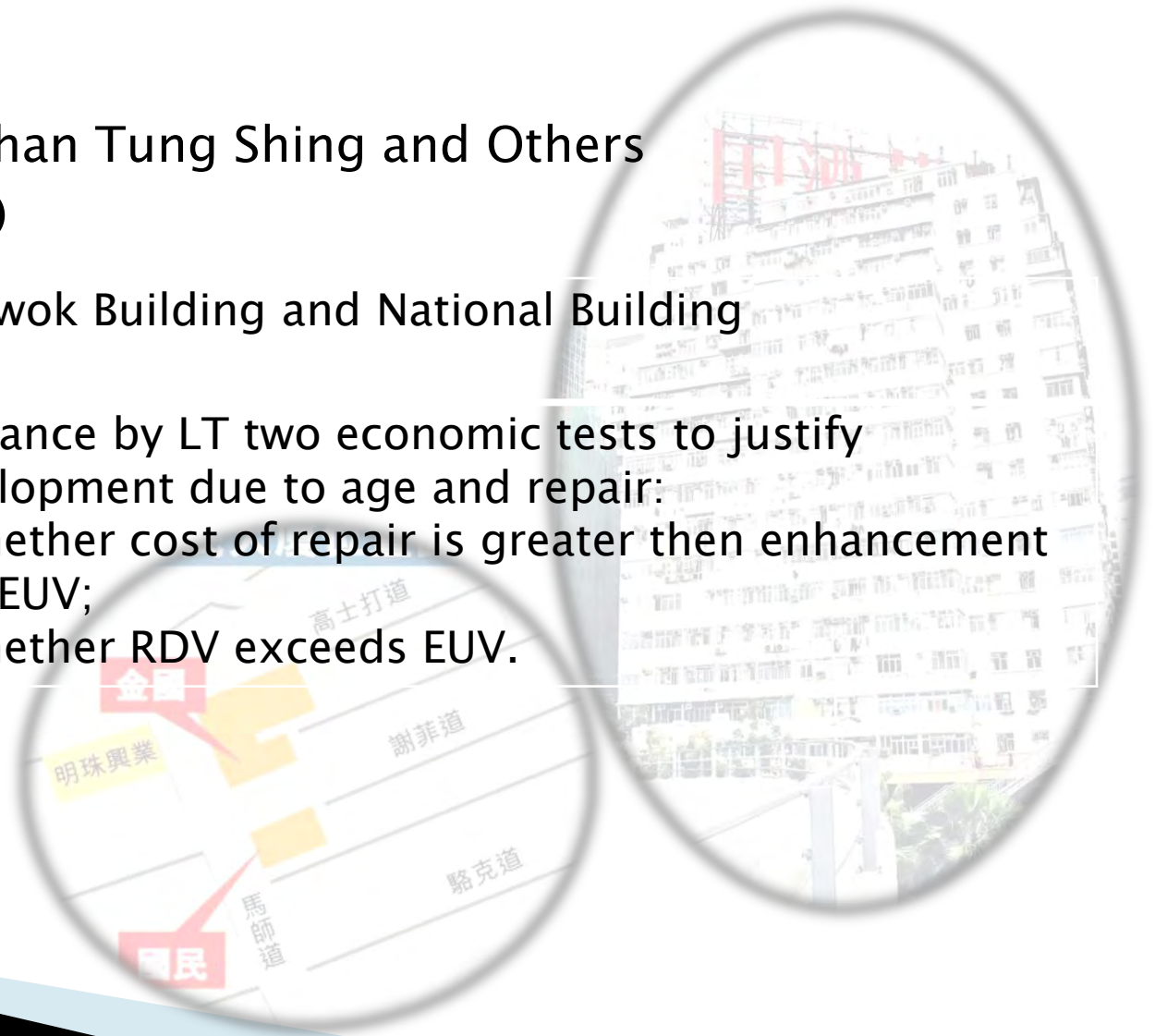
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## Case Law

Intelligent House Ltd vs Chan Tung Shing and Others  
(LDCS No. 11000 of 2006)

- Property : Kam Kwok Building and National Building
- Key Issues : Acceptance by LT two economic tests to justify redevelopment due to age and repair:
  - (i) whether cost of repair is greater than enhancement in EUV;
  - (ii) whether RDV exceeds EUV.



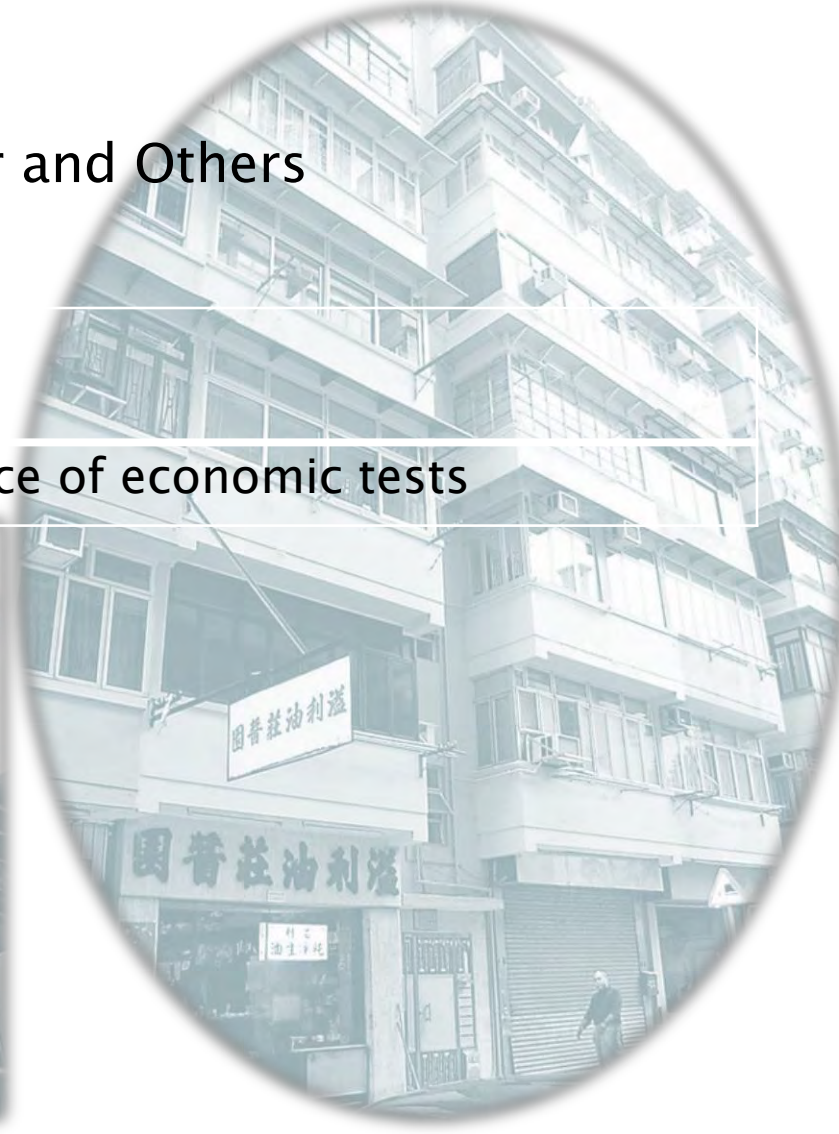
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## Case Law

Fineway Property Ltd vs Sin Ho Yeun Victor and Others  
(CACV 95/2009)

- Property : 44-46 Haven Street
- Key Issues : Court doubt on acceptance of economic tests



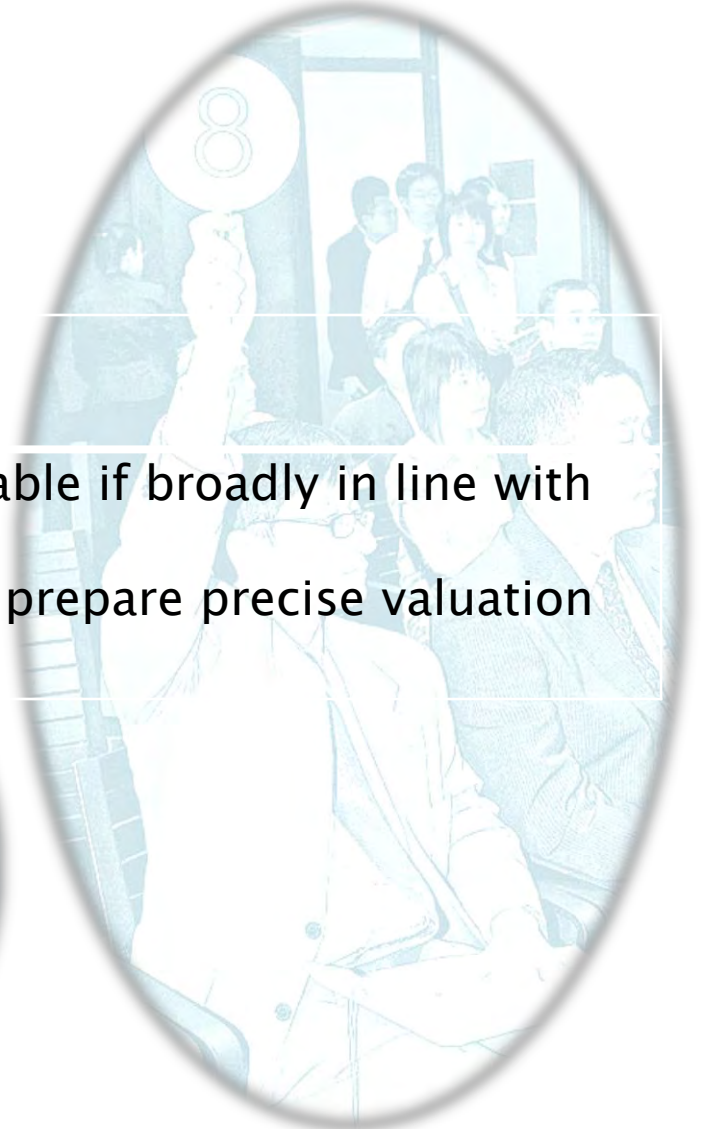
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## Case Law

Capital Well Ltd vs Bond Star Development Ltd  
(FACV No. 4/2005)

- Property : 28 Ming Yuen Western Street
- Key Issues :
  - An offer is fair and reasonable if broadly in line with apportioned RDV
  - The court is not require to prepare precise valuation
  - RDV of the lot on its own



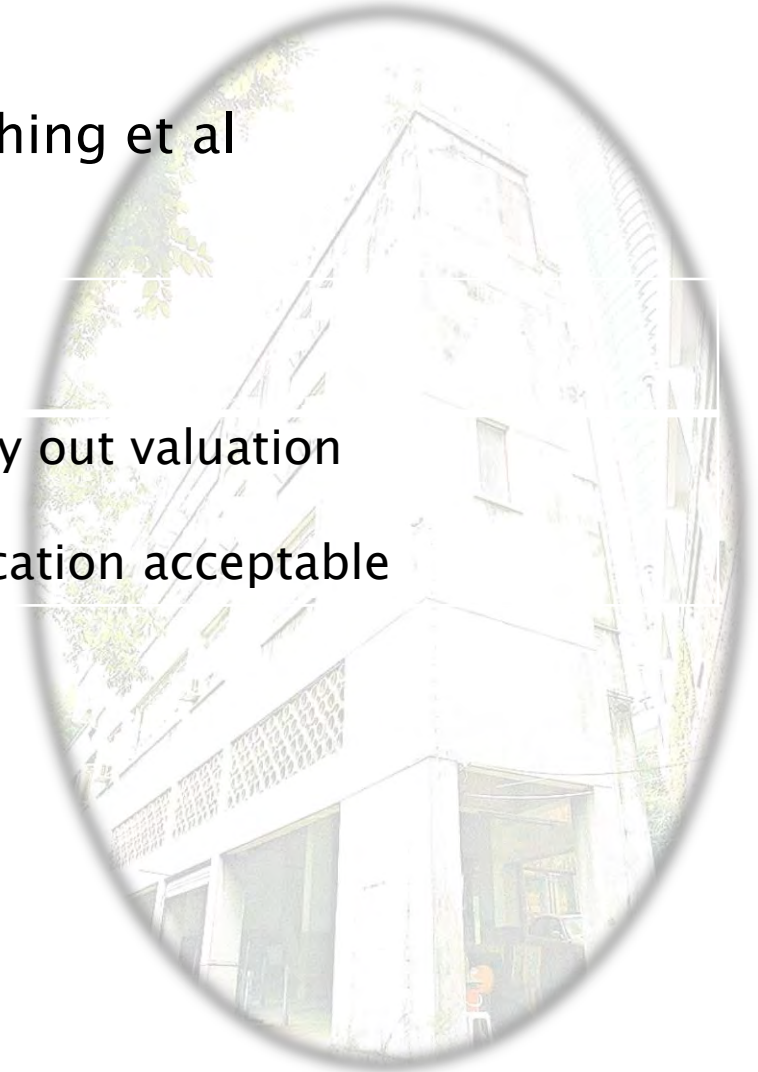
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## Case Law

Fully HK Investments Ltd et al vs Poon Vai Ching et al  
(LDCS No. 3000 of 2005)

- Property : 9-12 Chun Fai Terrace
  
- Key Issues :
  - LT not required to carry out valuation
  - RDV on its own
  - Offer made after application acceptable



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## Case Law

Fineway Property Ltd vs Sin Ho Yeun Victor  
(LDCS No. 5000 of 2007)

- Property : 44-46 Haven Street
  
- Key Issues :
  - EUV of shop units
  - Comparables for site merger disregarded
  - Site comparable with merger potential disregarded

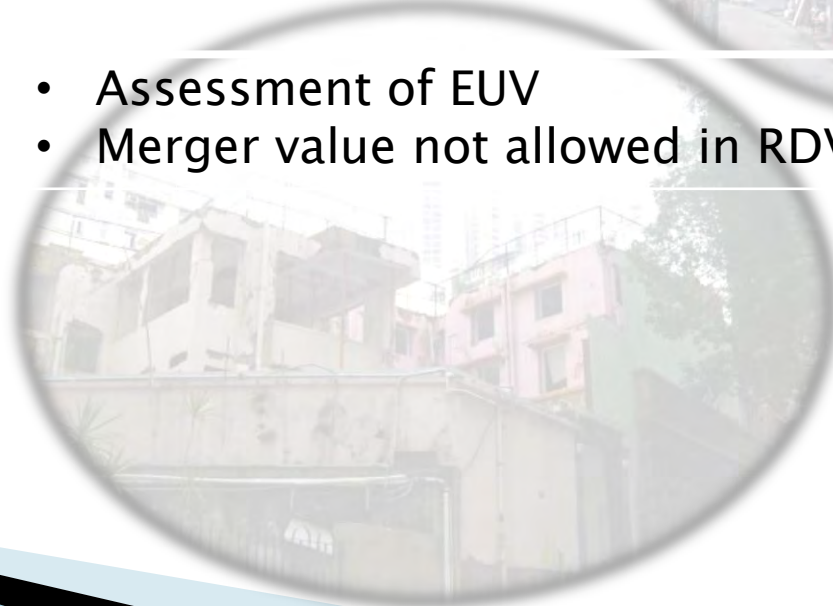
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## Case Law

Golden Kent International Ltd & Trade Get Investment Ltd vs Choy Bing Sheung et al  
(LDCS No. 10000 of 2008)

- Property : 14-22 & 1-19 Upper Kai Yuen Lane
- Key Issues :
  - Assessment of EUV
  - Merger value not allowed in RDV assessment



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## Case Law

Good Faith Properties Ltd & others vs Cibeau Development Co Ltd  
(LDCS No. 42000 of 2011)

- Property : 20 Caine Road
  
- Key Issues :
  - How valuation is done

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## Case Law

Many Gain Investment Ltd vs Chan Fai Ho and Others  
(LDCS No. 28000 of 2012)

- Property : 16, 16A, 18 and 18A Ka Shin Street
  
- Key Issues :
  - Approach for assessing RDV redefined
  - Need to consider merger potential with adjoining lots



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## Case Law

Day Bright Development Ltd and Others vs Choi Pak Ling and Others  
(LDCS No. 13000 of 2012)

- Property : 209 & 211 Tsat Tsz Mui Road / 8 & 10 Nation Street
- Key Issues :
  - Overturn the decision in Many Gain case
  - No need to consider merger potential



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- ▶ Both Applicants and Respondents may submit valuation reports.
- ▶ Valuers have duty to the Court:

*“(1) I have read the Code of Conduct for Expert Witness (Appendix D of the Rules of the High Court) and agree to be bound by it;*

*(2) I understand my duty to the Court; and*

*(3) I have complied with and shall continue to comply with that duty.”*

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- ▶ Lands Tribunal criticized valuers for the Respondents in the following cases:
  - 1) Fineway Properties Ltd (48 & 50 Haven Street – LDCS6000/2007)
  - 2) Top Sail International Ltd (5 & 7 Tang Fung Street – LDCS19000/2010)
  - 3) Wisdom Gaining Ltd (58 & 60 Shanghai Street – LDCS23000/2012)

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