

佛教長霞淨院有限公司

BUDDHIST CHEUNG HA TEMPLE LIMITED

香港新界大埔錦山路43 - 45號
43-45, Kam Shan Road, Tai Po, N.T., Hong Kong



Your ref, DEVB(PL-P)50/31/06/1

Our Ref.:(27) in Lot1130+1087DD006/AA

18th Dec.,,2012

Secretary for Development,
Development Bureau,
17/F., West Wing,
Central Government Offices,
2, Tim Mei Avenue, TAMAR,
HONG KONG.

(Attention: Mr Byron CHOW)

BY FAX 2868 4530 with return slip ONLY

And BY MAIL

Dear Sir/Madam,

Re: Lots 1130 and 1087 in DD 6

Buddhist Cheung Ha Temple

We refer to your letter dated 13th Dec.,2012 and attach our Return Slip on the Buddhist Cheung Ha Temple cum Columbarium for your reference and action.

Please note that our previous letters to DPO/ST,N and Tai Po on our claiming the Existing Use Rights on the use of the Temple cum Columbaria on Lots 1130 and 1087 still hold good and we have not heard from the DPO/ST,N and Tai Po since our response letter dated 12 Nov.,2012 to DPO/ST,N and Tai Po which was also copied to you and DLO/TP. We expressly consent that all the above letters can be downloaded to the Development Bureau website for the reference of the public.

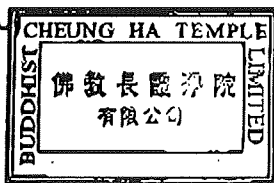
Yours faithfully,

For and on behalf of

BUDDHIST CHEUNG HA TEMPLE

(Auser Kee-wah AU)

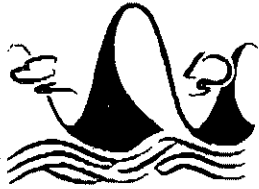
Project Manager



Enclosures.

c.c. DLO/Tai Po FAX 2650 9896w/o enclosures.

Ford, Kwan & Co.,(Tai Po) By FAX 2657 2211 w/o enclosures



佛教長霞淨院有限公司

BUDDHIST CHEUNG HA TEMPLE LIMITED

香港新界大埔錦山路43 - 45號
43-45, Kam Shan Road, Tai Po, N.T., Hong Kong



Your Ref.: (161) in PD/TP/ 1/18/1 (L) II

12 Nov., 2012

Our Ref.: (24) in Lot1130+1087DD006/AA

BY FAX 2691 2806 and POST

District Planning Officer/Shah Tin, Tai Po & North,
Planning Department,
Room 1301, 13/F., Sha Tin Government Offices,
1, Sheung Wo Che Road,
Sha Tin,
New Territories.

(Attention: Mr P Y YUNG)

Dear Sirs,

Application for claiming "Existing Use Right"
Lots 1130 and 1087 in DD 6, Buddhist Cheung Ha Temple

Thank you for your letter dated 29 October, 2012 the contents of which have been carefully noted.

2. We are greatly disappointed on your statement that *"there is insufficient evidence or documentary proof on the EXISTING USE status of the columbarium use at the subject site"*. Thus we spell out our objections to your statement as follows and wish you would re-consider our case in the light of Para.3.1.1 of the Town Planning Board Guidelines for Interpretation of Existing Use in the Urban and New Town Areas No. 24C.

3. We are aware of the provisions of the Section 3.1.1 of the Planning Guidelines No.24C and we presume our case is being dealt with in accordance with this section. The key words in this issue are sufficient evidence and documentary proof. We submitted the following evidence/proof to you and we would elaborate the items further as follows:

(a) Relevant buildings (Lots 1087 and 1130 in DD 6)

The buildings where the Tai Hung Po Din(大雄寶殿) and Kwun Yam Din(觀音殿) and related columbarium rooms are situated are clearly shown in the **September 1979** edition of the 1:1,000 survey sheet no. 7-NW-9A. The arch bearing the Chinese characters 南天門(South Sky Gate) and the buildings for the Tai Hung Po Din and the Kwun Yam Din are vividly shown in the aerial photo dated **1st October,1979** submitted to you. Obviously the buildings and the Arch are meant for the Buddhist halls and related columbarium uses. We obtained the survey sheet and the aerial photo from the District Survey Offices of the Lands Department, i.e., the government source. These survey sheet and the aerial photos are genuine and acceptable evidence showing the existence of the temple cum columbarium. It is generally accepted that the lessees of residential houses would not erect an Arch on the access road nearby. It shows that the buildings and related columbaria existed **prior to 22 Dec., 1980**, the date of the publication of the Tai Po OZP. **Appendix I and II** in our submission refer.

(b) Declaration Statement from Resident Buddhist Nun SIK Wai Duen(釋惟端)

The Statement made by the 97-year-old SIK Wai Duen is a genuine account of her personal assurance of the birth and growth of the Temple cum Columbarium on site, i.e., on Lots 1087 and 1130 in DD6. SIK has been staying in the Temple cum Columbarium since her coming to the site since 30's and she has been still residing at the Kwun Yum Din for the past decades of years without black-out periods and she comes out daily to meet her Buddhist followers in the temple compound. If you have doubts on whether the temple cum columbarium existed on site prior to 22 Dec.,1980, are you challenging the originality and truth in the statement made by her? She can be brought to the Court as an eye witness on the case when the time comes. **Appendix III** in our submission refers.

(c) Land Records

The Cheung Ha Temple cum Columbarium are situated on Lots 1087 and 1130 in DD 6,Tai Po. SIK Wai Duen, formerly known as LUN Nang Wai, acquired 1/3 of the two lots on 3rd May,1948.as recorded in the "Chup Chiu"(執照) dated 3rd May,1948 issued by the New Territories Administration of the then Hong Kong Government. This document was also sent to you in our submission. Lot 1087 in DD6 has a registered area of 3,000. Sq.ft. (being 60 ft. x 50 ft.) whereas Lot 1130

in DD6 is 1,200 sq.ft. (being 40 ft. x 30 ft.) as indicated in the land documents submitted to you. As these monks are Buddhist monks, it shows that the premises were used as a temple cum columbarium as the bodies of these monks, trainee monks and their followers were also cremated and stored in the premises upon their deaths in the years from 1948 onwards. In the recent decades of years, the dead bodies of the Buddhists followers were cremated in the Government Crematorium and the ashes were then placed in the Temple cum Columbarium.

(d) Columbarium Tablets

We submitted photos showing the Tablets stored in our Columbarium. These were genuinely mounted after the holding of Buddhists ceremonies attended by the family members and the attending Buddhist priests. The years of constructions can easily be viewed and assessed by the years of births and deaths inscribed thereon and the construction materials and state of wear and tear, the style of writing of Chinese characters on the Tablets and also the quality and style of photos taken and inscribed. We did invite your Mr YUNG to pay us a visit about a week before you sent us the letter when Mr YUNG telephoned us and asked for clarifications on the subject. However, to our surprise and disappointment, Mr YUNG rejected our offer of site visits. We doubted if Mr YUNG has realized and visualized the real situation of our temple cum columbarium if he does not conduct site visits to our place. Obviously, the conditions of tablets and other erections in the temple can tell if our establishments have been existed prior to 22 Dec.,1980, the date of the publication of the Tai Po OZP.

(e) Certification Letter from the Village Representative, Chairman of the Kam Shan Village Office and the Village Elders

We also submitted a Chinese letter dated 30 Sept., 2012 from the Village Representative, Chairman of the Village Council and the village elders of Kam Shan Village to you. As we are close to the village, the indigenous villagers have been eye-witnessing the history and developments of our temple cum columbarium. Their statements cannot be distrusted. They can be asked to act as witnesses to the case if the subject is brought to courts for judgments. We are not satisfied with your disregards on the said letter submitted. Our letter dated 1 Oct.,2012 to you refers.

(f) Interpretation of sufficiency of evidence and documentary proof

In your letter dated 29 October,2012, you stated that {there is insufficient evidence or documentary proof on the " existing use" status of the columbarium use at the subject site} and asked for over the telephone conversations the copies of the sales slips and/or other records related to the columbarium units. In the old days prior to 1987, columbarium units were either occupied by monks or sold to Buddhists followers who paid cash to the resident nuns who would then issue small slips of RED papers showing the no. of the units sold. There were no available records of any nature for inspection. Please note that the year 1987 was 25 years ago. There are records showing the sales of columbarium units since 1987 and the sales and management of the columbarium were later well documented since then.

(g) Building Plans

In your letter dated 29 Oct.,2012, you also stated that { *Besides, there is no record of building plans showing the location of the niches. As such, it is considered that there is insufficient evidence to prove that there is no material change in the use of the land and building involved.*}. We would like to submit that the buildings were constructed in the 30's and we have made several renovations since then and that there have been no major changes in the structural frameworks of the buildings on the two lots. You will deeply realize the fact that we have no records of the original copies of the buildings as in the case of the Government of Hong Kong who had lost the title deeds of the two lots during the Japanese occupations. If need be, we can ask Authorized Persons to inspect the present buildings and produce retrospective building plans for the structures on these two lots. We are also willing to comply with some Fire Services and/or environmental requirements and carry out some modifications to the buildings when demanded by the Authority. In fact, we have applied to the District Lands Officer/Tai Po for regularizing the structures on these two lots by proposing modifying the user clause to be Temple and Columbarium as Insitu and the granting of Government Land Licence or Short Term Tenancy to cover the areas of Government Land within the compound of our Temple.. You will note that the essence of section 3.1.1. stipulated is on whether some uses of land or building were in existence or not. In considering our case, please kindly make some allowances on the fact that the title documents , namely ,the official New Grant Conditions possibly with plans, kept by the Government Land Registry were

lost and were/are not made available to the public and us as the lessees for inspection, viewing and reference. We only have the basic documents, i.e., Memorandum of Agreement by the Purchaser and the "Chup Chiu" (執照) issued by the Government in 1928, 1931 and 1948 respectively. We were unable to inspect the related New Grant Conditions in both the District Land Registry and the Public Records Office. Thus, it is also doubtful if the leases of these two lots would be strictly bound by the terms and conditions in G.N.570 of 1924 in the absence of concrete evidence therefor.

(h) Other factors:

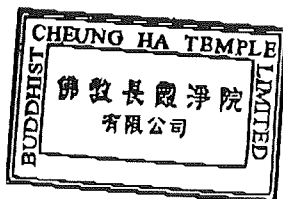
As seen from our submissions dated 23rd July and 1 Oct., 2012 sent to you and as seen from above, our temple cum columbarium did exist prior to 22 Dec., 1980, the date of the publication of the Tai Po OZP and ours is a long-established temple with columbarium facilities and our 97-year-old resident nun, SIK Wai Duen, has been supervising and actually residing in the temple in the past decades of years and to to-date. A talk with her will tell you how and when this temple and the columbarium were developed and came into being. We sincerely and earnestly hope that you would kindly bring the subject to the attention of the Director of Planning and/or the Town Planning Board for favourable decision on our case such that our long-established temple and columbarium facilities can continue to be operated and serve the Buddhist followers in the vicinity of Kam Shan Village and other areas in the Tai Po District where Cheung Ha is well-known..

4. In the meantime, our rights in this matter are hereby expressly reserved.
5. Thank you for your kind attention on the matter. Should you have any queries, please contact the undersigned at Tel. 2652 1134.
6. By copy of this letter, Secretary for Development is requested to note that this letter serves as a written notification to S for Dev. on the updating of the columbarium issue on Buddhist Cheung Ha Temple Ltd. as at 31 Dec., 2012 and we consent to make this letter to be posted in the Columbarium column in the Development Bureau website for public viewing and reference.

Yours faithfully,
For and on behalf of

BUDDHIST CHEUNG HA TEMPLE LTD.

(Auser Kee-wah AU)
Project Manager



c.c. Secretary for Development,

Development Bureau, 17/F., West Wing,

Central Government Offices,

2, Tim Mei Avenue, TAMAR, HONG KONG

(Attention: Mr Byron CHOW)

By Fax 2868 4530 and POST

District Lands Officer/Tai Po,

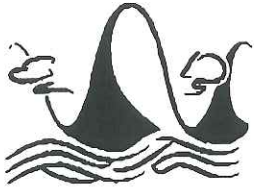
Tai Po Government Offices, 1/F.,

1, Ting Kok Road,

Tai Po Market,

New Territories.

(Attention: Ms Linda CHAN)



佛教長霞淨院有限公司

BUDDHIST CHEUNG HA TEMPLE LIMITED

香港新界大埔錦山路43 - 45號
43-45, Kam Shan Road, Tai Po, N.T., Hong Kong



Your Ref.: (155) In PD/TP/ 1/18/1 (L) II

1 Oct., 2012

Our Ref.: (21) In Lot1130+1087DD006/AA

BY FAX 2691 2806 and POST

District Planning Officer/Shu Tin, Tai Po & North,
Planning Department,
Room 1301, 13/F., Sha Tin Government Offices,
1, Sheung Wo Che Road,
Sha Tin,
New Territories.



Dear Sirs,

**Application for claiming "Existing Use Right"
Lots 1130 and 1087 In DD 6, Buddhist Cheung Ha Temple**

Further to our letter dated 11 Sept. on the above subject, please find herewith a self-explanatory Chinese letter dated 30 Sept., signed jointly by the Village Representative, the Chairman of the Village Committee and another villager all of Kam Shan Village for your reference and action

Should you have any queries, please contact the undersigned at Tel. 2652 1134.

Yours faithfully,

For and on behalf of

BUDDHIST CHEUNG HA TEMPLE LTD.

(Auser Kee-wah AU)

Project Manager

Enclosure

c.c. Secretary for Development,

Development Bureau, 17/F., West Wing,

Central Government Offices,

2, Tin Mei Avenue, TAMAR, HONG KONG

(Attention: Mr Byron CHOW)

By Fax 2868 4530 and POST

致：地區規劃專員，

規劃署沙田大埔及北區分處，

沙田政府合署十三樓，

新界沙田上禾輦路一號

掛號郵件

規劃署沙田大埔及北區分處規劃專員，

佛教長霞淨院

約份 6, 地段 1087 及 1130 號

茲有本村佛教長霞淨院潘先生來本村村公所提及貴處需要文件證明，經翻查本公所紀錄及各村民父老指出鑒列下述各點，以作參考：--

1. 數位佛教尼姑早於 1930 年代已於本村約份 6 之 1087 及 1130 號地段兩間寺廟庵堂修行，庵堂內亦有少量骨灰位及靈牌位，全是因寂法師及其信眾，多是本村村民。近年由於長霞淨院信眾漸多，骨灰位仗靈位亦相繼需求漸多。據悉長霞從來無政府資助，一切廟宇維修，鞏固斜坡，修建道路，全是自給自足。廟宇大小，亦無擴建。本村村民祖先靈位多設於長霞。春秋二祭，向神靈祈福，多在長霞，希望有關方面，給與長霞保存原有面貌。
2. 現時主持釋惟端長駐長霞，由年青時直到今年 97 歲高齡都是長駐長霞，主持佛事，因此年長村民無一不知；
3. 長霞精舍約於 2003 年改名“長霞淨院”，多年來弘法利生，導人向善，修繕道路，興建亭台，及地方遇有急難都有捐獻，而主持釋惟端近年因年事已高，便與其徒潘先生掌管長霞淨院，主要是弘揚佛法，導人向善乃是二人主要常務。

- 4. 本村公所及村民全力支持“長霞淨院”多年來的弘法利生及興建寺廟,亭臺,魚池,供村民休憩,与及修建陡峭長梯方便村民上落.

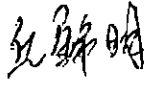


基於上述各點,有見及此,錦山各村村民祖先,多安奉於此,先靈与風水歷向和樂安寧,村民心靈信仰賴以支持,故長霞一應設備,祈望盡于保存,以維持本村村民心靈有托.

尊此奉達.

謹祝

工作順利

身體健康

大埔錦山村村長 
 大埔錦山村村委會主席 
 大埔錦山村村民  謹上

2012年9月³⁰日