

# 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.: PD/TP/ 1/18/1 (L) II

27 Jan., 2013

Our Ref.: (31) in Lot1130+1087DD006/AA

**BY FAX 2691 2806 and POST**

District Planning Officer/Shan 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**

Thank you for your letter dated 23 Jan., 2013 the contents of which have been carefully noted.

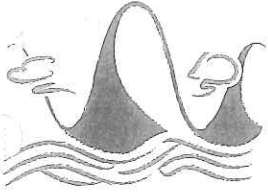
2. In the first place, my last letter dated 12 Nov., 2012 to you was sort of an appeal letter to you. Para. 2 of the above-stated letter refers, namely:---

*....greatly disappointed on your statement.....we spell out our objections to your statement.....*

Incidentally, your reply to our objection letter was also signed by the same officer of your Office. That was contrary to the common practice in both the private sector and the Government offices where any appeal/objection/against any office/officer shall be considered/re-considered and replied by letters to be signed by officers of higher ranks in the offices.

3. Secondly, please note that the recent focus on the subject matter is on "Existing Use Right of the lots and buildings under the category of *Columbarium* in the light of TPB Guidelines for Interpretation of Existing Use in the Urban and New Town Areas No. 24C. and not on "Religious Institution(not elsewhere specified)" as mentioned.. Thus you have side-tracked the issue.

1/3



# 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



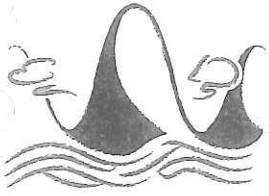
4. It is shown from your letter that you are challenging the authenticity, accuracy and the support for evidence for the existence of the columbarium on the lots under discussion.

5. You admitted in the second last paragraph that you noted the physical existence buildings before 1980. You will appreciate that it is common for Tai Hung Po Din(大雄寶殿), Kwun Yum Din(觀音殿), and other Columbarium(骨灰龕) to be housed in different buildings, different chambers of buildings or composite buildings. You also admitted that about 2,300 niches were occupied by persons deceased before 1980. We do not agree to the increase in number of niches would constitute a material change of use in the buildings as a columbarium is a columbarium wherein the use/user of the chambers is NOT changed.

6. Para. 2.3 of the TPB Guidelines dated May,2004 (TPB PG-No.24C) provides that

*.....the use of any land or building which was in existence at the time when a new statutory plan or a new land use zoning restriction affecting the land of building came into effect will be regarded as the "existing use.....will be allowed to continue.....".*

7. Similarly, the definition of the phrase "existing use" is found under section 1A of the Town Planning Ordinance,Cap.131, where it is defined as "a use of a building or land that was in existence immediately before the publication in the Gazette of notice of the draft plan of the development permission area. Please note that the exemption of "existing use" accords with the important principle that "our citizens and businessmen should be confident that,save in the most exceptional circumstances, their lives and businesses should not be affected by any laws or regulations retrospectively" (*Kam To Sauna, Town Planning Appeal No. 1 of 1998*). Thus , we submit that the use of the buildings erected on the Lots 1087 and 1130 in DD6 constitute an **existing use** and the columbarium services on the two lots fall within the "existing use" in accordance with the Notes of the Tai Po OZP and are in conformity with the planning requirements under the Tai Po OZP. .



# 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



8. In the meantime, our rights in this matter are hereby expressly reserved. We should be grateful if you would kindly conduct a review on the case and give us a favourable reply within 14 days from the date of this letter, failing which we have no alternatives but to seek assistance from the Office of the Ombudsman and/or submit the case to High Courts for decision.

9. Thank you for your kind attention on the matter. 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



*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: Mr Denis LI)

By FAX 2650 9896 and POST