

Cemetery developer defies removal orders

Company risks losing land on Ma Shi Chau after failing to tear down illegal structures

Cheung Chi-fai

Updated on Sep 30, 2009

The developer caught in the controversy over building a private cemetery on Ma Shi Chau risks having its land taken over by the government, after it defied Lands Department orders to remove unauthorised structures at the site.

A group of seven lands officers visited the site yesterday morning, amid heavy rain, to find out whether the developer has complied with the warnings and orders it issued on August 12 and September 16. The work deadline was Monday of this week.

The orders required the developer to remove what officials claimed were unauthorised building structures on the site, being turned into a cemetery for urns with up to 3,000 places for sale.

Questions were raised about the legality of the cemetery plan and lack of regulations over urn storage niches after the *South China Morning Post* reported its existence two weeks ago.

As of yesterday, the developer cum landowner, Union Lucky Development, had demolished only a concrete tower on the site and removed a cargo container it had used as an office.

Other structures remained in place, such as statues, model gravestones on the burial grounds, platforms, retaining walls, toilets, sewers and a tent-like covering over a paved area where the office had been located.

A visit to the site by *Post* reporters yesterday found a drainage pipe, apparently originating in the cemetery and extending beneath a government-owned beach, discharging brownish run-off into Tolo Harbour.

A spokesman for the Lands Department yesterday declined to comment further on the case, as it plans to refer the information the officers collected yesterday to the Department of Justice for legal advice.

According to the site's lease, which allows agricultural use, officials are empowered to "re-enter" the lease - effectively to take over the land - if the lease conditions are broken.

The site is part of a land lot under the Government Block Lease, dating back 104 years. The lease prohibits conversion of land designated for "agriculture or garden grounds into use for building purposes", or the erection and construction of buildings on the site without approval.

An architect, appointed by the developer to handle the case, said yesterday staff members had dismantled what they and Union Lucky's lawyers believed were the inappropriate structures. The developer was willing to co-operate with the government to resolve the problem and avoid a court case, she said.

"Whether it will be settled in court eventually would hinge upon whether the landowner receives fair treatment or not," the architect said.

The architect said the site, unlike other locations that have many constraints, was a perfect place for a "cemetery-garden" given its geographical location, existence of similar land use nearby and

acceptability to neighbouring villages.

"So far there hasn't been any damage to the environment, and the remaining structures on the site do not pose any problem to its surroundings," she said.

Eric Cheung Tat-ming, a law professor at the University of Hong Kong, said the government could still seek a court order to compel the developer to comply with the removal order. The government would probably not resort to the ultimate tactic - "re-entering" the lease - unless the case was serious. "Probably the government will allow more time and flexibility to sort out the problem with the developer," Cheung said.

