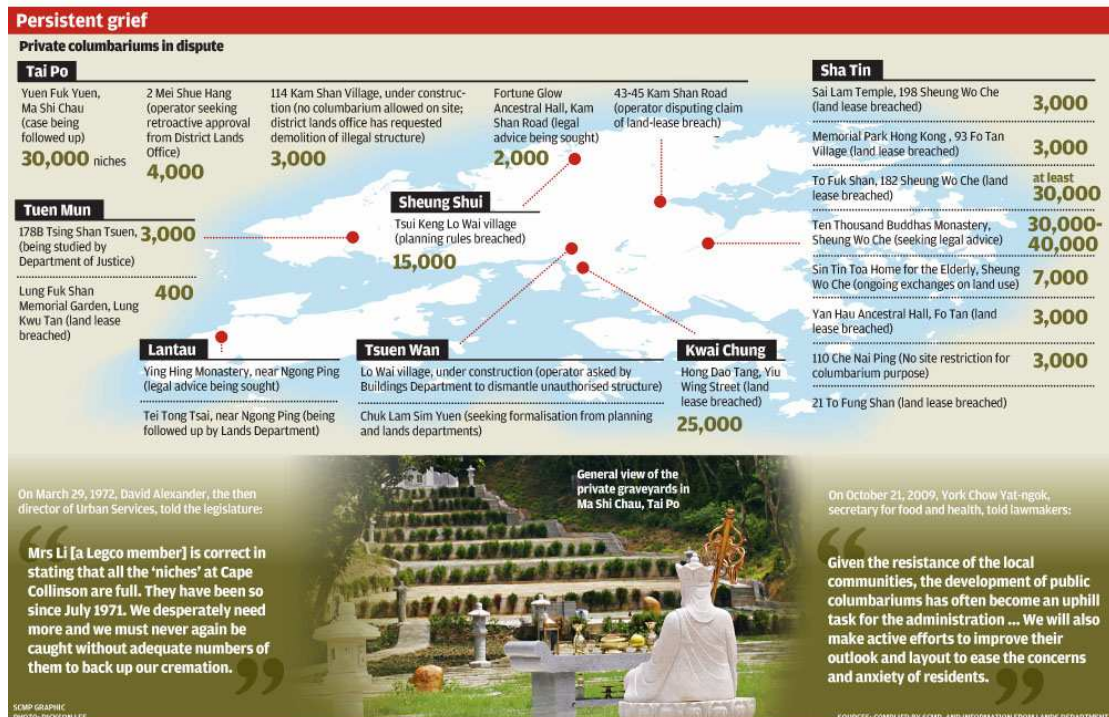


Deal tipped on illegal columbariums

Department has been in talks with operators of facilities that breach land leases



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Signs have emerged that land lease disputes between the government and operators of columbariums may be nearing resolution after talks on out-of-court settlements.

The Lands Department says it is ready to consider allowing some operators to formalise their use of properties in rural areas and New Territories new towns that have been converted into columbariums - in some cases, according to the

department, in contravention of the lease.

Operators say they are encouraged by progress in the talks, although at least one is becoming irritated at the time it is taking.

The issue has arisen from the proliferation of private urn niches in the face of a chronic shortage of public niches to store ashes.

Excluding countless niches that have been set up in old residential buildings in urban areas, at least 21 suspected illegal private operators have been identified by the *South China Morning Post* in new towns, such as Sha Tin, and rural areas.

They have been converted from small houses or deserted post-war apartment blocks, or take the form of outdoor memorial gardens on rural sites, with 3,000 to as many as 30,000 niches offered at prices of up to HK\$200,000 or more.

Twelve sites have been confirmed by the Lands Department to be in breach of land-grant conditions or leases, while a further eight are suspected of such breaches. Only one is on a site where the land lease does not rule out use as a columbarium.

All 170,000 places at eight government-run columbariums have been allotted, with more than 36,000 applicants on a list awaiting allocation under a lottery system.

With 30,000 to 40,000 deaths a year, of which 90 per cent are cremated, and a supply of 80,000 new public niches from the government and the Chinese Permanent Cemeteries not due to be ready before 2012, the shortfall could reach 120,000 in the coming three years.

Officials have said proposals to site 240,000 niches in various districts have been shelved because of local opposition. Private operators say they can offer 100,000.

Although the Lands Department has vowed to bring illegal operators to justice and has publicly called for them to stop selling niches, no legal action has been taken and most operators have ignored its calls.

But two big operators have told the *Post* they have been in talks or exchanges with the department for months and had hopes of reaching some form of agreement. Two other operators have been pursuing retrospective government approval of their suspected illegal facilities.

The news came as the department said it would study each individual case and take relevant action if breaches were confirmed. But it has also been flexible in allowing alternative solutions.

It said two operators - Mei Shue Hang in Tai Po and Chuk Lam Sim Yuen in Tsuen Wan - were planning to apply for changes in land-use zoning and the like. The Tai Po facility, on a site zoned for non-profit homes for the elderly, was found operating last year, while the Tsuen Wan facility, in a historic temple, has been in the business for some years.

"If a property owner applies to formalise their current situation of land-lease breaches, the department will consult the relevant bureau and department and consider their application on individual merit," a spokesman for the department said.

Among the 12 confirmed land-lease breaches is Hong Dao Tang in Kwai Chung, a single-storey building big enough to hold 25,000 niches, some of which are being sold for more than HK\$200,000.

The Kwai Chung columbarium, with links to Lai Sun Development chairman Peter Lam Kin-ngok, sits on an outdoor-car-park site formerly occupied by an industrial building. It presents itself as a modern facility equipped with a clean joss-burning chamber, a rooftop garden with free access to the public, and special lighting to improve its appearance.

"We are in talks with the Lands Department, and the progress has been satisfactory. Now we are just fine-tuning small bits of the wording to make it mutually acceptable," lawyer Albert Hwang, a spokesman for the operator, said.

Hwang hinted that a lease modification was one of the options being considered to resolve what he called a contractual dispute, but he was unsure if an additional land premium would be involved and how long it would take to reach an agreement.

He said the operators were confident the columbarium did not violate planning rules or the land lease but were willing to engage in talks with the department to settle the dispute.

The owner of a private memorial garden on Ma Shi Chau with plans to store urns underground has started talks with the department. The cemetery can hold up to

3,000 urns at an average price of HK\$100,000.

A person close to the owner said there had been exchanges and meetings over the past few months, some initiated by the department and involving government lawyers, but the owner was getting increasingly impatient about the lengthy process and uncertainties. "We are prepared to make some concessions to be a responsible operator. But we just can't wait too long while other columbarium operators are scrambling for business now regardless of the land-lease disputes."

There are fears that some new operators are rushing to start business as soon as they can before the government comes up with a long-overdue policy on private columbariums about the middle of the year.

Measures being considered under the policy might include a voluntary registration system and a boost to the supply of public niches by adapting industrial buildings near cemeteries. There have been suggestions that officials have started a study on the number of niches in private columbariums, triggering speculation that they will freeze illegal development but legitimise existing facilities. This would be similar to what was done in the early 1980s with illegally constructed houses, which were registered and allowed to remain.

But a surveyor assisting the development of one of the private columbariums said the real problem facing officials was niche supply rather than what was written in the land leases.

He said the government had neglected its responsibility to educate the public about columbariums and was too worried about the political trouble in siting such facilities.

"There is an interesting conspiracy theory that the government intended to create a public niche shortage so that the private sector would naturally fill the gap while all the political pressures facing it would be got rid of," he said.

"Had not the land-lease disputes been exposed, the private sector would have continued to invest in columbariums, and one day a balance of supply and demand might have been reached. But now the whole picture has been changed."

The surveyor said there was no need to issue a licence to the operators, but there had to be clear guidelines on safe building design for columbariums.

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