

Court battle looms over Po Toi niches

Developers deny breaching land use and say they are considering seeking an injunction as a last resort to stop officials repossessing the site

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Developers have built 2,000 niches for urns at a memorial garden on remote Po Toi Island. A total of 4,400 are planned for the site. Photo: SCMP

The developers of a memorial garden on a historically important island are prepared to fight through the courts to stop lands officials repossessing the site for a breach of land leases.

Splendid Resources and Sky Pacific were told to rectify breaches of their lease on the site at Po Toi Island by the end of last month, but filed a request with the Court of First Instance last week to clarify details of the breaches.

The developers deny breaching their lease.

They dispute whether the 2,000 niches for urns that have been developed, out of 4,400 planned for the 2.2 hectare site, constitute structures. They also question whether a prohibition on the storage of human remains applies to ashes.

A spokesman for the developers said they were considering seeking an injunction as a last resort to stop lands officials seizing the site, even after the Department of Justice informed them yesterday that it was unlikely that repossession would go ahead before the court had considered a request for clarification.

But the spokesman accused the government of maladministration in its handling of the case.

He said lands officials he had dealt with, on behalf of the developers, had been reluctant to discuss details of the breaches, instead ordering that the developers cease work or face repossession.

"It is unfair to handle a large-scale project, having an area of 2.2 hectares, like this," he said.

He said the investors had spent HK\$2 million on studies, which concluded that planning approval was not needed and that use of the site as a memorial garden would not breach the land lease. Traffic and environmental impact studies were also carried out.

The spokesman said the investors, who bought the land at auction, had decided to turn the land into a memorial garden after the government published a consultation paper on regulating private columbarium facilities in July 2010. The group believed the paper gave the green light to such developments.

Work then began and memorial stones were installed last December.

A Lands Department spokesman said it would not comment on the case due to legal proceedings.

The department previously seized a private site in Ma Shi Chau, Tai Po, where similar underground niches were developed, for breaching land leases. It also repossessed a memorial development in Tei Tong Tsai, Lantau Island, on the same grounds in 2009.

Last month it placed eight private columbariums on a list of such facilities being used illegally, taking the total number to 74.

In February the government gazetted a development permission area plan for Po Toi, off the southeastern tip of Hong Kong Island, and four uninhabited islands nearby. Under the order, any development must be approved by the Town Planning Board.

Po Toi, home to fewer than 100 people, is considered to have scientific and conservation value, especially after the discovery of rock carvings in 1979 said to date back 3,500 years.

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