

LEGISLATIVE COUNCIL BRIEF

Preservation of the Building at 128 Pok Fu Lam Road

INTRODUCTION

The Secretary for Home Affairs, in his capacity as the Antiquities Authority under the Antiquities and Monuments Ordinance (A&M Ordinance) (Chapter 53), has decided, after consultation with the Antiquities Advisory Board (AAB), to declare the building at 128 Pok Fu Lam Road (the “Building”) together with its garden and the access road from Pok Fu Lam Road (the “site”) to be a Proposed Monument for 12 months under Section 2A of the A&M Ordinance. The declaration will be made by notice in the Gazette on 20 April 2007.

JUSTIFICATIONS

Heritage Value

2. Constructed in around 1931, the Building is a private residence known as “Jessville”, named after Jessie Tam (譚杜佩珍), the wife of William Ngar Tse Thomas Tam (譚雅士), more popularly known as Thomas Tam¹.

3. The Building is a rare surviving example of European-style mansions in the Southern District. It is of Italian Renaissance architectural style with interesting Art Deco variations. Its design, decoration and craftsmanship are representative among similar buildings of the same period, and the Building is the epitome to illustrate the building technology and styles in pre-War Hong Kong. The site as indicated in the site plan at

¹ Thomas Tam was a barrister and appointed as a Magistrate in 1947. He was enthusiastic in charity, and a charitable organization, Jessie and Thomas Tam Centre of the Society for the Promotion of Hospice Care (善寧會譚雅士杜佩珍安家舍), was named after himself and his wife.

Annex A has an area of 6,440m² and is currently zoned “Residential (Group C)”.² The Building occupies a total floor area of about 1,380m², which is subject to on-site verification. Set against a background of pleasant greenery, it presents a gracious cultural landscape which is rare in Hong Kong nowadays. Some photographs of the Building are at Annex B.

4. Upon the advice of AAB, the Antiquities Authority has decided to declare the site as a Proposed Monument on the basis of the following heritage assessment:

- (a) The Building is the private residence and a living reminder of William Ngar Tse Thomas Tam, a representative figure of the Chinese elite class in Hong Kong in the mid-20th century. His influence as a social leader was rooted in different spectra of the community, illustrated by the many social positions he held, such as the Chairman of Po Leung Kuk Board in 1936-1937, Unofficial Member of the Legislative Council in 1939-1941 and Member of the Court of University of Hong Kong in 1954.
- (b) The Building is an epitome of the Classical Revival residence of Italian Renaissance style with interesting Art Deco variations. It is elaborate and distinct in design, decoration and craftsmanship. Application of reinforced concrete reflects the transition in architecture of the inter-war period. Window shutters and top ventilation windows are adopted to facilitate ventilation and shading which is a typical colonial adaptation of the European architecture to the sub-tropical climate of Hong Kong. There does not appear to be any notable alteration or addition to the external façade of the Building. The authenticity is enhanced by the well-kept garden, the ornate fountain and the greenery in the immediate environ. All these elements combine to give a vivid picture of the European life style in one of the richest areas of the territory in the mid-20th century.

² The site is currently zoned “Residential (Group C)” on the approved Pok Fu Lam Outline Zoning Plan No. S/H10/15 with development restrictions of maximum plot ratio of 3 and maximum site coverage of 15% for development having 20 domestic storeys or more. Based on traffic/transport policy considerations, the Pok Fu Lam Moratorium restricts lease modification and the sale of Government land to control the amount of traffic generated within the Pok Fu Lam area.

- (c) The Building is a rare surviving example of European-style mansions in the Southern District. Credits must be added to the relatively undeveloped surrounding which embraces the mansion with tranquil and pleasant greenery. Such a cultural landscape is extremely rare in the highly urbanized Hong Kong.
- (d) The Building is a very important component of an integral architectural and historic complex in the Southern District. It is physically close to a number of heritage buildings including the Bethanie at 139 Pok Fu Lam Road, the Old Dairy Farm Cowshed Compound at 141 Pok Fu Lam Road, and the Douglas Castle (the present University Hall), which come together to illustrate the history of the area.
- (e) The Building is a cultural landmark which reminds people of the role played by the Tam family as a member of the Chinese elite class in the territory. It also physically stands on a site which marks the dramatic difference in living conditions and styles between the upper class on top of the hill and the common grass roots down in the Sheung Wan area. The Building is thus an important illustration of the history of social development and urbanization of Hong Kong in the early to mid-20th century.

Demolition Threat

5. On 14 September 2004, the owner submitted to the Buildings Department (BD) an application for approval of plans for demolition of the Building, while no redevelopment plan was revealed at that time. The BD then informed the Antiquities and Monuments Office (AMO) of the Leisure and Cultural Services Department of the receipt of such application on 15 October 2004. Under the Buildings Ordinance (Cap. 123), the Building Authority (BA) may not refuse to give approval to a demolition plan on heritage preservation grounds unless the building concerned is a Declared Monument or Proposed Monument. As such, the BA approved the demolition plans on 12 November 2004. Upon receipt of BA's approval, the owner has to further apply for the BA's consent for commencement of the actual demolition works shown in the approved plans. Such demolition consent will not be granted by the BA unless all precautionary

measures for protection of the public, including hoardings, are completed to the BA's satisfaction.

6. In view of the heritage significance of the Building and the then imminent threat of demolition, we proposed to declare the Building as a Proposed Monument under section 2A of the A&M Ordinance after consulting the AAB on 3 November 2004. By doing so, the owner's development right would be suspended for 12 months³, during which the case could be further considered in detail and efforts could be made to negotiate with the owner to work out a plan to preserve the Building. However, the owner had subsequently suspended the demolition plans and no application to the BA had been made for consent to commence the demolition works since then. The intended action to declare the Building as a Proposed Monument had then been held in abeyance. From late 2004 onwards, the AMO had made several attempts to get in touch and negotiate with the owner or his representative(s) to secure his consent for the proposed declaration and to work out a preservation plan for the Building. However, the owner's response has not been forthcoming.

7. Recently, the owner resumed the pre-demolition procedures by applying to the BA for approval of amendments to the approved demolition plans on 10 November 2006. The BA granted the approval on 7 December 2006. The owner's Authorized Person (AP) then on 29 March 2007 filed an application to the BD for consent to commence the actual demolition works. The statutory deadline for the BA to reply to the AP is 25 April 2007. Under the circumstances, the Antiquities Authority, having re-assessed the heritage value of the case, decided to exercise his authority under section 2A of the A&M Ordinance to declare the Building as a Proposed Monument in order to protect the Building from demolition.

The Declaration of Proposed Monument

8. In order to ensure adequate protection to the Building which is

³ The A&M Ordinance provides that Antiquities Authority (AA) may declare a building as a Proposed Monument after consultation with the Antiquities Advisory Board and by notice in the Gazette. Under section 6(1)(b) of the A&M Ordinance, a Proposed Monument may not be demolished except in accordance with a permit granted by AA. The declaration has effect for 12 months, subject to earlier withdrawal by AA and the objection procedures under section 2C of the Ordinance.

to be declared as a Proposed Monument, we propose to include the Building, its garden and the access road from Pok Fu Lam Road into the Proposed Monument boundary. The garden is included because the area where it stands had been part of the site when it was sold to Thomas Tam in 1929. The garden was built together with the Building in 1931 and is an integral part of the historical building with the same historical value. The access road is to provide and facilitate access and inspection. Inclusion of adjoining land for access is permitted under section 2A(2) of the A&M Ordinance. The total area to be declared is 3,830m², about 59% of the area of the site. The remaining area of the site not included in the declaration boundary is mainly slopes. A plan showing the extent of monument boundary to be declared is at Annex C.

9. In exercising his power to declare, the Antiquities Authority consulted the AAB as required under section 2A of the A&M Ordinance on 3 November 2004. At its recent meeting on 6 March 2007, the progress of the case was reported to AAB which did not express particular views on their previous recommendation on the proposed declaration. Under section 6(1)(b) of the A&M Ordinance, a Proposed Monument may not be demolished except in accordance with a permit granted by the Antiquities Authority. The owner's demolition plan involving the Building will in effect be suspended for 12 months. This will allow time for negotiation with the owner on possible preservation of the Building. According to section 2C of the A&M Ordinance, the owner may lodge an appeal against the declaration to the Antiquities Authority, and further to the Chief Executive if the first appeal is not successful. Unless the declaration is withdrawn by the Chief Executive, Chief Executive in Council is the final authority to determine on the appeal.

10. After the Building has been declared as a Proposed Monument, the owner would need to apply to the Antiquities Authority for a permit under section 6 of the A&M Ordinance if he or she wishes to demolish the Building. If such an application is refused, the owner may receive from the Antiquities Authority, with the prior approval of the Chief Executive, compensation in respect of financial loss suffered under section 8 of the A&M Ordinance. If the owner fails to reach an agreement with the Antiquities Authority on the amount of compensation, he or she may apply to the District Court for an assessment of the compensation amount. The

District Court may on such an application award to the applicant such compensation as it thinks reasonable in the circumstances.

11. The declaration will be made in the Gazette on 20 April 2007 and will take immediate effect. The item will then be tabled for negative vetting by the Legislative Council on 25 April 2007, which is the earliest opportunity as provided under established procedures. The Government cannot defer the effective date of the declaration till the completion of the normal full negative vetting period (i.e. 22 May 2007 or, if extended by the Legislative Council, 12 June 2007) because of the urgency to render statutory protection to the Building before the statutory deadline for the BA to issue the demolition consent on 25 April 2007.

OTHER OPTIONS

12. We have considered other alternatives, but have found them not feasible. These are explained below –

(a) To allow the owner to proceed with the demolition

If this is allowed to happen, a valuable historical building, which possesses a high architectural value and is representative of the life style of a particular social class, will be lost forever.

(b) To declare the Building as a Monument

By declaring the Building as a Monument under the A&M Ordinance, the Building may not be demolished except in accordance with a permit granted by the Antiquities Authority. The protection will be permanent. We however consider it more prudent to secure the owner's consent for declaration and agreement on the preservation approach, before resorting to this option. Moreover, when proceeding to declare the Building as a Monument, more procedural steps would need to be taken under sections 3 and 4 of the A&M Ordinance, including, inter alia, allowing one month (or such longer period as may be allowed by the Chief Executive) for the owner to make an objection to the Chief Executive. This would preclude us from forestalling the demolition as soon as possible.

IMPLICATIONS OF THE PROPOSAL

13. The proposed declaration is in conformity with the Basic Law, including the provisions concerning human rights. It does not have any productivity, environmental, sustainability or civil service implications. We are unable to accurately estimate the financial implications of the proposal until and unless we have had a concrete case of compensation in hand. If in future we do proceed to a further step to declare the Building as a Monument on a permanent basis, the financial implications are expected to be much more significant should compensation to the owner be required given the potential redevelopment value of the site. We will further assess the financial and sustainability implications when deliberating on the permanent protection plan for the Building.

PUBLIC CONSULTATION

14. The proposal is in line with the AAB's recommendation given on 3 November 2004. The developments of the case were also reported to the AAB on 12 December 2006 and 6 March 2007.

PUBLICITY

15. A press release will be issued. A spokesperson will be available to answer media and public enquiries.

BACKGROUND

16. The owner of the private residence at 128 Pok Fu Lam Road submitted to the BA an application for approval of plans for demolition of the Building on 14 September 2004, while no redevelopment plan was revealed at that time. After consulting the AAB on 3 November 2004, we proposed to declare the Building as a Proposed Monument under section 2A of the A&M Ordinance so that the owner's development right would be

suspended for 12 months, during which we could carry out full consideration of the case and negotiate with the owner on how to preserve the Building. However, the owner had subsequently suspended the actual demolition works.

17. The owner resumed the demolition procedures by applying to the BA for approval of amendments to the approved demolition plans on 10 November 2006. The BA's approval was given on 7 December 2006. As the AP on 29 March 2007 filed an application to BD for consent to commence the actual demolition works, the owner may proceed with the approved demolition works provided that precautionary safety measures, including hoardings, are completed to the BA's satisfaction, and a consent to commence the demolition works is granted by the BA. The BA, in accordance with the Buildings Ordinance (Cap. 123), has to process the application for consent to commence the demolition works within 28 days upon receipt of the same.

ENQUIRIES

18. For any enquiries on this brief, please contact Miss Polly Kwok, Principal Assistant Secretary (Culture) 2 of the Home Affairs Bureau at 2594 6607.

Home Affairs Bureau
April 2007

Site Plan
位置圖



No. 128 Pok Fu Lam Road, Hong Kong
(Rural Building Lot No. 324)
香港薄扶林道 128 號
(鄉郊建屋地段第 324 號)

Scale 比例 : 1:1000
Survey Sheet No. 測量圖編號 : 11-SW-17A

Photographs
相片



Façade of the Building
建築物的正面

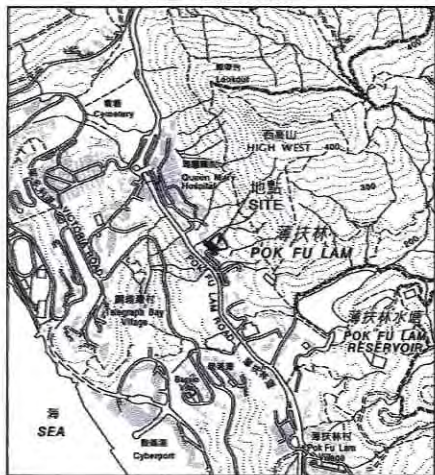


Bird's eye view of the Building, its annex block, the fountain (right) and the greenery in the immediate environ.

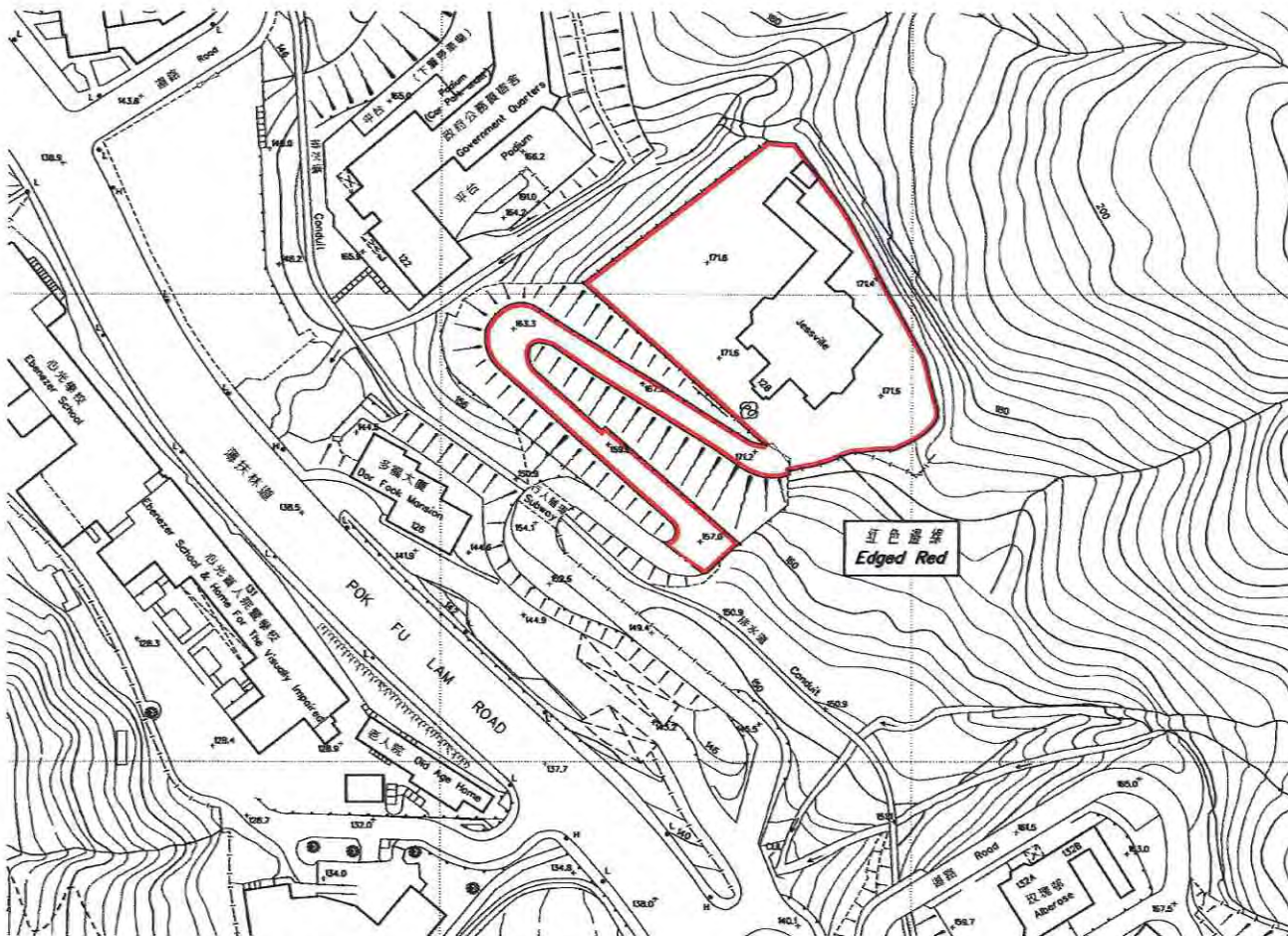
鳥瞰該建築物及其附屬樓房、噴泉(右)和周邊的植物。



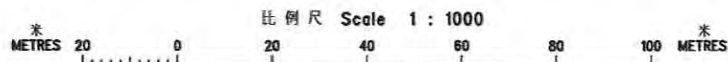
位置 LOCATION



比例 Scale 1 : 20000



以紅色邊線標示的面積約為3 830 平方米
 EDGED RED AREA 3 830 SQUARE METRES (ABOUT)



(何志平 Patrick C P HO)
 民政事務專員 Secretary for Home Affairs
 日期 Date _____

只作識別用
 FOR IDENTIFICATION PURPOSES ONLY

地政總署 港島測量處
 District Survey Office, Hong Kong
 Lands Department

古物及古蹟條例 (第53章)
 根據第2A(4)條存於土地註冊處的香港薄扶林道128號
 鄉郊建屋地段第324號內的建築物及其鄰接土地圖則
 ANTIQUITIES AND MONUMENTS ORDINANCE (CAP. 53)
 PLAN OF THE BUILDINGS AND THE ADJOINING LAND WITHIN THE RURAL BUILDING LOT No.324,
 No.128 POK FU LAM ROAD, HONG KONG
 DEPOSITED IN THE LAND REGISTRY, UNDER SECTION 2A(4)

檔案編號 File No. LCS AM 51/2/17
 測量圖編號 Survey Sheet No. 11-SW-17A
 發展圖編號 Layout Plan No.
 參考圖編號 Reference Plan No.
 圖則編號 PLAN No. HKM7486c