



YL PANG/LEGCO
2008/06/02 AM 11:59

To
cc
bcc
Subject

CB(1)1752/07-08(06)

CK

2008/05/31 PM 04:40

To plbenq@devb.gov.hk
cc pi@legco.gov.hk, ceo@ceo.gov.hk, info@hkis.org.hk, info@hkia.net
Subject Fw: 反對「私人屋苑業主」幫「政府」負擔「公眾地方」經費

Dear Development Bureau,

c.c.: Legislative Council,

Executive Council Secretariat,

The Hong Kong Institute of Surveyors,

The Hong Kong Institute of Architects.

We agree with the idea of reserving spaces and green environments in Hong Kong but we would not like to have the obligations of managing the "public area" within our housing estates on behalf of the government for the sake of the "general public" when we ourselves are excluded from the "general public" (i.e. some flat owners cannot enjoy those "public area" free of charge like all the "general public").

Can this "unfair policy" be abolished? Why can't the government take up the responsibility to manage, clean, secure and repair all the expenses being incurred on the "public area"? Is there a limit on the ratio of public area vs. private area in a private housing estate? Is it possible that public area within a private housing estate be larger than private area? Why do some flat owners waive from paying such extra management fee?

Best regards,

Private Housing Estate Owners.

--- On Sun, 5/18/08, CK wrote:

From: CK

Subject: 反對「私人屋苑業主」幫「政府」負擔「公眾地方」經費

To:

Date: Sunday, May 18, 2008, 10:32 PM

Dear all,

Please give me your comments on the "forced" responsibility of the private HOUSING estates' owners to help our government on managing the "public area" within their housing estates for the sake of the "general public" when they themselves are excluded from the "general public" (i.e.. the owners cannot enjoy those "public area" free of charge like all the "general public").

Can you help us to abolish the "unfair policy" on the private housing estates' owners?

The following comments are copied from some discussion sites:

政府要綠化環境及給予市民公共空間,雖是好事,但自己不願負擔任何費用,要發展商負擔,發展商又於售樓後,以管理公司之名從管理費支付「私人屋苑內之公眾地方」經費,變為政府請客,小業主付錢,大眾市民享用「公眾地方」,市民多謝政府確保公眾能使用有關空間,指責小業主霸佔「公眾地方」,但一些「私人屋苑內之公眾地方」一直是發展商封鎖了許多年,不是小業主們封鎖的,發展商突然受傳媒及公眾之壓力將「私人屋苑內之公眾地方」開放,對私人屋苑之保安系統有嚴重威脅,公眾指責私人屋苑侵吞「公眾地方」,要求私人屋苑還他們「公眾地方」,因為他們被「公眾地方」這字眼蒙騙,以為那些「公眾地方」是用公帑或納稅人稅款管理維修,其實政府卻沒有承擔過那些「公眾地方」之任何費用,政府也不敢公然指責那些私人屋苑,因為自知沒有為那些「公眾地方」盡過什麼責任,可憐那班私人屋苑業主被人公然責罵之餘,其屋苑之保安系統亦變得面目全非,屋苑內「公眾地方」人流量增加,地方之折舊率也加快,那些「公眾地方」之維修費以及在「私人屋苑內公眾地方」發生之意外保險費也要小業主們負擔,小業主們被發展商蒙騙屋苑內有「公眾地方」要讓公眾行走,買樓前又沒有告知小業主對屋苑內「公眾地方」之責任,為何一些私人屋苑要開放一些地方給

公眾? 有些私人屋苑就不須要呢? 政府好像給公眾一個很慷慨的形象, 其實是用其中一些小業主們之血汗錢請客, 有些小業主們用盡一生積蓄或借錢買樓, 萬萬估不到要幫政府支付「公眾地方」經費請市民來.. 私人屋苑業主不像時代廣場商舖業主, 不須要大量人流增加生意, 只要屋苑舒適寧靜, 亦不想被迫用政府名義請客. 若要我們請客, 不如所有公務員宿舍之休憩地方也開放給全世界人士消閒, 反正那裡也是用政府公帑支付經費的. 問題是即使發展商日後於售樓前公開「私人屋苑內公眾地方」之位置及面積, 知會準買家將來對「公眾地方」之責任, 政府又是否有那麼大權走出來指著一塊地為「公眾地方」, 但聲明政府不會對該「公眾地方」付任何費用, 將管理「公眾地方」之費用轉給一班沒有業權之業主們身上, 香港是否變成「權治」社會. 大家也是納稅人, 既然政府指著某一塊地為「公眾地方」, 供普羅大眾使用, 那些私人屋苑業主不屬於「公眾」之內嗎? 為何那班業主除了交稅外, 要幫政府管理一些「公眾地方」給大眾使用呢?! 業主們是否有權於售樓前知道這連帶責任或不平等條約, 再選擇繼續或放棄買樓...

反對「私人屋苑業主」幫「政府」負擔「公眾地方」經費

其實無論發展商有無在售樓前通知準買家私人屋苑內之公眾地方資料與否, 政府指著一塊地為「公眾地方」讓全香港市民包括遊客用的話, 政府卻向發展商聲明分毫不負, 發展商再將用在「公眾地方」之經費轉到屋苑業主之做法實在不妥, 因為私人屋苑業主也屬「公眾」之一部份, 為何有些「公眾」除了交稅外, 要負責幫政府管理「公眾地方」?! 有些「公眾」卻可以免費享用那些地方. 那些經常講人權或自由的, 請問私人屋苑業主之人權自由何在?!

中環及銅鑼灣許多商業大廈, 因地方狹窄, 在一樓建天橋聯繫附近商廈, 以解決道路擠迫, 由商廈負擔天橋費用, 不等於私人屋苑也可以照做, 即使照做, 政府有什麼準則去決定一班私人屋苑業主要攤分屋苑內「公眾地方」之經費呢?! 政府是否不會理會一小數私人屋苑業主, 只對一大群公眾交代, 確保「公眾」可以使用由私人屋苑業主提供之「公眾地方」, 自己高調地請客卻暗地裡不付分毫.

希望將來那些喊「還我公眾地方」之「公眾」, 你們及你們後代打算在香港買樓時, 若那屋苑有很大片「公眾地方」要你們攤分經費時, 你們要欣然接受 ... 因為你們今天助長政府及發展商繼續進行這「不平等條約」, 日後自己遇到這「不平等條約」再呼怨, 你們會被人指責雙重標準, 今天事件被揭發出來, 幾個私人屋苑業主也喊不平等時, 「公眾」是否應從正義之角度去分析大局, 並促請政府取消這「不平等條約」, 再解決所有今日遺留下來之問題呢?!

希望香港有這些「不平等條約」之私人屋苑全都團結起來一起向政府爭取, 不過大家屋苑設計不同, 爭取之事項也不同, 故要跟官字兩個口的政府追究, 前路十分艱難.

請大家努力反對「不平等條約」.

反對「私人屋苑業主」幫「政府」負擔「公眾地方」開支

藍天海岸屋苑之保安固然重要,但政府將管理「公眾地方」之責任轉給我們是不可以接納的,正如你買了A單位卻要你幫B單位交管理費一樣,屋苑內之「住戶共用地方」如大堂/走廊/會所等只可容許藍天住戶專用,業主們要對「住戶共用地方」付管理費是正常的,會所大部份設施也要每次使用時再額外收費,用者自付,也屬正常。

當初藍天海岸平台一樓天橋是發展商封鎖的,一封也封了四五年,直至2008年3月才開放給公眾,對很多藍天海岸業主來說,那天橋以及夾在第二和四期中間之行人道再伸展到一個圓形休憩間是「公眾地方」之事實,許多業主是不知道的,收屋契時律師也沒有提及,售樓前也沒有人提及,莫講要業主們攤分「公眾地方」之經費,今日再追問發展商為何不提醒準買家屋苑內有「公眾地方」,他們反問你為何不借閱放在售樓處之公契看,公契全用英文法律用詞寫上條款,一般大學生也未必看得明白,若然那些不懂英文或不熟法律之人士去買樓,發展商便不作任何口頭解釋嗎?簡略地在地圖或模型上明示,再口頭上向準買家解釋屋苑內「公眾地方」之位置及面積,以及管理費內去支付「公眾地方」之百分比,讓準買家預先知道其責任,真是那麼困難嗎?發展商稱公契很厚,不能全部放在售樓書上,既然有這藉口,應該要口頭告知準買家一些買了樓後對其他地方之管理責任,而不是等米已成炊,讓業主們習慣了負責管理「公眾地方」之經費有4-5年,再開放「公眾地方」給大眾,用地契及公契條款迫市民幫政府管理

「公眾地方」,今日你接受了天橋,後日你接受了花園,有屋苑之9800平方米花園原來也是「公眾地方」,這些私人屋苑內之「公眾地方」可以越來越大,他日所有政府管理之公園/郊野公園/行山徑/自然保護區/雀鳥保護區等等也不知不覺地納入了私人屋苑「公眾地方」之地契,要市民攤分龐大之管理/維修/保險/醫療(自然受保動物)等費用時,你們會欣然接受嗎?今天你們選擇不反抗,他日可以嗎?今天你們選擇支持政府要私人樓宇還你們「公眾地方」,他日你們有機會買一些屋苑,買了樓後再通知你們屋苑包括一大片「公眾地方」,要你們負責出錢出力,用政府名義請任何人士到你們屋苑散步,令屋苑保安崩潰,你們又可以再向政府反對什麼嗎?今日保持沈默等同向政府默認及接受政府之「不平等條約」。

有一次聽到報導,有官員稱時代廣場「無蓋地下」出租了舖位屬違規,因為地契指那裡是「公眾地方」,那裡也立刻停止了出租「無蓋地下」作舖位用,但有些得時進呎之人士提議時代廣場將租金退回給市民或政府,因為他們以為所有政府宣稱為「公眾地方」也是政府用公帑管理的,但政府為何不要求時代廣場將租金退回,因為政府從來沒有對那些私人管理之「公眾地方」付過任何金錢或責任.有人士提議政府收回那些「公眾地方」自行管理時,有官員稱這樣會涉及龐大之公帑,所以不會收回,當然啦!政府一向沒有對那些不平等條約之「公眾地方」出錢出力,只出口命令發展商若要發展地皮要預留地方給公眾,但政府不會出錢管理那些「公眾地方」,發展商唯有兼負管理公司,靜悄悄地在收到的管理費內支付用在那些「公眾地方」之費用,大家不要忘記發展商跟政府在售出每個單位時已有收入,政府在每單租約簽訂後也有收入,連自己也不願付之費用卻要人家來付,要市民攤分了費用當然數字上覺得不是什麼,但這批市民像被迫做善事或交多一次稅,其他市民卻可以掛公眾之名免費用私人屋苑之「公眾地方」,那批私人物業之業主為何不屬於公眾之內?差別何在?

因藍天海岸平台一樓天橋開放後,保安系統嚴重受影響,管理處只提議加管理費去請保安員,問業主們喜歡請幾多人及幾多更,聽說管理處之酬勞是所有管理費收入之百分之十,管理處當然希望管理費加完又加,但這提議完全顯示管理公司之漠不關心,以及

發展商之設計失敗, 試問一個管理員守在升降機大堂又可以同時查問到幾多進入每座之人士? 當初有住戶提議將天橋分成兩邊, 住戶照常在兩端讓閱咁機閱讀住戶証, 保安員便可以留意沒有拍咁之人士, 又或留意在天橋中間跳過鐵欄之人士, 怎知有人向政府投訴, 最終沒有擺放鐵欄, 可能隔鄰住戶誤會了是藍天海岸住戶封鎖了天橋, 因此有人士拿著地契條款向政府施壓開放天橋, 作出投訴; 但希望他們要明白開放天橋帶給藍天之保安問題, 許多住戶不是緊張讓不讓公眾行天橋, 而是擔心開放後保安之漏洞, 一般不是坐輪椅之公眾, 從東薈城經藍天海岸往映灣園, 或另一方向由映灣園經藍天海岸往東薈城也好, 都必須要乘電梯到地下一層, 只要是行到去目的地又何必執著一定要行天橋呢?! 地下更闊過一樓天橋, 藍天海岸地下每座也有保安員, 亦是有蓋的, 若政府一定要藍天海岸開放公眾地方, 可以特許發展商作更改而不收取更改地契費用, 將地下及一樓交換, 讓公眾行地下, 再要發展商在東薈城入藍天海岸天橋口加設升降機, 讓傷殘人士乘升降機往地下一層去到映灣園, 試問有幾多傷殘人士選擇行經藍天海岸天橋而不乘搭映灣園專巴呢? 不過, 政府之公眾地方始終要政府管理, 若政府不管理, 政府也應交其管理費給管理公司代辦, 正如我們自己交管理費一樣.

從來希望東涌站附近居民住得開心安心, 香港有許多人投資物業收租或好價放售, 當然有些人蝕讓也未定, 有些卻將舊樓換新樓避開大廈維修或設備殘破現象, 他日自己有能力或中六合彩可以買多一間來換樓或收租, 有可能買映灣園或海堤灣畔, 到時兩邊會所也可以用, 所以讓公眾經過藍天屋苑不是問題, 只是想開放之餘去保住以往藍天海岸保安之嚴密, 相信大家同住一區, 也不希望見到隔鄰屋苑被爆竊的. 若將來選擇在東涌以外置業, 也不希望被政府跟發展商在地契上之「不平等條約」附加什麼不平等之責任, 今日大家認為每個月多付一些管理費去攤分「公眾地方」之管理費是可以接受, 他日其他屋苑之「公眾地方」面積越來越大, 每個月要多付過百或以上費用去管理「公眾地方」, 或者要你們夾錢維修裝修「公眾地方」時, 到時市民才表示反對是否太遲呢?!

Why has our government transferred the responsibility of managing public area in private housing estates to the owners of those private housing estates?

What will you advise your children in the future if they would like to purchase flats in Hong Kong? The bigger the public area within the private housing estate is, the larger the management fee each owner has to pay. The larger the number of outsiders who visit our housing estate, the higher the insurance cost to cover the risks of the third parties. The faster the deterioration rate, the larger the maintenance/repair costs. Our developer, which is also our Management Office (MTR Property Management), transfers all the costs of maintaining the public area within our estate to all the Coastal Skyline (藍天海岸) owners. Owners of private housing estate did not sign land grants with the government. It is our developer who signed the land grants with our government. Some owners signed the temporary Sales & Purchase agreement with our developer on July 2007 but it was until mid-February 2008 that I received the DMC and sub-DMC from the lawyer assigned by the developer. Our developer paid the lawyer fee as a free gift on purchasing a flat, i.e lawyer fee was included except some documents fee and stamp duty, etc. We are not talking about an object being attached to us on purchasing a flat, e.g. our developer gave us a rack for drying clothes. If we do not like the gift or object, we can give it to other people. We are now talking about our responsibility being attached to us on buying a flat in a private housing estate. If we do not like the responsibility to take care of the public area within the private housing estate, we CANNOT transfer it to someone else like what our government or developer is doing on us. It is our developer who promised our government to take care of the public area within the private housing estate. Why were we NOT informed of our

responsibility to take care of the public area within our private housing estate before we signed the S&P? We did NOT even know that our housing estate contains public area because our developer did NOT let the public to use those area until all flats were sold. We did not know the area and location of the public area within our estate before our temporary Sales & Purchase Agreement were signed in the Sales Office. We therefore did not think of borrowing the land grants (which may be a few inches thick all written in English legal wordings) from the sales office to study if we have to pay for any expenses besides our own flats and area that can only be accessed by CS owners. All the public area within our estate were locked for public access for almost 4-5 years. No words on the "public area" are being mentioned on the tiny models being placed in the sales office as well as the sales booklet. Our developer did NOT remind each potential buyer that s/he has the responsibility to pay for the cleaning, maintenance and security fee of the "public area" within the housing estate. Our developer also did not remind all property agents to tell each potential buyer that s/he has the responsibility to take care of the public area on behalf of the government. It is not something about responsibility but a long-term cost is also involved as long as one keeps the flat with the "unfair policy". This is indeed very unfair to a consumer. We bought an object but we are told that we have to take care of another item which does not belong to us for the rest of our life until we sold the object out. Each owner has the right to know the details of the management fee being paid. The sales booklet did not mention that part of the management fee would be used to clean and maintain the "public area" within the private housing estate. The fact that our developer (MTR) is also acting as our management office really brings conflicts. Is it fair for the owners to pay for the expenses on the public area within the private housing estate even if our developer did mention about the responsibility of the owners to manage those public area? We are all tax payers. If the government claims that the area is "public" and it must be opened to the "general public", we are also parts of the "general public". Should we enjoy those "public area" within private housing estates free of charge like all other tax payers?

The podium 1/F bridge of Coastal Skyline was suddenly opened by our management office without any advance notice about 1-2 months ago. It was closed for the last 4-5 years from public access. All potential buyers walked past the bridge in June-August 2007 when the property agent took me to see the "real" sample flats (現樓示範單位) of La Rossa (CS phase 3) through the security booth with a security guard in charge at the entrance of the bridge. All the Coastal Skyline owners and residents had their personal Octopus private cards (個人八達通咭) being scanned by card reader in order to access the bridge before whereas all outsiders must register at G/F in order to get permission from our guards before they could use the lift to visit their friends. But our MO suddenly removed the security booth one day (around March 2008) and turned the bridge to a public one which is opened to the "general public". I also found that CS owners have to pay for the maintenance, cleaning and security fee of those "public area". Our Management Office did NOT give any explanation to CS owners as well as the public media even when the "general public" (including some district officers) is blaming many private housing estates to return them THEIR public area. Who is paying for ALL the costs of those "public area"? Why do a certain group of HK people have to pay for the costs of some "public area" and invite ANYONE to make a visit? Is that a kind of "second tax payment" for those private HOUSING owners? Now that the podium 1/F bridge is opened to the public suddenly without any advance notice 2 months ago, this change does affect the security of our housing estate seriously. Why does our government not take care of ALL the costs of those public area? A meeting had finally been arranged on May 3rd 2008 15-17 at our club house under the pressures and requests of many owners to our MO. We are now waiting for the reply of our developer who promised to give us reply in 2 weeks. We had also made complaints to the Home Affairs Department passed the case to the Lands Department who replied that nothing can be done if terms are written in black and white on the land grants.

Can our government just pass all the maintenance and security work to the developer who transferred the maintenance costs to individual owners of the private housing estate? Unlike Time Squares and other private COMMERCIAL buildings, a private HOUSING estate owner does not normally generate income from the unit (except it is rented out) and it is not necessary to attract lots of outsiders/visitors to come to our estates for leisure. We want a quiet, peaceful and beautiful home. If I were well-informed about (1) the location and area of the public area in CS, (2) the percentage of management fee being spent on managing the "public area" in CS, (3) the "public area" in CS can be accessed by the "general public" free of charge but CS owners are excluded from the above "general public", and, (4) my responsibility to take care of public area within my housing estate before I signed the temporary S&P agreement, I would rather save my money and buy a flat without any public area in my estate that requires me to take care of all the costs of public area within my housing estate to

buy a flat near a public park (e.g. the Victoria park being maintained by the government) .

We understand that not only the owners of Coastal Skyline have encountered this unfair policy but also the owners of Metro Harbour (港灣豪庭) at Tai Kwok Tsui and other private housing estates. Our government or developer should take care of all the maintenance and insurance costs of the public area within the private housing estate because we did NOT sign the land grants with the government. The general public blamed the private housing estates for keeping the public area themselves but they do NOT understand that those "public area" are actually managed (or maintained and paid) by the owners of the private housing estates. The "general public", who is asking for the "public area" back, misunderstand that those area are managed by the "money of tax payers". They feel cheated and make complaints to the government. But the owners of the private housing estate also feel cheated as they do not know they have to pay for the expenses on the "public area" and let other tax payers to enjoy the area.

Can the Development Bureau give us a solution to this "Unfair Policy"? We are always ready to take the officers of the Development Bureau or interested parties for a trip in our housing estate so that you will understand our situation and listen to us about the history of our podium 1/F bridge and public garden.

Regards,
Owners of Coastal Skyline, Tung Chung.
May 2008.
