

**For Discussion  
on 9 February 2010**

## **LegCo Panel on Food Safety and Environmental Hygiene**

### **Columbarium Development**

#### **Purpose**

This paper briefs Members on the latest progress in the development of columbarium facilities in Hong Kong.

#### **Background**

2. With a growing and aging population in Hong Kong, the number of deaths and the corresponding number of cremations have been rising gradually year on year. There is also increasing public demand for columbarium facilities. Based on past data, the annual average numbers of deaths and cremations in the next decade (i.e. from 2010 to 2019) are estimated to be about 47 700 and 43 900 respectively.

3. Currently, there are eight public columbaria managed by the Food and Environmental Hygiene Department (FEHD) providing about 167 900 public niches, all of which have been allotted. To enhance provision of columbarium facilities, the FEHD has put up for allotment a total of 21 875 public niches in Kwai Chung and Diamond Hill in 2009. These niches can accommodate 47 082 cinerary urns. In addition, some 300 re-used public niches are available each year for allotment to applicants on the waiting list. In July 2009, funding approval was obtained from the Finance Committee of the Legislative Council for construction of a new public columbarium within the Wo Hop Shek Cemetery. The project will provide some 41 000 new niches, which can accommodate some 80 000 cinerary urns, for use in 2012.

4. Apart from public columbaria, a total of about 208 700 niches are provided and managed by the non-governmental Board of Management of the Chinese Permanent Cemeteries (BMCPC), all of

which have been allotted besides a few to be re-used. BMCPC anticipated that about 41 300 newly-built niches will be provided in the coming two years. Other cemeteries managed by the Catholic, Protestant, Buddhist and other religious bodies provided about 119 300 niches in total, of which some 35 400 are not yet allotted. It is projected that about 8 000 newly-built niches will be available in the coming two years. Niches are also provided on premises managed by private entities, the statistics of which are not maintained by the Government.

## **Development of Columbaria Facilities**

5. Hong Kong is a small territory with a huge population, and the majority of those in the community resist the development of new public columbaria in their own districts. These have impeded many relevant projects. Whenever the Government conducts local consultation on proposals to develop columbaria, the local communities and District Councils concerned always raise objection. Over the past few years, a number of columbarium projects involving over 240 000 niches have been shelved as a result. The Government will formulate suitable measures with a view to meeting general public demands, as well as explore new ways for the disposal of cremains with various sectors of the community, and hope to listen to the views of the relevant panel of the Legislative Council in this regard.

### Public columbarium

6. The Government will adopt all feasible measures to increase the supply of public columbarium niches. Further study will be carried out on the provision of additional niches in existing cemeteries. However, in order to address the needs of residents in various districts, different districts or areas should also undertake the responsibility to develop columbarium facilities. The Government will actively identify suitable locations for the development of these facilities in different areas in Hong Kong (including urban area), such as by construction of or conversion into multi-storey columbarium blocks. These buildings only occupy a small land area, and will also relieve people from traveling to remote places for paying tribute to their ancestors. There have been successful experiences of overseas countries (such as Japan) in using high-rise buildings as columbarium blocks (relevant photos are at **Annex**). Besides, circumstances permitting, we will augment through flexible design the supply of niches in the columbarium facilities to be built by increasing the number of storeys of columbarium blocks as well as the

number of tiers of niches. We will actively seek to improve the outlook and layout of the proposed columbaria by the provision of landscaping facilities in order to ease the concern and anxiety of the residents. We will also further our efforts in soliciting support from the District Councils and local communities through continuous communication.

7. Since depending on their types, the existing public niches can accommodate two to four cinerary urns for holding the ashes of deceased persons with kinship, we estimate that over 170 000 urns can still be accommodated to cope with part of the demand in the next decade. We will advise the public to make optimum use of existing public niches.

### Private Columbarium

8. The operation of all trades in Hong Kong must be in compliance with statutory requirements. Although the provision of private columbaria for storage of cremains do not give rise to public health and environmental hygiene concerns, they still need to comply with the relevant requirements on planning, construction design and building standards, as well as conditions of the land leases. The relevant Government departments will handle the problems, enquiries and complaints relating to private columbaria in accordance with legislations and administrative measures under their purview.

9. On the planning aspect, under the existing *Town Planning Ordinance*, as with all other developments, any "columbarium" must conform to the requirements of the land use zoning as specified in the statutory Outline Zoning Plan (OZP) for the site under concern. According to the Notes of OZPs, if a site is zoned for "Other Specified Uses" annotated "Cemetery" or "Crematorium, Columbarium, Funeral Services Centre and Open Space", "columbarium" use is usually permitted as of right and planning permission from the Town Planning Board (TPB) is not required. On some OZPs, "columbarium" is included as a Column 2 use under the Notes for "Government, Institution or Community" and/or "Green Belt" zones. If these sites are to be developed for "columbarium" use, an application must be submitted for planning permission from the TPB. For development of "columbarium" facilities on sites other than those covered above, an application to rezone the site must be submitted to the TPB. Where an application is made to the TPB for planning permission or change of land use in connection with the provision of a private columbarium, the TPB, in processing the application, will normally take into account all relevant planning considerations, including land use compatibility, traffic and

environmental impacts, as well as views from relevant government departments. It will also conduct public consultation on the case in accordance with the statutory procedures laid down in the *Town Planning Ordinance*. Depending on the circumstances of each case, the TPB may impose certain planning conditions relating to the traffic arrangement or landscaping when granting the planning permission. Under the *Town Planning Ordinance*, the Planning Authority may only take enforcement and regulatory actions in respect of land use in areas covered by the Development Permission Area Plans (i.e. rural areas in the New Territories). There are views from the public that the enforcement and regulatory actions should be extended to areas not covered by the Development Permission Area Plans (i.e. urban area and new towns). Given the large number of existing high-density development and mixed use buildings in these areas, there are technical difficulties to develop a comprehensive record of existing land use and use of individual floor in these areas for enforcement and regulatory purposes. It is also not the most cost-effective way of utilising the resources to regulate columbaria business.

10. Land leases are made between the Government and the landowners who, as a party to the lease, are required to ensure that the use of their land is in compliance with all the requirements in the land leases. The formulation of a land lease is targeted at the land use and not for the purpose of imposing regulation on any individual trades. Whether the development and operation of a private columbarium are in breach of a land lease depends on the conditions of individual leases (drawn up at different times), and cannot be generalised. Upon receipt of a complaint about a breach of land use requirements stated in land leases, the Lands Department (LandsD) will deploy its staff to carry out inspection on the site concerned. Legal advice will be sought on the lease conditions which may be involved in the actual circumstances, and follow-up action taken as appropriate. Where landowners apply for regularising a breach of land lease requirements, or intend to apply for modification of lease conditions for the provision of columbarium facilities, the LandsD will consider and deal with the case. It will normally advise applicants to apply for and obtain the planning permission first, and will consider the views of the relevant departments in the process. If the application is approved, the LandsD will include the appropriate conditions for lease modification, and this may entail the payment of a land premium.

11. On building safety, the construction of the building concerned must comply with the safety standards required of buildings for use as

columbaria. If there are unauthorised building works, or new unauthorised building works, in the premises where the columbarium is located which pose a hazard or obvious danger to life or properties, the Buildings Department (BD) will, in accordance with the current enforcement policy, take enforcement actions under the *Buildings Ordinance*. If there is a material change in use which affects the safety of the building structure or the occupants, the BD may also carry out enforcement actions under the *Buildings Ordinance*.

12. Before the purchase of private niches, it is advisable for the public to ask the sellers of niches to provide them with full and complete information to ensure that the niches are in compliance with the relevant legislation and land lease requirements. They should also seek professional advice where necessary. Those who have already bought niches should contact the providers of niches direct to find out how they would, in the event that there is a breach of the relevant legislation or land lease requirements, deal with the rights and relevant issues of hirers or buyers of the niches, such as whether they would make a refund of the fees paid to the hirers or buyers of niches. Generally speaking, members of the public can pursue their claims under the Law of Contract if they consider that providers of private niches are in breach of the sale and purchase contracts.

13. The Government is calling on the trade to increase their transparency, in order to enhance the public's confidence. We will also look into ways to achieve this end by, for instance, setting up a voluntary registration system to make the information more transparent with a view to enhancing consumer protection. We will report to the relevant panel of the Legislative Council upon completion of the study.

#### *Alternative ways of disposal of cremains*

14. Apart from building new public columbaria, the FEHD has been actively promoting disposal of cremains in Gardens of Remembrance (GoRs) or in designated Hong Kong waters. These two ways of cremain disposal are free. The FEHD has processed 1 200 applications for scattering of cremains in GoRs since 2007, compared with an average of less than 30 cases annually in years before 2007. The FEHD is carrying out beautifying works in the GoRs under its management and plans to provide additional GoRs in existing public cemeteries including Diamond Hill Cemetery to offer more choices to the public. Besides, the FEHD introduced streamlined procedures for application for scattering of cremains at designated local waters in July 2007. Since then, the

Department has processed over 650 applications, representing a rather significant increase compared with a total of 44 such applications before the new application system was put in place. To encourage the public to adopt burials in an environmentally friendly manner and to promote the scattering of cremains at sea, the FEHD has, starting from 23 January 2010, provided weekly free ferry service to facilitate the public in the scattering of cremated human ashes at sea. Additional ferry service will be provided if it is well-received by the public. Besides, starting from the second quarter of 2010, we plan to introduce free internet-based ancestor worship services on a trial basis, with a view to facilitating the public to upload words, photos, or even videos onto the websites for paying tribute to their ancestors, whose bodies / cremains are deposited in the public cemeteries and public columbaria, or scattered in GoRs or at designated local waters.

15. In the long run, we may need to give careful consideration to whether it is the best practice to provide niches for permanent use to the public, and whether new initiatives should be introduced to cope with the public demand. The Government will adopt an open attitude and listen to the views of the community.

### **Way Forward**

16. The Food and Health Bureau has set up a Working Group in coordination with the Development Bureau, the Home Affairs Bureau and various departments to study measures for increasing the supply of columbarium facilities and enhancing protection of the rights of consumers of private columbaria. We will listen to Members' views and complete the study / release its findings as soon as possible.

### **Advice Sought**

17. Members are invited to comment on the contents of this paper.

**Food and Health Bureau  
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Multi-Storey Columbarium Block in Japan  
Photo

