

Tel No : 2869 9332
Fax No : 2521 7518

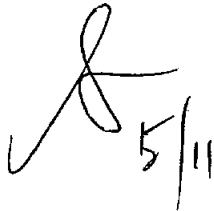
Memo

To : CCS(2)2
via PCS(C)

From : CS(C)4

Ref : CP/C 1830/2010

Date : 5 November 2010



Request for review on the policy for hillside burials

A member of the public has written to the Complaints Division complaining about the unauthorized occupation of Government land by ancestral graves in Yuen Long. He is dissatisfied that the Government has not taken any enforcement action against those hillside graves occupying Government land, thus resulting in the loss of public revenue. In this regard, the member of the public requests removal of such old graves and review on the Government policy for hillside burials.

The reply of the Administration

2. Upon the instruction of Duty Roster Member, Hon Jasper TSANG Yok-sing, the Complaints Division has written to the Administration for its explanation on the rationale behind the policy on hillside burials. The Development Bureau (DevB) has stated that the Government has been implementing the existing policy on hillside burials of indigenous villagers since 1983. Under the policy, an indigenous villager or his wife may be buried within Permitted Burial Grounds (PBGs) outside gazetted cemeteries. The applicant shall apply to the District Offices for a Burial Certificate by presenting the necessary documents and making a statutory declaration regarding the indigenous status of the deceased. The burials also adhere to a number of conditions, such as the strict observance of land use conditions and public health conditions as stipulated by other relevant Government departments.

3. Concerning the old graves under complaint, DevB has advised that they have been in existence since 1964 or even earlier. When the policy on hillside burials was implemented in 1983 by the former Secretary for District Administration, the Government decided that all graves and urns that had existed before 1983 should be

tolerated, irrespective of the status of the land, until the land thereon is required for public development or when graves are found to be unacceptable as presenting health and other hazards. For those unauthorized graves which sit on Government land, the Food and Environmental Hygiene Department (FEHD) can take enforcement action under the Public Health and Municipal Services Ordinance (Cap. 132) provided that consent of the Secretary for Home Affairs shall be obtained before removal. Since the ancestral graves under complaint belong to the category of graves that are tolerated under the existing policy, DevB has stated that they will continue to be tolerated until the land thereon is required for public development or when the graves present health, fire or erosion hazards.

4. In response to the member of the public's request for review on the tolerance policy for such old graves, DevB has advised that the purpose of the aforementioned policy is to regularize the unsatisfactory situation where the incidence of illegal hillside burials was very rampant in the late 1970's (when there were about 100 000 graves on hillsides and the number increased at a rate of about 4 000 per year). While the 1983 policy contributed to containing the problem of illegal burials in the New Territories, DevB has explained that due to the large number of pre-existing hillside burials and the fact that such burials in the New Territories have been tolerated since 1898, the then Government considered it not feasible to remove pre-existing graves outside PBGs and gazetted cemeteries. In coming to the policy decision to tolerate the graves that existed before 1983, irrespective of whether they sat on Government land or not, the feasibility of any removal action and the history of the New Territories were amongst the key considerations, not public revenue. As such, DevB is of the view that the existing policy on hillside graves has been working well and the Administration sees no case to change it.

The instruction of Hon Member

5. Considering that the issue under complaint is related to indigenous burial rights in the New Territories of Hong Kong and the tolerance policy for hillside burials long maintained by the Government, Hon Jasper TSANG has instructed that the member of the public's request for review on the policy for hillside burials be referred to the Panel on Home Affairs for consideration to see if such policy should continue to be implemented.



(Ms Mina CHAN)
Council Secretary (Complaints)4