

Applications for Specified Instruments in respect of the Private Columbarium named “Tung Kwok Shim Lam”

The Private Columbaria Licensing Board (PCLB) decided on 14 August 2020 to refuse the applications for Exemption and Temporary Suspension of Liability (TSOL) for the private columbarium named “Tung Kwok Shim Lam” (hereinafter referred to as “this set of applications”). Mr. Leung Yiu Hon (hereinafter referred to as "Mr. Leung"), who claimed to be the authorised person of the applicant, subsequently appealed to the Private Columbaria Appeal Board (PCAB) against the above decision of the PCLB (Appeal No.: 3 /2020) (hereinafter referred to as "the Appeal").

2. The PCAB has published the decision of the Appeal and set out the following orders made by the PCAB (paragraph 47 of the decision):

“(1) That the Appeal be allowed with the case be remitted and sent back to the Licensing Board to reconsider the Application on the question of *locus standi* of the Applicant in view of our (Private Columbaria Appeal Board’s) views thereon expressed above and that the Licensing Board shall reconsider the Application of the Appellant as a whole afresh on a *de novo* basis;

(2) The Decision be set aside and reversed accordingly.”

3. The PCLB has reconsidered this set of applications on the question of *locus standi* of the applicant and reconsidered this set of applications as a whole afresh on a *de novo* basis in accordance with the above orders made by the PCAB. The PCLB held an open meeting on 29 September 2022 to consider this set of applications, and invited Mr. Leung (who was stated as the authorized person of the applicant in the application form) to attend the open meeting for the purpose of allowing Mr. Leung to respond to questions raised by the PCLB and to the meeting documents previously sent to Mr. Leung.

4. After reconsidering all information and documents submitted by Mr. Leung to the PCLB (including those information and documents submitted to the PCAB with a copy to the PCLB), Mr. Leung's response during the open meeting and other relevant factors, the PCLB decided to refuse this set of applications.

Reasons for Refusal :

- (i) **Non-compliance with the land-related requirements:** This Exemption application does not comply with the land-related requirements under Section 20(1)(f) of the Private Columbaria Ordinance (PCO) as the applicant fails to submit documents to prove to the satisfaction of the PCLB that this Exemption application complies with the requirements under the aforesaid section of the PCO;

- (ii) **Non-compliance with the requirements related to the ownership and the right to use the columbarium premises and that the owner of the columbarium premises has given consent for the premises to be used as a columbarium:** This Exemption application does not comply with the requirements related to the ownership and the right to use the columbarium premises under Sections 20(1)(h) of the PCO, and these Exemption and TSOL applications do not comply with the requirement that the owner of the columbarium premises has, or all the joint owners or co-owners of the columbarium premises have, given authorization or consent for the premises to be used as a columbarium under Section 23(2) of the PCO as the applicant fails to submit documents to prove to the satisfaction of the PCLB that these Exemption and TSOL applications comply with the requirements under the aforesaid sections of the PCO;

- (iii) **Non-compliance with the fire safety requirements:** These Exemption and TSOL applications do not comply with the requirements under Sections 22 and 23(1) of the PCO as the applicant fails to submit

documents proving compliance with the fire safety requirements in accordance with the requirements specified in the “Application Guide for Private Columbaria Licence and other Specified Instruments” (Application Guide) ;

- (iv) **Non-compliance with the building-related requirements:** This Exemption application does not comply with the building-related requirements under Section 20(1)(g) of the PCO as the applicant fails to submit the required documents to prove to the satisfaction of the PCLB that this Exemption application complies with the requirements under the aforesaid section of the PCO;

- (v) **Non-compliance with the requirements under Sections 2(1) and 2(2) of Schedule 3 to the PCO:** The PCLB has reconsidered this set of applications on the question of *locus standi* of the applicant. According to the information in the application form, this set of applications was submitted by the applicant in the name of “Tung Kwok Shim Lam”; Mr. Leung Yiu-hon, who claimed to be the authorized person of the applicant “Tung Kwok Shim Lam”, signed the application form for this set of applications; and “Tung Kwok Shim Lam” was described as a body corporate in the form of a "trust organization" in the application form. Mr. Leung did not submit sufficient evidence to prove the existence of a trust or trust organization in the name of “Tung Kwok Shim Lam” and to prove that it has decided to submit specified instrument applications to the PCLB. Mr. Leung once claimed that “Tung Kwok Shim Lam” and “Tung Kwok Shim Lam Company Limited” was the same organization. However, Mr. Leung did not submit any sufficient evidence to prove that “Tung Kwok Shim Lam Company” decided to submit specified instrument applications to the PCLB and to authorize Mr. Leung to submit specified instrument applications to the PCLB on behalf of the company. These Exemption and TSOL applications do not comply with the requirements under Section 2(1) and 2(2) of Schedule 3 to the PCO as the applicant fails to submit sufficient evidence to prove that this set

of applications complies with the requirements under the aforesaid sections of the PCO;

(vi) **Non-compliance with the requirements on environmental protection:**

This Exemption application does not comply with the requirements under Sections 22 and 23(1) of the PCO as the applicant fails to submit documents proving compliance with the requirements on environmental protection in accordance with the requirements specified by the PCLB;

(vii) **Non-compliance with the requirements related to the proposed plans:**

These Exemption and TSOL applications do not comply with the requirements under Section 23(1) and 25 of the PCO as the applicant fails to submit the proposed plans for Exemption and TSOL applications in accordance with the formats specified in Annex 14 of the Application Guide; and

(viii) **Non-compliance with the requirement related to the Statement of Particulars of Applicant and Related Persons:**

These Exemption and TSOL applications do not comply with the requirement under Section 23(1) of the PCO as the applicant fails to submit the Statement of Particulars of Applicant and Related Persons in accordance with the requirements and format specified in the Application Guide and the application form.