19/83

No. 32 of 1982

IN THE PRIVY COUNCIL

ON APPEAL

FROM THE COURT OF APPEAL OF HONG KONG

BETWEEN:

ATTORNEY GENERAL — Appellant (Defendant)

- and -

CHENG YICK CHI
ABERDEEN DEVELOPMENT CORP. LTD.
LU SIU WAN
FIVE UP INVESTMENT CO. LTD.
MAK SIU CHUN — Respondents (Plaintiffs)

RECORD OF PROCEEDINGS

Messrs. Macfarlanes,
Dowgate Hill House,
London EC4R 2SY.

Solicitors for the Appellant

Messrs. Coward Chance,
Royex House,
Aldermanbury Square,
London EC2V 7LD.

Solicitors for the Respondents

No. 32 of 1982

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INDEX OF REFERENCE

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MAK SIU CHUN — Respondents (Plaintiffs)

RECORD OF PROCEEDINGS

In the High Court

No. 1
Originating Summons - 17th February 1981

No. 1

Originating Summons - 17th February 1981

1981 No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

AND

IN THE MATTER OF Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot 617 with the adjoining buildings thereon known respectively as No. 5, 6, 7, 8, and 9 On Hing Terrace Hong Kong.

In the High Court

No. 1
Originating Summons - 17th February 1981 (cont'd)

BETWEEN	CHENG YICK CHI	1st Plaintiff
	ABERDEEN DEVELOPMENT CORPORATION LTD.	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT CO.LTD.	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff
	and	
	THE HON. THE ATTORNEY GENERAL	Defendant

To: the Defendant The Hon. The Attorney General of 2nd floor, Main Wing, Hong Kong Government Office, Hong Kong.

LET the Defendant within 8 days after service of this Summons on him inclusive of the day of service, cause an appearance to be entered to this Summons which is issued on the application of the Plaintiffs Cheng Yick Chi of 12th floor, Wing Lung Bank Building, Des Voeux Road Central, Hong Kong; Aberdeen Development Corporation Ltd. of 9th floor, Duke Wellington House, 14-24 Wellington Street, Hong Kong; Lu Siu Wan of 591 Shanghai Street, Ground floor, Kowloon; Five Up Investment Co. Ltd. of 9th floor, Duke Wellington House, 14-24 Wellington Street, Hong Kong and Mak Siu Chun of 6th floor, 13 Leighton Road, Hong Kong.

By this Summons, the Plaintiffs seek the following relief:

that it may be declared that

(a) the portion of the above mentioned properties, not presently built upon, fronting the existing buildings (hereinafter referred to as "the unbuilt portion") is an area dedicated to the Public for the purposes of passage within the meaning of Regulation 23(2)(b) of the Building (Planning) Regulations made under Cap. 123,

(b) the unbuilt portion should be included in the site area for the purposes of calculating the site coverage and plot ratio of a single building to be erected on the above mentioned properties, under the Building (Planning) Regulations,

(c) the above mentioned properties forming one site for a single building is a Class A site within the meaning of Regulation 2 of the Building (Planning) Regulations,

(d) the street shadow calculations for a single building to be erected on the above mentioned properties should be made under Building (Planning) Regulation 16, as for a Class A site and with regard to only one street, namely Zetland Street, on which the above mentioned properties taken as a single site front.

Oswald Cheung & Audrey Eu
Counsels for the Plaintiffs.

If the Defendant does not enter an appearance such judgment may be given or order made against or in relation to him as the Court may think just and expedient.

Dated this 17th day of Feb., 1981

N.J. BARNETT
Acting Registrar.

Note:- This Summons may not be served more than 12 calendar months after the above date unless renewed by order of the Court.

This Summons was taken out by Messrs. Philip K.H. Wong and Co. of 14th floor, Grand Building, Nos. 15-18 Connaught Road Central, Victoria, Hong Kong, Solicitors for the Plaintiffs.

DIRECTIONS FOR ENTERING APPEARANCE

The Defendants may enter an appearance in person or by a Solicitor either (1) by handing in the appropriate forms, duly completed, at the Registry of the Supreme Court in Victoria, Hong Kong, or (2) by sending them to the Registry by post.

In the High Court

Plaintiff's Evidence
No. 2
Affidavit of Leung Hung Chee with exhibits
16th May 1981

No. 2

Affidavit of Leung Hung Chee with exhibits - 16th May, 1981

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

and

IN THE MATTER OF Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot No. 617 with the adjoining buildings thereon known respectively as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong.

BETWEEN	CHENG YICK CHI	1st Plaintiff
	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff
	and	
	THE HON. THE ATTORNEY GENERAL	Defendant

AFFIDAVIT

I, LEUNG HUNG CHEE, architect of Tak On Mansion, 1st Floor, 32-34 Morrison Hill Road, Hong Kong do make oath and say as follows:-

1. I am an authorised person in the employment of Messrs. H.C. Leung and Associates appointed by the Plaintiffs as their architects. I am duly authorised to make this affidavit on behalf of all the Plaintiffs.

2. The Plaintiffs herein are the registered owners of Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot No. 617 (hereinafter referred to as the said properties) with the buildings thereon known as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong. The said buildings adjoin each other and form part of a terrace.

3. There is now produced and shown to me and marked "LHC-1" a true copy of a plan made by the Crown Lands and Survey Office showing the relevant locality and the buildings Nos. 5-9 On Hing Terrace shaded red.

4. There is now further produced and shown to me and marked "LHC-2" a plan on a larger scale showing the properties, therein shaded red, and the immediate locality. The plan shows inter alia the buildings On Hing Houses being Nos. 1-4 On Hing Terrace, and Ivy House, being Nos. 18-20 Wyndham Street.

5. In front of these two buildings and the applicants' buildings is a portion unbuilt upon, forming a raised terrace, with access on foot thereto by steps at both ends from Zetland Street and Wyndham Street. There is a balustrade along its north eastern edge, below which is what at one time was a lane, known as Mason's Lane, which, however, is now impassable, as can be seen from the photographs being exhibits "LHC-3(a) to "LHC-3(j)" referred to in the following paragraph.

6. There are now produced and shown to me and marked "LHC-3(a) to "LHC-3(j)" the following 10 photographs:-

(a) a view of the unbuilt on portion, looking towards Wyndham Street;

(b) a view of the unbuilt on portion, looking towards Wyndham Street;

(c) a view of the unbuilt on portion, looking towards Zetland Street;

(d) a view of the steps leading to On Hing Terrace from Zetland Street;

(e) a view of the steps leading to On Hing Terrace from Wyndham Street;

(f) a view of the Wyndham Street end of "Mason's Lane";

(g) a general view of "Mason's Lane," looking towards Zetland Street;

(h) a view of "Mason's Lane" looking towards Zetland Street;

(i) a view of "Mason's Lane" looking towards Wyndham Street; and

(j) a view of Zetland Street looking towards Queen's Road Central. The steps leading to On Hing Terrace are near the lamp post.

7. The Plaintiffs intend to redevelop the said properties by demolishing the existing buildings and erecting a single-multi-storeyed commercial building. I am the authorised person in charge of the redevelopment.

8, The said properties form part of Inland Lot No, 617. In 1918 the whole of Inland Lot No. 617 was mortgaged to the Banque de L'Indochine et de Suez to fund the construction of various buildings thereon. After the buildings on On Hing Terrace had been completed, the Banque de L'Indochine et de Suez sub-divided Inland Lot No. 617, and reassigned the sub-divisions. Rights of way over On Hing Terrace were reserved in the reassignments in favour of the owner, owners or occupiers for the time being of other sub-divisions of Inland Lot No. 617, his or their servants, workmen and others. The wording of the rights of way varies slightly in the reassignments, but none reserved a right of way for vehicular traffic. There are now shown to me marked "LHC-4(a) to LHC-4(k)" copies of the memorials filed in the Land Register in respect of the assignments and reassignments and the land search cards of the properties.

9. I have been informed by the Plaintiffs and the occupiers of the said properties and verily believe that for so long as they can recall, the public has been free to use the Terrace for passage on foot between Wyndham Street and Zetland Street.

10. Again, for so long as they can recall, the unbuilt on portion of On Hing Terrace has never been maintained by public funds. They have always been treated as private property and there is now produced and shown to me and marked "LHC-5" a true copy of a letter dated 21st February 1968 from the Civil Engineering Office Headquarters where the unbuilt portion outside Nos. 1-4 On Hing Terrace was described as private land. It can be seen from the photographs "LHC-3(a)" "LHC-3(b)"

"LHC-3(c)" and "LHC-3(e)" that La Taverna, an Italian restaurant, occupies part of the unbuilt on portion of the terrace outside Nos. 1-4 On Hing Terrace. It has carried on its restaurant business there for upwards of 12 years (to the best of my information and believe) without interference or contest from the police.

11. I am advised and verily believe that in any case the said unbuilt portion of the Plaintiffs' properties is an area dedicated to the public for the purposes of passage within the meaning of Regulation 23(2)(b) of the Building (Planning) Regulations made under the Buildings Ordinance Cap. 123.

12. Mason's Lane and the Scavenger Lane at the rear of the said properties are less than 4.5 metres in width.

13. In the circumstances, the said properties form one site for a single building and is a Class A site within the meaning of Regulation 2 of the Building (Planning) Regulations. Further, the street shadow area calculations for such single building to be erected on the said properties should be made under Regulation 16 of the Building (Planning) Regulations as for a Class A site and with reference to Zetland Street only. The said unbuilt portion should also be included as part of the site for the calculation of site coverage and plot ratio.

14. There are now produced and shown to me and marked "LHC-6" true copies of the plans of the proposed commercial building. These plans were prepared by me and were submitted to the Building Authority for approval on the 3rd or 4th July 1979. By a letter dated 22nd August 1979 the Building Authority disapproved the said plans on the grounds inter alia that the said site was a Class B site, that my calculations for site coverage and plot ratio included the areas the unbuilt on portion and the scavenging lane and that the street shadow area calculations were inaccurate. A true copy of the said letter is now produced and shown to me marked "LHC-7". No issue is now taken with the Building Authority that the scavenging lane should not have been included.

15. These plans were drawn on the basis that the said properties form a Class A site and the street shadow area calculations are on the basis that the site fronts or abuts one street only, namely Zetland Street. The site coverage and plot ratio do not exceed the permitted site coverage and plot

ratio for a commercial building on a Class A site. Details of these calculations are set out in drawing G-10 of the said exhibit "LHC-6". The Right of Way over the said unbuilt portion is expressly preserved in the proposed redevelopment.

16. In the circumstances, I humbly pray that this Honourable Court may grant the declaration soughts.

SWORN at Woo, Kuan. Lee & Co.)
16/7 Grand Bldg. Hong Kong) sgd. H.C. Leung
this 16th day of May 1981)

Before me,

(sgd.) Herman H.M. Hun
Solicitor, Hong Kong.

(This Affidavit is filed on behalf of the Plaintiffs)

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

and

IN THE MATTER OF Section D, Section K, the remaining Portion, Section B and Section A of Inland Lot 617 with the adjoining buildings thereon known respectively as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong.

BETWEEN	CHENG YICK CHI	1st Plaintiff
	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff

and

THE HON. THE ATTORNEY GENERAL — Defendant

THE EXHIBIT REFERRED TO IN THE AFFIDAVIT OF LEUNG HUNG CHEE FILED HEREIN ON THE 18TH DAY OF MAY 1981.

EXHIBIT MARKED	NATURE	DATED	PAGES
"LHC-1"	Copy plan made by the Crown Lands and Survey Office		1

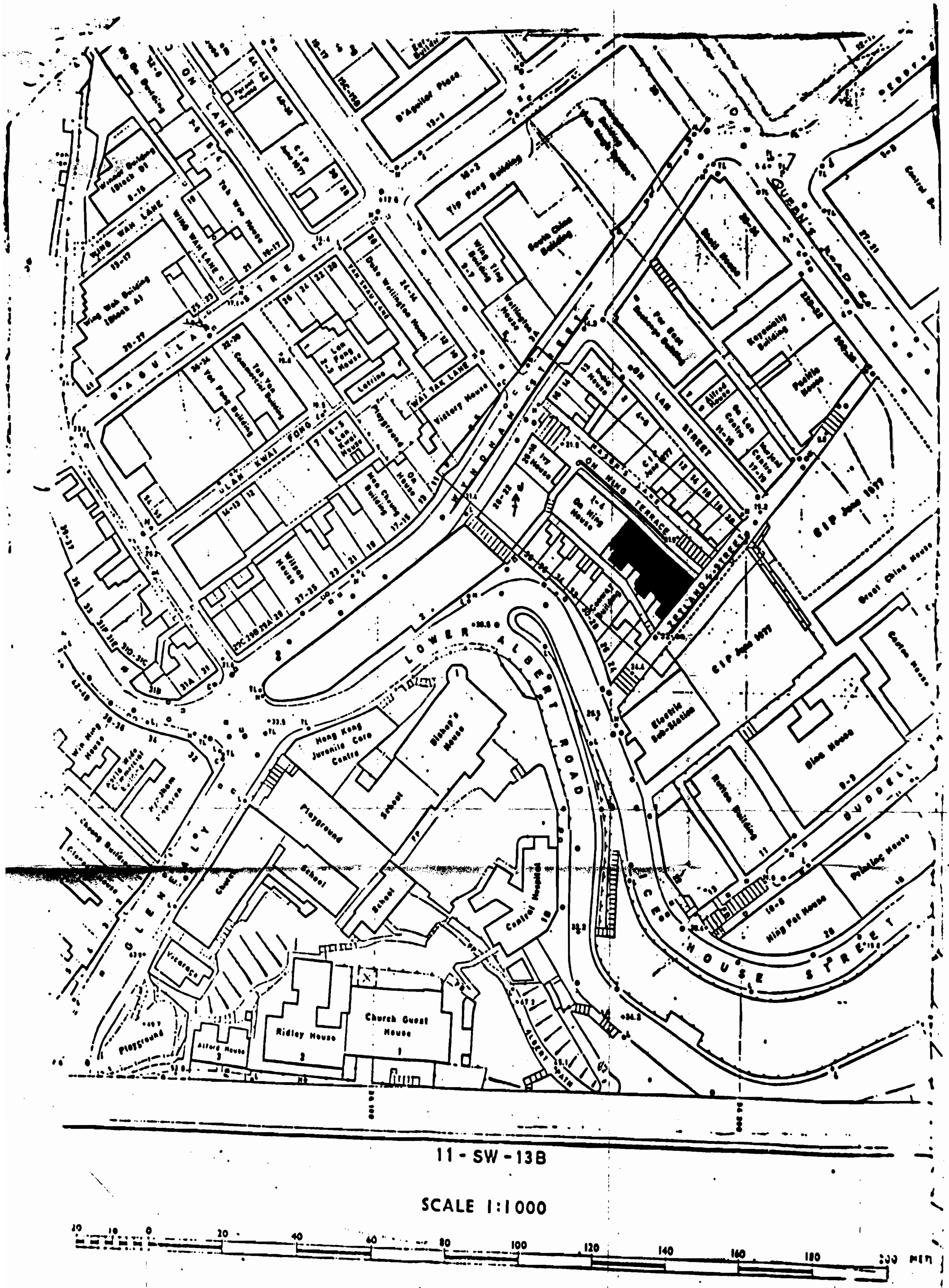
PHILIP K. H. WONG & CO.,

SOLICITORS & NOTARIES,

10 HONG KONG.

This is the exhibit marked " LHC - 1
referred to in the affidavit ~~affirmation~~ of
Leung Hung Chee sworn/~~affirmed~~ before me
this 16th day of May , 1981.

Sd Herman H M Hui
Solicitor, HK
~~Commissioner for Oaths.~~



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and

THE HON. THE ATTORNEY GENERAL	Defendant

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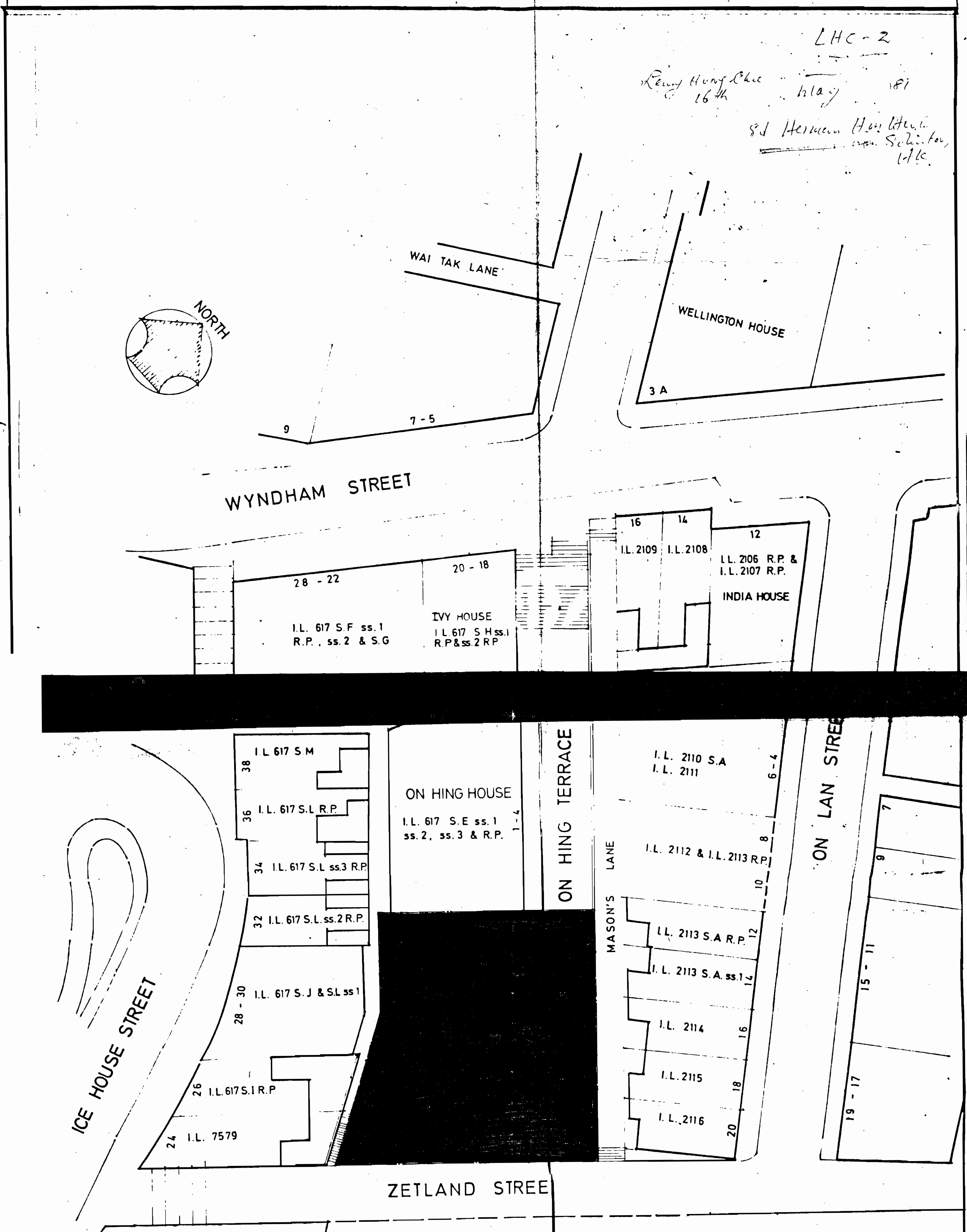
EXHIBIT MARKED	NATURE	DATED	PAGES
"LHC-2"	Copy block plan		1

PHILIP K. H. WONG & CO.,
SOLICITORS & NOTARIES,
HONG KONG.



BLOCK PLAN SCALE : 1 : 250

1981, No. 233

IN THE HIGH COURT OF JUSTICE

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*	EXHIBIT MARKED	NATURE	PAGES
	"LHC-3(a)"	Photograph : a view of the unbuilt on portion, looking towards Wyndham Street	1
	"LHC-3(b)"	Photograph : a view of the unbuilt on portion, looking towards Wyndham Street	1
	"LHC-3(c)"	Photograph : a view of the unbuilt on portion, looking towards Zetland Street	1
	"LHC-3(d)"	Photograph : a view of the steps leading to On Hing Terrace from Zetland Street	1
	"LHC-3(e)"	Photograph : a view of the steps leading to On Hing Terrace from Wyndham Street	1
	"LHC-3(f)"	Photograph : a view of the Wyndham Street end of "Mason's Lane"	1

* Separately reproduced

EXHIBIT MARKED	NATURE	PAGES
"LHC-3(g)"	Photograph : a general view of Mason's Lane" looking towards Zetland Street	1

PHILIP K.H. WONG & CO.,
SOLICITORS & NOTARIES
HONG KONG.

1981, No. 233

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and

THE HON. THE ATTORNEY GENERAL — Defendant

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* EXHIBIT

EXHIBIT MARKED	NATURE	PAGES
"LHC-3(h)"	Photograph : a view of "Mason's Lane" looking towards Zetland Street	1
"LHC-3(i)"	Photograph : a view of "Mason's Lane" looking towards Wyndham Street	1
"LHC-3(j)"	Photograph : a view of Zetland Street looking towards Queen's Road Central. The steps leading to On Hing Terrace are near the lamp post	1

PHILIP K.H. WONG & CO.
SOLICITORS & NOTARIES - HONG KONG.

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and

THE HON. THE ATTORNEY GENERAL	Defendant

THE EXHIBIT REFERRED TO IN THE AFFIDAVIT OF LEUNG HUNG CHEE FILED HEREIN ON THE 18TH DAY OF MAY 1981.

EXHIBIT MARKED	NATURE	DATED	PAGES
"LHC-4(a)"	Memorial No.66390	23.9.18	3
"LHC-4(b)"	Memorial No.66899	20.11.18	3
"LHC-4(c)"	Memorial No.65483	4.6.18	3
"LHC-4(d)"	Memorial No.65460	29.5.18	3
"LHC-4(e)"	Memorial No.66391	23.9.18	2
"LHC-4(f)"	Memorial No.50786	1.10.12	2
"LHC-4(g)"	Memorial No.65484	4.6.18	2
"LHC-4(h)"	Memorial No.65461	29.5.18	2
"LHC-4(i)"	Land search card of 5 On Hing Terrace		2
"LHC-4(j)"	Land search card of 6 On Hing Terrace		4
"LHC-4(k)"	Land search card of 7 On Hing Terrace.		14

PHILIP K.H. WONG & CO.,
SOLICITORS & NOTARIES,

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

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and

THE HON. THE ATTORNEY GENERAL	Defendant

THE EXHIBIT REFERRED TO IN THE AFFIDAVIT OF LEUNG HUNG CHEE FILED HEREIN ON THE DAY OF 1981.

EXHIBIT MARKED	NATURE	DATED	PAGES
"LHC-4(l)"	Land search card of 8 On Hing Terrace		4
"LHC-4(m)"	Land search card of 9 On Hing Terrace		2
			46

PHILIP K.H. WONG & CO.,

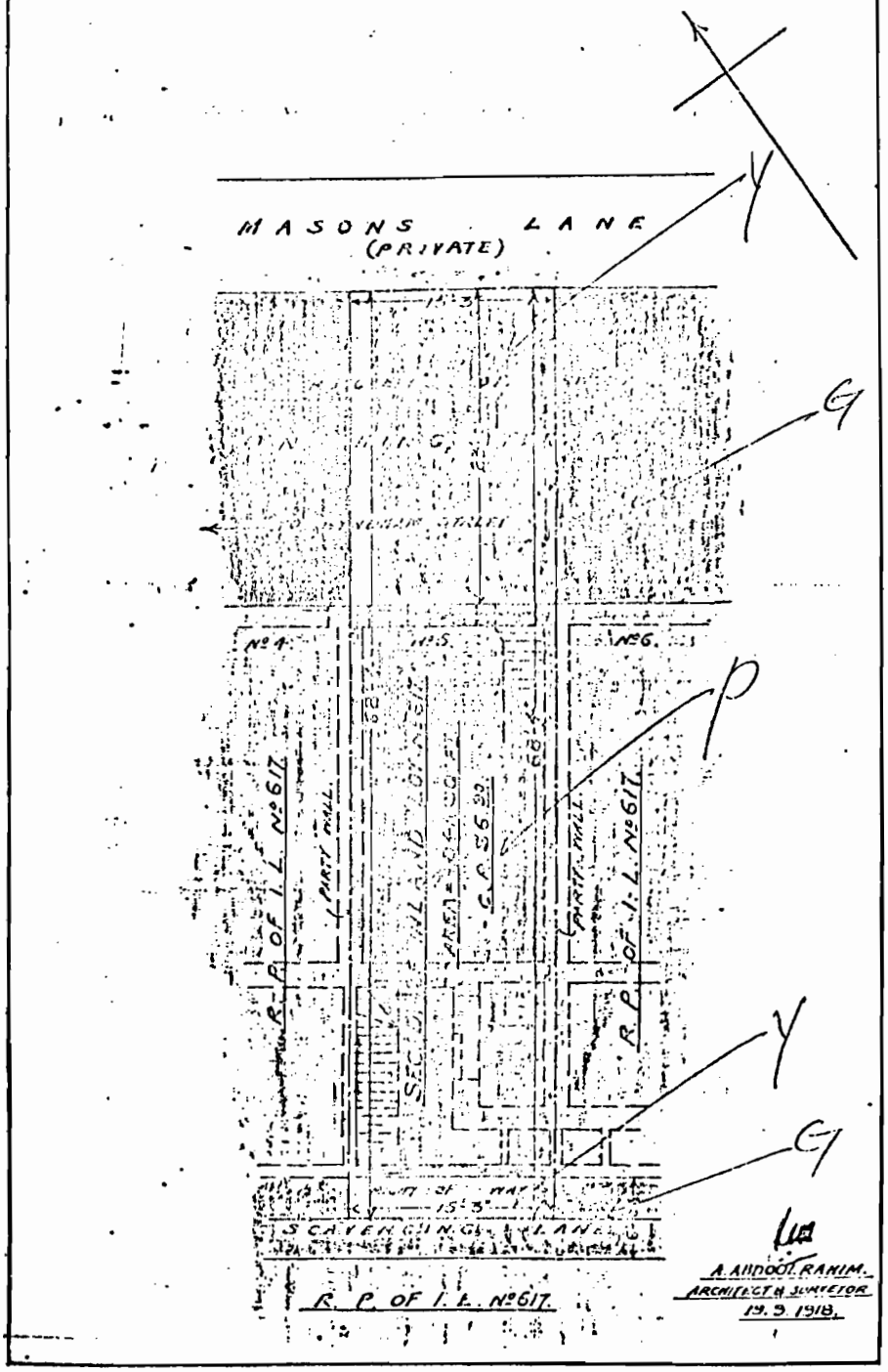
referred to in the ~~Affidavit~~ Affidavit
of [illegible]
Dated the 16th day of May 1921
before me,
(Sd.) Herman H. M. Hin
Solicitor,
Hong Kong.

31

No. 66390

SEC. D. OF INLAND LOT No. 617.

SCALE 10 FEET = 1 INCH.



No. 66390

A Memorial required to be registered in the Land Office according to the provisions of Ordinance No. 1 of 1844.

Nature and object of the Instrument to which the Memorial relates.

INDENTURE OF REASSIGNMENT made betwen the undermentioned Reassignees of the one part and the the undermentioned Reassignees of the other part WHEREBY after reciting Indenture of Mortgage dated the 22nd day of January 1918 Memorial No. 64664 of Inland Lot No. 617 to secure the sum of $80,000.00 and to secure further advances up to the sum of $100,000.00 with interest thereon as therein mentioned subject to an Indenture of Mortgage dated the 1st day of October 1912 Memorial No. 50787 and to the principal sum of $100,000.00 and interest thereon thereby secured AND after reciting the said Indenture of Mortgage dated the 1st day of October 1912 had since been reassigned to the Reassignors freed and absolutely discharged of and from the said Indenture of Mortgage and of and from all principal interest and other moneys thereby secured AND after reciting that the sum of $141,000.00 only was then due and owing to the Reassignors on the security of the said Indenture of Mortgage dated the 22nd day of January 1918 but all interest thereon had been paid up to the date of those presents AND after reciting that the Reassignees had requested the Reassignors to release to them All that portion thereinafter more particularly described of the said premises registered as aforesaid as Inland Lot No. 617 from the said Mortgage which the Reassignors had agreed to do upon payment to them of the sum of $13,000.00 Hongkong Currency IT WAS WITNESSED that in consideration of $13,000.00 Hongkong Currency then paid by the Reassignees to the Reassignors (the receipt whereof the Reassignors thereby acknowledged) The Reassignors thereby assigned and released unto the Reassignees ALL THAT piece or parcel of ground being portion of the said piece or parcel of ground registered as aforesaid as Inland Lot No. 617 more particularly delineated and described on the plan thereto and hereto annexed and thereon coloured pink and yellow and was intended to be registered in the Land Office as SECTION D OF INLAND LOT NO. 617 Together with the messuage or tenement erections and buildings thereon known as No. 5 On Hing Terrace And together also with a full free and uninterrupted right of way and passage in through over along and

upon all those portions coloured Green on the said plan and all other rights easements and appurtenances thereto TO HOLD the said premises unto the Reassignees as tenants in common for all the residue then to come and unexpired of the term of 999 years from the 25th day of June 1865 created therein by an Indenture of Crown Lease of the said Lot dated the 17th day of June 1865 Subject to a full free and uninterrupted right of way and passage for the Owner or occupiers for the time being of the other portions of the said Lot his or their servants workmen and others in through over along and upon all those portions coloured Yellow on the said plan freed and absolutely discharged and from the said Indenture of Mortgage COVENANT by Reassignors that not encumbered.

Date of Instrument The Twenty-third day of September 1918.

Names and additions of Parties

The Banque de l'Indo Chine a Banking Corporation created and existing under and by virtue of the Laws of the Republic of France with its principal office in the City of Paris with limited liability and having power to enter into these presents and to sue in its corporate name and having a Branch office at Victoria Hongkong of the one part "the Reassignors".

Leung Chi San (Chinese) Kwan Yik Chi (Chinese) and Leung Pat U (Chinese) all of Victoria aforesaid Traders of the other part "the Reassignees".

Names and additions of Witnesses

D.J. Lewis, Solicitor, Hong Kong, Witness to the Execution of the Reassignments by their Attorney and illegible

Premises affected by the Instrument

SECTION D OF INLAND LOT NO. 617

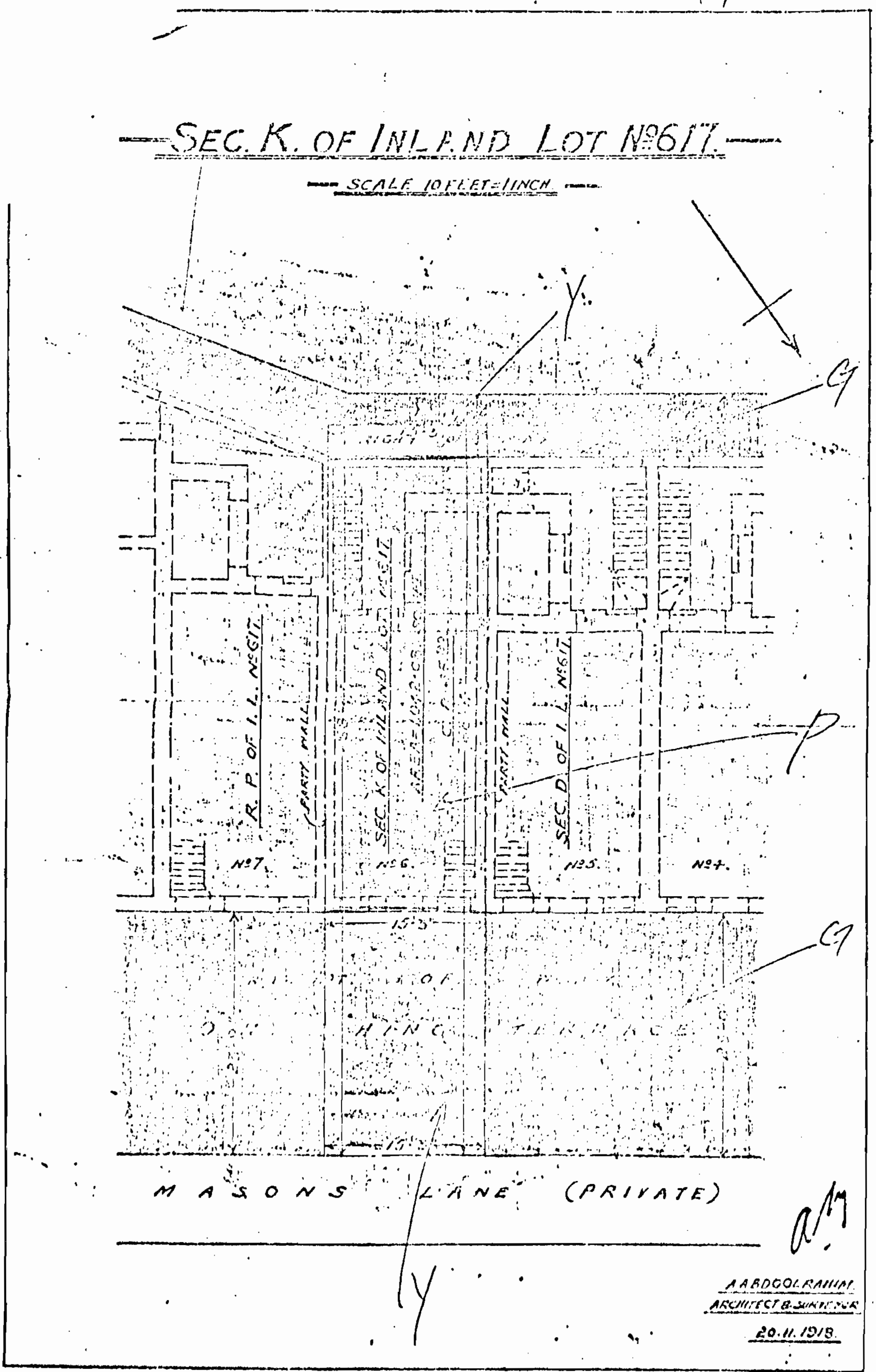
Signature of Parties signing Memorial. ?

On this 26th day of September, 1918 Illegible of Victoria in the Colony of Hongkong Illegible Solicitors appeared before me and made oath that (according to Section VII of Ordinance No. 1 of 1844) the foregoing Memorial contains a just and true account of the several particulars therein set forth.

Received at the Land Office and Registered as Memorial No. 66390 on Thursday the twenty-sixth day of September 1918 at three thirty o'clock in the afternoon. Sgd. ? Johnson - Land Officer.

Dated the 16th day of May 1951
Before me,
(sd) Hassan H. M. Hassan
Hong Kong.

No. 66899



No. 66897

A Memorial required to be registered in the Land Office according to the provisions of Ordinance No. 1 of 1844.

Nature and object of the Instrument to which the Memorial relates

ASSIGNMENT made between the undermentioned Vendors of the one part and the undermentioned Purchaser of the other part WHEREBY in consideration of $17,000 paid by the Purchaser The Vendors assigned unto the Purchaser ALL THAT piece of ground situate at Victoria Hongkong more particularly delineated and described on the Plan thereunto and hereto annexed and thereon coloured Pink and Yellow and intended to be registered as SECTION K OF INLAND LOT NO. 617 Together with the messuage erections and buildings thereon known as No. 6 On Hing Terrace And Together with a right of way over the piece of ground coloured Green on the said Plan and all other rights privileges easements and appurtenances thereto belonging or appertaining AND all the estate right title interest property claim and demand whatsoever of the Vendors therein and thereto except and reserved as in the Crown Lease thereof was excepted and reserved TO HOLD the premises thereby assigned unto the Purchaser for the residue then to come of the term of 999 years created therein by a Crown Lease dated the 17th July 1865 SUBJECT to the payment of the annual sum of $6.90 being the proportion of the rent and the performance of the several covenants by the Lessee and conditions in and by the said Crown Lease reserved and contained so far as they related to the thereby assigned premises SUBJECT to right of way over the piece of ground coloured Yellow on the said Plan.

Date of Instrument The 20th day of November 1918.

Name and additions of Parties

Leung Chi San (Chinese), Kwan Yik Chi (Chinese) and Leung Pat U (Chinese) all of Victoria Hongkong Traders of the one part Vendors.
Fung Tat Hang (Chinese) of Victoria aforesaid Gentleman of the other part Purchaser.

Names and additions of Witnesses.

M.W. LO, Solicitor, Hongkong. Witness to the execution by the said parties.

Premises affected by the Instrument.

Section K of Inland Lot No. 617

Signature of Parties signing Memorial.

In Chinese

On this 26th day of November 1918 Illegible of Victoria in the Colony of Hongkong Clerk to Messrs. Illegible Solicitors, appeared before me and made oath that (according to Section VII of Ordinance No. 1 of 1844) the foregoing Memorial contains a just and true account of the several particulars therein set forth. 10

Signed ? Birley Johnson

Victoria

J.P.

Received at the Land Office and Registered as Memorial No. 66899 on Tuesday the twenty-sixth day of November 1918, at two o'clock in the afternoon.

Signed Illegible

Land Officer.

Dated the 16th day of May (illegible)

Before me,

(illegible)

Solicitor,

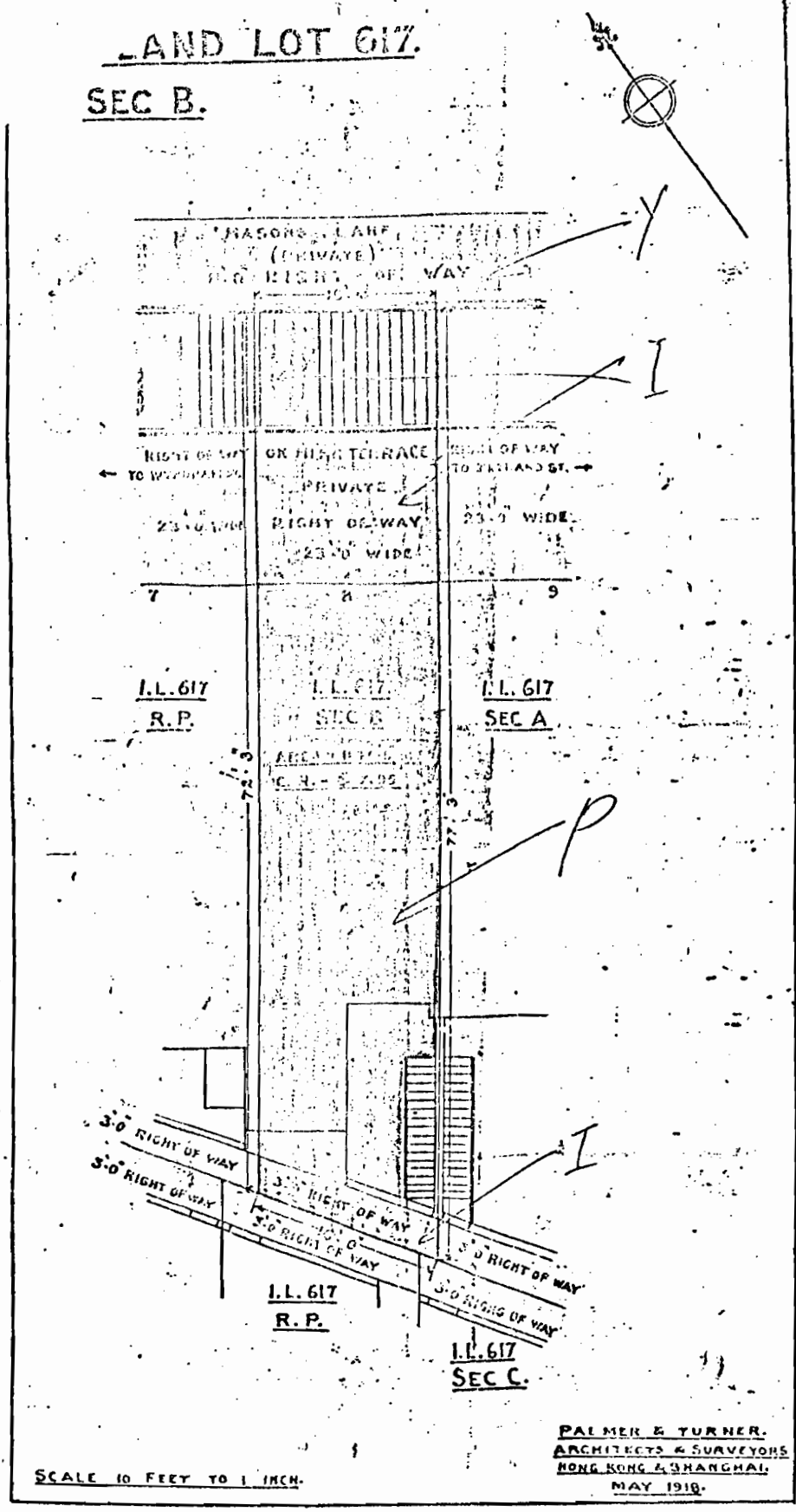
Hong Kong.

No. 483 Lai Yau

37

..AND LOT 617.

SEC B.



SCALE 10 FEET TO 1 INCH.

PALMER & TURNER.
ARCHITECTS & SURVEYORS
HONG KONG & SHANGHAI.
MAY 1918.

No. 65483

A Memorial required to be registered in the Land Office according to the provisions of Ordinance No. 1 of 1844.

Nature and object of the Instrument to which the Memorial relates

Indenture of Reassignment made between the undermentioned Reassignors of the one part and the undermentioned Reassignees of the other part Whereby after reciting Mortgage of Inland Lot No. 617 dated the 22nd January 1918 registered by Memorial No. 64554 for securing the sum of $80,000 and further advances up to the sum of $100,000 with interest thereon as therein mentioned Subject to a Mortgage dated the 1st October 1912 Memorial No. 50787 for securing $100,000 and interest thereon thereby secured And after reciting that the said Mortgage dated the 1st October 1912 had since been reassigned to the Reassignors freed and absolutely discharged from the said Mortgage and from all principal interest and other moneys thereby secured And after reciting that the sum of $180,000 was then due to the Reassignors on the security of the said Mortgage dated the 22nd January 1918 but all interest thereon had been paid up to the date of those presents And after reciting that the Reassignees had requested the Reassignors to release to them All that portion thereafter more particularly described of the said Inland Lot No. 617 from the said Mortgage which they the Reassignors had agreed to do upon payment to them of the sum of $13,000 Hongkong Currency It was witnessed that in consideration of the sum of $13,000 Hongkong Currency paid by the Reassignees to the Reassignors (the receipt whereof the Reassignors thereby acknowledged) the Reassignors thereby Assigned and relased unto the Reassignees All that piece or parcel of ground being portion of the piece or parcel of ground registered as Inland Lot No. 617 more particularly delineated on the plan thereto and hereto annexed and coloured Pink and Blue and intended to be registered as Section B of Inland Lot No. 617 Together with all messuages or tenements erections and buildings thereon And together also with a full free and uninterrupted right of way over all those portions coloured Yellow on the said plan and all other rights members easements and appurtenances thereto To Hold the same unto the Reassignees as tenants in common for the residue of the term of 999 years from the 25th June 1865 created by a Crown Lease

of the said lot dated the 17th July 1865 Subject to a full free and uninterrupted right of way a passage for the owner or occupiers for the time being of the other portions of the said Lot his or their servants workmen and others over all those portions coloured Blue on the said plan but free and absolutely discharged from the said Mortgage and from all principal interest and other moneys thereby secured Covenant by Reassignors that they had not encumbered.

Date of Instrument The Fourth day of June 1918.

Names and additions of Parties.

The Banque de l'Indo Chine a Banking Corporation created and existing under and by virtue of the Laws of the Republic of France with its principal office in the City of Paris with limited liability and having perpetual succession and having power to enter into these presents and to sue in its corporate name and having a branch office at Victoria Hongkong of the one part "Reassignors" Leung Chi San (Chinese) Kwan Yik Chi (Chinese) and Leung Pat U (Chinese) all of Victoria aforesaid Traders of the other part "Reassignees"

Names and additions of Witnesses.

To the execution by the Reassignors by their Attorney and Illegible Victoria, Hong Kong, Solicitor.

Premises affected by the Instrument.

Section B of Inland Lot No. 617.

Signature of Parties signing Memorial.

The Banque de l'Indo-Chine By their Attorney, Illegible.

On this 5th day of June 1918 Illegible Braz do Rozario of Victoria in the Colony of Hong Kong (Clerk to Johnson Illegible appeared before me and made oath that (according to Section VII of Ordinance No. 1 of 1844) the foregoing Memorial contains a just and true account of the several particulars therein set forth.

Sgd. ? Birley Johnson
Victoria,
J.P.

Received at the Land Office and Registered as Memorial No.65483 on Wednesday the Fifth day of June 1918, at Eleven o'clock in the forenoon.

Sgd. Illegible - Land Officer.

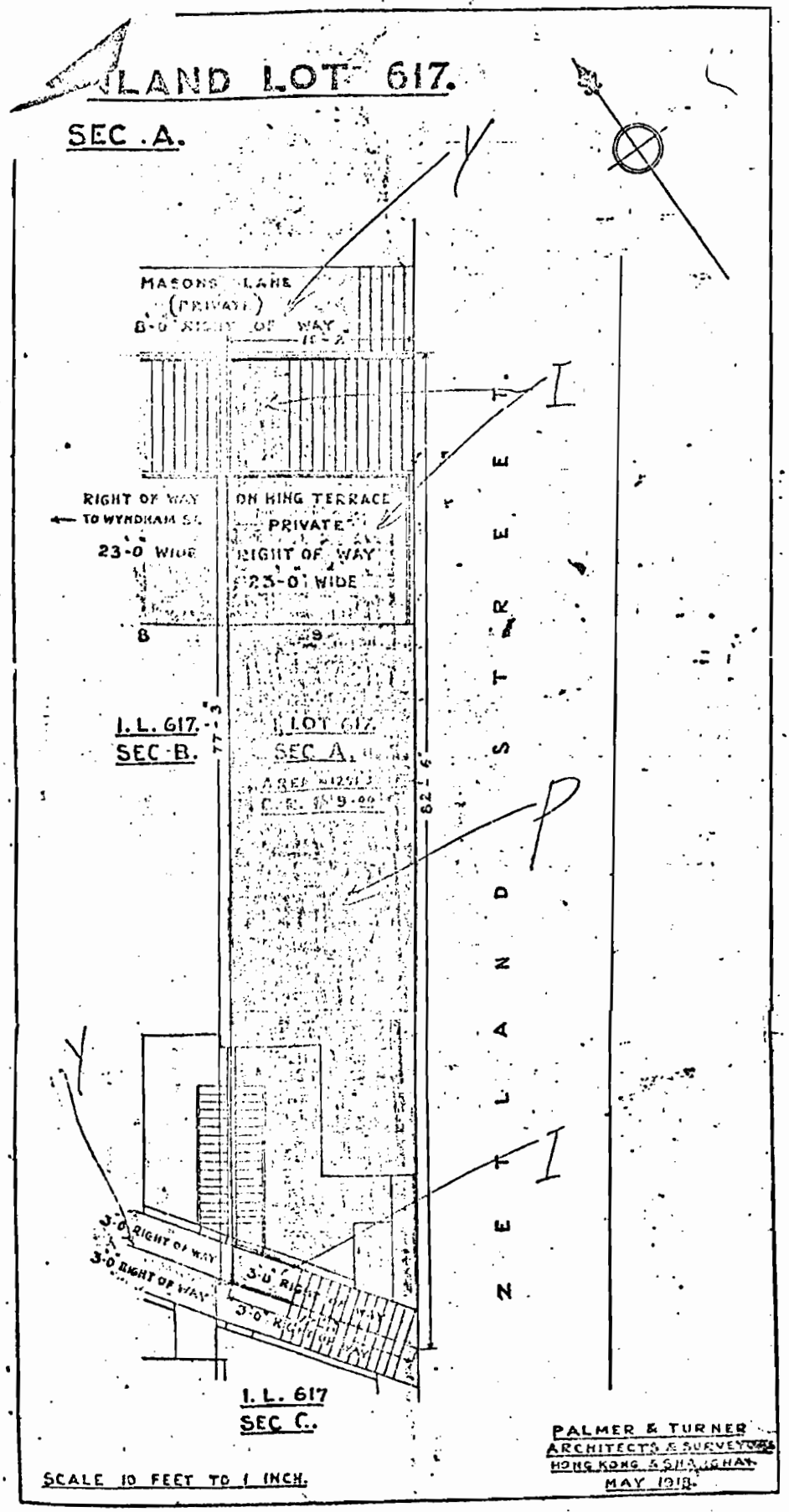
Dated this 16th day of May 1911

(sd) Herman & Hu
Solicitors,
Hong Kong.

NO. 65460 Hong Kong. 40

INLAND LOT 617.

SEC. A.



SCALE 10 FEET TO 1 INCH.

PALMER & TURNER
ARCHITECTS & SURVEYORS
HONG KONG & SHANGHAI
MAY 1918.

No. 65460

A Memorial required to be registered in the Land Office according to the provisions of Ordinance No. 1 of 1844.

Nature and object of the Instrument to which the Memorial relates

Indenture of Reassignment made between the undermentioned Reassignors of the one part and the undermentioned Reassignees of the other part Whereby after reciting Mortgage of Inland Lot No. 617 dated the 22nd January 1918 registered by Memorial No. 64554 for securing the sum of $80,000 and further advances up to the sum of $100,000 with interest thereon as therein mentioned Subject to a Mortgage dated the 1st October 1912 Memorial No. 50787 for securing $100,000 and interest thereon thereby secured And after reciting that the said Mortgage dated the 1st October 1912 had since been reassigned to the Reassignors freed and absolutely discharged from the said Mortgage and from all principal interest and other moneys thereby secured And after reciting that the sum of $180,000 was then due to the Reassignors on the security of the said Mortgage dated the 22nd January 1918 but all interest thereon had been paid up to the date of those presents And after reciting that the Reassignees had requested the Reassignors to release to them All that portion thereinafter more particularly described of the said Inland Lot No. 617 from the said Mortgage which they the Reassignors had agreed to do upon payment to them of the sum of $13,000 Hongkong Currency It was witnessed that in consideration of the sum of $13,000 Hongkong Currency paid by the Reassignees to the Reassignors (the receipt whereof the Reassignors thereby acknowledged) The Reassignors thereby assigned and released unto the Reassignees All that piece or parcel of ground being portion of the piece or parcel of ground registered as Inland Lot No. 617 more particularly delineated on the plan thereto and hereto annexed and coloured Pink and Blue and intended to be registered as Section A of Inland Lot No. 617 Together with all messuages or tenements erections and buildings thereon And together also with a full free and uninterrupted right of way over all those portions coloured Yellow on the said plan And all other rights members easements and appurtenances thereto To Hold the same unto the Reassignees as tenants in common for the residue of the term of 999 years from the 25th June 1865 created by a Crown Lease

of the said lot dated the 17th July 1865 Subject to a full free and uninterrupted right of way a passage for the owner or occupiers for the time being of the other portions of the said Lot his or their servants workmen and others over all those portions coloured Blue on the said plan but freed and absolutely discharged from the said Mortgage and from all principal interest and other moneys thereby secured Covenant by Reassignors that they had not encumbered

Date of Instrument The 29th day of May 1918.

Names and additions of Parties.

The Banque de L'Indo Chine a Banking Corporation created and existing under and by virtue of the Laws of the Republic of France with its principal office in the City of Paris with limited liability and having perpetual succession and having power to enter into these presents and to sue in its corporate name and having a branch office at Victoria Hongkong of the one part "Reassignors" Leung Chi San (Chinese) Kwan Yik Chi (Chinese) and Leung Pat U (Chinese) all of Victoria aforesaid Traders of the other part "Reassignees"

Names and additions of Witnesses

To the execution by the Reassignors by their Attorney Illegible
Victoria Hongkong Solicitor

Premises affected by the Instrument

Section A of Inland Lot No. 617.

Signature of Parties signing Memorial.

The Banque de l'Indo Chine, By their Attorney
Illegible

On this 1st day of June 1918 Silomario Braz di Rozario of Victoria in the Colony of Hong Kong (Clerk to Johnson Illegible appeared before me and made oath that (according to Section VII of Ordinance No. 1 of 1844) the foregoing Memorial contains a just and true account of the several particulars therein set forth.

Sgd. ? Birley Johnson
Victoria,
J.P.

Received at the Land Office and Registered as Memorial No. 65460 on Saturday the First day of June 1918, at Twelve o'clock in the afternoon.

Sgd. Illegible - Land Officer.

No. 66391

A Memorial required to be registered in the Land Office according to the provisions of Ordinance No. 1 of 1844.

Nature and object of the Instrument to which the Memorial relates

INDENTURE OF ASSIGNMENT made between the undermentioned Vendors of the one part and the undermentioned Purchaser of the other part WHEREBY in pursuance of the agreement therein contained and in consideration of $17,000 to the Vendors then paid by the Purchaser The Vendors Did and Each of them Did thereby assign unto the Purchaser ALL THAT piece or parcel of ground situate at Victoria Hongkong and registered in the Land Office as SECTION D OF INLAND LOT NO. 617 more particularly delineated and described on the Plan annexed to an Indenture of Reassignment Memorial No. 66390 and thereon coloured Pink and Yellow TOGETHER with the messuage erections and buildings thereon known at the date thereof as No. 5 On Hing Terrace AND TOGETHER with a right of way over the piece of ground coloured Green on the said Plan AND all other rights privileges easements and appurtenances thereto belonging or appertaining AND all the estate right title interest property claim and demand whatsoever of the Vendors therein and thereto except and reserved as in the Crown Lease was excepted and reserved TO HOLD the said premises thereby assigned unto the Purchaser for the residue then to come of the term of 999 years created therein by a Crown Lease dated the 17th July 1865 SUBJECT to the payment of the annual sum of $6.90 being a proportion of the rent and the performance of the several covenants by the Lessee and conditions in and by the said Crown Lease reserved and contained so far as they related to the thereby assigned premises AND SUBJECT ALSO to a right of way for the owners and occupiers for the time being of the other portions of the said Lot and all persons authorised by them over the pieces of ground coloured Yellow on the said Plan.

Date of Instrument Dated the 23rd day of September 1918.

Names and additions of Parties

Leung Chi San (Chinese), Kwan Yik Chi (Chinese) and Leung Pat U (Chinese) all of Victoria, Hongkong, Traders "Vendors" of the one part and U Yik Man (Chinese) of Victoria aforesaid Merchant "Purchaser" of the other part

Names and additions of Witnesses.

M.W. Lo, Solicitor, Hongkong, Witness to the execution by the said parties

Premises affected by the Instrument

SECTION D OF INLAND LOT NO. 617

Signature of Parties signing Memorial

In Chinese

On this 26th day of September 1918 Illegible of Victoria in the Colony of Hongkong, Clerk to Illegible Solicitors appeared before me and made oath that (according to Section VII of Ordinance No. 1 of 1844) the foregoing Memorial contains a just and true account of the several particulars therein set forth

Sgd. ? Birley Johnson

Victoria,

J.P.

Received at the Land Office and Registered as Memorial No. 66391 on Thursday the twenty-sixth day of September 1918, at three thirty o'clock in the afternoon.

Sgd. ? Birley Johnson

Land Office.

No. 50786

A Memorial required to be registered in the Land Office according to the provisions of Ordinance No. 1 of 1844.

Nature and object of the Instrument to which the Memorial relates

INDENTURE OF ASSIGNMENT made between LEOPOLD DE ROTHSCHILD of New Court, Saint Swithins Lane in the City of London England Gentleman one of the surviving Executors of Arthur Abraham David Sassoon deceased (thereinafter and hereinafter called "the Vendor") of the one part and KWAN YIK CHI (Chinese) and LEUNG CHI SAN (Chinese) both of Victoria in the Colony of Hongkong Merchants (thereinafter and hereinafter called "the Purchasers") of the other part WHEREBY AFTER RECITING that the said Arthur Abraham David Sassoon

died on the 13th March 1912 possessed of inter alia the therein mentioned premises having duly made and executed his last Will and Testament dated the 23rd March 1892 AND AFTER RECITING that Probate of the said Will was on the 16th April 1912 granted to the Vendor as one of the surviving Executors named in the said Will by the Principal Probate Registry of His Majesty's High Court of Justice in England AND AFTER RECITING that Exemplification of the said Probate was on the 20th August 1912 sealed by the Supreme Court of Hongkong in its Probate Jurisdiction AND AFTER RECITING that the Vendor as such Executor as aforesaid had agreed with the Purchasers for the sale of the therein mentioned premises to them for the price of $142,000 in manner thereinafter appearing IT WAS WITNESSED that in pursuance of such agreement and in consideration of $142,000 to the Vendor then paid by the Purchasers (the receipt whereof the Vendor as such Executor as aforesaid thereby acknowledged) the Vendor as such Executor as aforesaid did thereby assign unto the Purchasers ALL THAT piece or parcel of ground registered in the Land Office as INLAND LOT NO. 617 Together with all messuages erections and buildings thereon And all rights members privileges easements and appurtenances thereto belonging or appertaining or therewith at any time used held occupied or enjoyed And all the estate right title interest property claim and demand of the Vendor as such Executor as aforesaid and of the estate of the said Arthur Abraham David Sassoon deceased in and to the thereby assigned premises TO HOLD the said thereby assigned premises unto the Purchasers as to two and a half undivided parts or shares thereof unto the said Kwan Yik Chi and as to the remaining one and a half undivided part or share thereof unto the said Leung Chi San as tenants in common for the residue then to come of the term of 999 years from the 25th June 1865 created therein by a Crown Lease dated the 17th July 1865 SUBJECT to the existing lettings and tenancies thereof and to the occupation by Messieurs David Sassoon and Company Limited of the godowns known as Nos. 4 and 6 Wyndham Street Victoria aforesaid for as long as the said David Sassoon and Company Limited should require the use of such godowns and should pay the monthly rent of $30 in respect thereof that such occupation should not be extended beyond the 31st day of December AND SUBJECT ALSO to the payment of the rent and the performance of the covenants and conditions in the said Crown Lease reserved and contained

Date of Instrument The Third day of October 1912.

Names and additions of Parties

LEOPOLD DE ROTHSCHILD of New Court, Saint Swithins Lane in the City of London England Gentleman one of the surviving Executors of Arthur Abraham David Sassoon deceased ("the Vendor") of the one part and KWAN YIK CHI and LEUNG CHI SAN both of Victoria in the Colony of Hongkong Merchants("the Purchasers") of the other part

Names and additions of Witnesses

To the execution by Leopold de Rothschild by his attorney illegible

Premises affected by the Instrument.

INLAND LOT NO. 617

Signature of Parties signing Memorial.

Sgd. Leopold de Rothschild (Chinese)

On this 3rd day of October 1912 ? Braz de Rozario of Victoria in the Colony of Hong Kong Clerk to Messrs. Johnson Illegible appeared before me and made oath that (according to Section VII of Ordinance No. 1 of 1844) the foregoing Memorial contains a just and true account of the several particulars therein set forth.

Sgd. Illegible
Victoria,
J.P.

Received at the Land Office and Registered as Memorial No. 50786 on Thursday the Third day of October 1912 at halfpast two o'clock in the afternoon.

Sgd. Illegible
Land Officer.

No. 65484

A Memorial required to be registered in the Land Office according to the provisions of Ordinance No. 1 of 1844.

Nature and object of the Instrument to which the Memorial relates

INDENTURE OF ASSIGNMENT made between the undermentioned Vendors of the one part and the undermentioned Purchaser of the other part WHEREBY after reciting Crown Lease dated the 17th day of

July 1865 of Inland Lot No. 617 for the term of 999 years from the 25th day of June 1865 AND AFTER RECITING that all that portion thereinafter more particularly described of the said premises comprised in and demised by the thereinbefore in part recited Indenture of Crown Lease was then vested in the Vendors for the residue of the said term of 999 years who had agreed with the Purchaser for the sale thereof to him for the sum of $21,000.00 Hongkong Currency IT WAS WITNESSED that in consideration of the sum of $21,000.00 paid by the Purchaser (the receipt whereof the Vendors did thereby acknowledge) The Vendors did thereby assign unto the Purchaser ALL THAT piece or parcel of ground registered in the Land Office as SECTION B OF INLAND LOT NO. 617 (which said piece or parcel of ground was more particularly delineated on the plan annexed to an Indenture of Reassignment dated the Fourth day of June 1918 registered at the Land Office by Memorial No. 65483 and thereon coloured Pink and Blue TOGETHER with the messuage or tenement erections and buildings thereon then known as No. 8 On Hing Terrace Victoria Hongkong And together also with a full free and uninterrupted right of way and passage in through over along and upon all those portions coloured Yellow on the said plan and all other rights members privileges easements and appurtenances thereto TO HOLD the same unto the Purchaser for the residue of the said term of 999 years granted by the said Crown Lease Subject to the payment of $7.95 being a proportion of the Crown Rent Subject to a full free and uninterrupted right of way and passage for the owner or occupiers for the time being of the other portions of the said Lot his or their servants workmen and others in through over along and upon all those portions coloured Blue on the said Plan Covenants by Purchaser to observe Covenants in Crown Lease and to indemnify Vendors therefrom and to pay the annual sum of $7.95 being the due proportion of the Crown rent COVENANTS for title by Vendors.

Date of Instrument The Fourth day of June 1918

Names and additions of Parties

Leung Chi San (Chinese) Kwan Yik Chi (Chinese) and Leung Pat U (Chinese) all of Victoria in the Colony of Hongkong Traders of the one part "the Vendors"

Lai Yau (Chinese) of Victoria aforesaid Trader of the other part "the Purchaser"

Names and additions of Witnesses

To the execution by Vendors and Illegible

Premises affected by the Instrument.

Section B of Inland Lot No. 617

Signature of Parties signing Memorial.

In Chinese

On this 5th day of June 1918 ? Braz de Rozario of Victoria in the Colony of Hongkong Clerk to Johnson Illegible appeared before me and made oath that (according to Section VII of Ordinance No. 1 of 1844) the foregoing Memorial contains a just and true account of the several particulars therein set forth.

Sgd. ? Birley Johnson
Victoria
J.P.

Received at the Land Office and Registered as Memorial No. 65484 on Wednesday the Fifth day of June 1918 at Eleven o'clock in the Before noon.

Sgd. Illegible
Land Officer.

No. 65481

A Memorial required to be registered in the Land Office according to the provisions of Ordinance No. 1 of 1844.

Nature and object of the Instrument to which the Memorial relates

Indenture of Assignment made between the undermentioned Vendors of the one part and the undermentioned Purchaser of the other part whereby after reciting Crown Lease dated the 17th day of July 1865 of Inland Lot No. 617 for the term of 999 years from the 25th day of June 1865 And after reciting that all that portion thereinafter more particularly described of the said premises comprised in and demised by the thereinbefore in part recited Indenture of Crown Lease was then vested in the Vendors for the residue of the said term of 999 years who had agreed with the Purchaser for the sale thereof to him for the sum of $23,000 Hongkong Currency It was witnessed that in consideration of the sum of $23,000 paid by the Purchaser (the receipt whereof the Vendors did

thereby acknowledge) The Vendors did thereby assign unto the Purchaser All that piece or parcel of ground registered in the Land Office as Section A of Inland Lot No. 617 (which said piece or parcel of ground was more particularly delineated on the plan annexed to an Indenture of Reassignment dated the 29th day of May 1918 registered at the Land Office by Memorial No. 65460 and thereon coloured Pink and Blue Together with the messuage or tenement erections and buildings thereon then known as No. 9 On Hing Terrace Victoria Hongkong and together also with a full free and uninterrupted right of way and passage in through over along and upon all those portions coloured Yellow on the said plan and all other rights members privileges easements and appurtenances thereto To Hold the same unto the Purchaser for the residue of the said term of 999 years granted by the said Crown Lease Subject to the payment of $9 being a proportion of the Crown Rent subject to a full free and uninterrupted right of way and passage for the owner or occupiers for the time being of the other portions of the said lot his or their servants workmen and others in through along and upon all those portions coloured Blue on the said Plan Covenants by Purchaser to observe covenants in Crown Lease and to indemnify Vendors therefrom and to pay the annual sum of $9.00 being the due proportion of the Crown rent Covenants for title by Vendors.

Date of Instrument The 29th day of May 1918.

Names and additions of Parties.

Leung Chi San (Chinese) Kwan Yik Chi (Chinese) and Leung Pat U (Chinese) all of Victoria in the Colony of Hongkong Traders of the one part "Vendors" Ho Wa Sang (Chinese) of Victoria aforesaid Trader of the other part "Purchaser"

Names and additions of Witnesses.

To the execution by Vendors and Purchaser - Illegible

Premises affected by the Instrument

Section A of Inland Lot No.617.

Signature of Parties signing Memorial.

In Chinese

In the High Court

Plaintiff's Evidence No. 2 Affidavit of Leung Hung Chee with exhibits 16th May 1981 (cont'd)

On this 1st day of June 1918 ? Braz do Rozario of Victoria in the Colony of Hongkong Clerk to Johnson Illegible appeared before me and made oath that (according to Section VII of Ordinance No. 1 of 1844) the foregoing Memorial contains a just and true account of the several particulars therein set forth.

Sgd. ? Birley Johnson
Victoria
J.P.

10

Received at the Land Office and registered as Memorial No. 65481 on Saturday the First day of June 1918 at Twelve o'clock in the afternoon.

Sgd. Illegible
Land Officer.

Date Due 16th ... before me.

(sd) Herman ... Solicitor, Hong Kong.

SECTION REGISTER

RECORD OF OWNERS

CARD NO. A

SECTION D OF INLAND LOT NO. 617

5 On Hing Terrace

Carving out Mem. No. 66,391

Annual Crown Rent: $6.90

HOLDER	INSTRUMENTS REGISTERED				REMARKS
	Memorial No.	Date of Instrument	Date of Registration	Consideration	
U YIK MAN	66,391	23.9.1918	26.9.1918	$17,000	
MA SHAU MIN	202,801	5.2.1951	20.2.1951	$34,500	
CHENG YICK CHI	831,531	21.7.1971	22.9.1971	$200,000	

Above entries transferred from Volume 68 folio 136

12/1/73

for Land Officer.

Sub-D of I.L.No.617 Right 0.00

(sd.) W.K.Thomson

31/1/1950

37.

REGISTRAR GENERAL'S DEPARTMENT

CERTIFIED TRUE COPY

Cynthia M.L. Man (Miss)

Assistant Registrar

22 APR 1991

SECTION REGISTER

INCUMBRANCES ETC.

Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or - Rental		Reassignments etc. Memorial No.	Date of Instrument	Date of Registration
16,905	9.3.1923	14.9.1923	DECLARATION AS TO LOST DEEDS BY U YIK HAN						
31,532	21.7.1971	22.9.1971	DECLARATION OF TRUST	(CHENG CHUK CHI, (CHEN'S JACK YIU & (CHENG YIU GOR (Joint-tenants)	"the Beneficiaries"				
			Above entries transferred from Volume 88 folio 136 K H LO (miss) 12/1/73 Land Officer						
121,722	2. 6.79	27. 6.79	(JOINT VENTURE (AGREEMENT WITH PLANS	(FUNG KONG SHAN YIU (MANUFACTURERS LIMITED(1977) (LIMITED AND OTHERS	(VIDE MEMORIAL)				

38.

CONTINUED ON CARD NO.

53

referred to in the ... of Leung Hing Chak
Dated the 16th day of May
Before me,
(sd.) Herman Ho ...

0	1	2	3	4	5	6	7	8	9	0	1	2	3	4	5	6	7	8	9	0	1	2	3	4	5	6	7	8	9	0	1	2	3	4	5	6	7	8	9

LAND FOLIO 62
A

968

SECTION REGISTER

RECORD OF OWNERS

4218

SECTION K OF INLAND LOT NO. 617
6 On Hing Terrace

Carving out Mem. No. 66,899

Annual Crown Rent: $6.90

HOLDER	Memorial No.	Date of Instrument	Date of Registration	Consideration	REMARKS
	INSTRUMENTS REGISTERED				
FUNG TAT HANG	66,899	20.11.18	26.11.18	$17,000	ORDINANCE NO. ... OF 1936. ... Sec.K of I.L. No.617 is ... Eight 9.00 ... 197 (sd.) W.K.Thomson 31/1/50 p. Land Officer.
THE OFFICIAL RECEIVER (Trustee)	103,257	3.12.27	29.12.27	—	
HO HOY	109,889	17. 4.28	18. 4.28	$25,000	
MA PUI IU	201,468	28.11.50	8.12.50	$50,000	
(TSANG FOO WAI 1/2 & (TSANG FOO TSIK 1/2* ((Tenants in Common)	262,206	28. 5.57	3. 7.57	$50,000	
TSANG FOO WAI 1/2*	354,849	8.11.61	20.11.61	$35,000	(Now Sole Owner)
	Above ... Volume	... Folio	... item		
	28 ...	p. ... Officer			

REGISTRAR GENERAL'S DEPARTMENT
CERTIFIED TRUE COPY
(signed)
Cynthia M. L. Mak (Miss)
Assistant Registrar

39

SECTION REGISTER

INCUMBRANCES ETC.

54

Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Date of Instrument	Date of Registration
76,345	15. 7.21	19. 7.21	MORTGAGE TO SECURE A COMPRADORE	GRIZ BROTHERS AND COMPANY OF THE ORIENT LIMITED	Extent $15,000	—	99,044	21.11.25	Reassigned 4.12.25
83,619	3. 9.24	24. 9.24	SUPPLEMENTAL INDENTURE TO NO. 76345 VARYING COMPRADORE AGREEMENT	— DO —	—	—			
104,842	13. 4.27	13. 4.27	PROHIBITORY ORDER IN O.J. ACTION 111 OF 1927	KWOK KIT FONG (PLAINTIFF)	—	—	109,819	13. 4.28	Withdrawn 13.4.28
109,830	17. 3.28	19. 4.28	MORTGAGE	CHUNG SHAU MAN	$20,000	8% p.a.	118,439	24. 3.30	Reassigned 25.3.30
121,097	19. 5.49	24. 5.49	STATUTORY DECLARATION AS TO LOSS OF ASSIGNMENT MEM. NO.109,359 OVERLEAF		—	—			
121,098	— DO —	— DO —	MORTGAGE	TSANG HAU LIU	$25,000	$12 per $1,000 per Ch. 1. mth.	196,735	22. 3.50	Reassigned 24.3.50
86,735	21. 3.50	24. 3.50	— DO —	HENRY G. LEUNG ESTATES LTD.	$30,000	$17 per $1,000 per Ch. 1. mth.	201,467	28.11.50	Reassigned 8.12.50
60,848	1. 2.62	9. 2.62	LEASE AGREEMENT OF 1/F OF NO.6 CH HING PER. FOR 5 YRS. & 1 MTH. FROM 1.2.62	HOW SANG LIMIN CO. LTD.	Rent: $500 per Cal. Mth.		371,071	9. 6.62	Surrendered 27.6.62

CONTINUED ON CARD NO. B

40.

SECTION REGISTER

4219

MAP NO. B

RECORD OF OWNERS

SECTION K OF INLAND LOT NO. 617

Carving out Mem. No.

Annual Crown Rent: $8.00 (Determined)

HOLDER	INSTRUMENTS REGISTERED				REMARKS
	Memorial No.	Date of Instrument	Date of Registration	Consideration	
ISAIC FOO WAI 1/2 & ISAIC FOO TSIK 1/2* (Tenants in Common)	262,206	28. 5.57	3. 7.57	$90,000	
TSANG FOO WAI 1/2*	354,843	8.11.61	20.11.61	$35,000	(Now Sole Owner)
	Vol. 80 Fol. 37				
[illegible] DEVELOPMENT CORPORATION LIMITED	1,601,902	23. 8.78	30.10.78	$1,200,000	

41.

SECTION REGISTER

INCUMBRANCES ETC.

Memorial No.	Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Date of Instrument	Date of Registration
332,567	2. 3.62	19.11.62	(LEASE AGREEMENT (OF 1/F OF NO.5 ON (HING TER. FOR 4 YRS. (FROM 1.8.1962	ORIENT HANDICRAFT	Rent: $600 per Cal. Mth.		✓			
332,563	1.11.62	- DO -	(MORTGAGE TO SECURE (OVERDRAFT	(BANQUE BELGE POUR (L'ETRANGER (EXTREME (ORIENT) SOCIETE ANONYME	(Extent ($60,000	10% p.a.	✓	426,508	1. 2.64	(Reassigned (11.2.64
467,509	14.12.64	28.12.64	MORTGAGE	DAO HENG BANK LTD.	$50,000	($11 per ($1,000 per (Cal. Mth.	✓	540,539	14. 7.66	(Reassigned (22.7.66
648,911	13.10.68	6.11.68	(MORTGAGE TO SECURE (BANKING FACILITIES	(THE HONG KONG & SHANGHAI (BANKING CORPORATION	(Extent ($100,000	(Vide (Memorial	✓	1,206,241	18.10.75	(Reassigned (31.10.75
			Above entries transferred from Volume 30 folio 37 28 SEP 1972	p. Land Officer.						42.
—	—	—			—	—				
1,096,278	7. 8.74	15. 8.74	(LEASE OF 1st FLOOR (OF NO. 5 ON HING (TERRACE FOR 5 YRS. (& 1 MTH. FROM 1. 8.74	(TSOI KWOK FAI TRADING (UNDER THE NAME OF (KINGSFAIR ARTS CO.	(Deposit:- ($2,550	(Rent:- ($850 per (Cal.Mth.	✓			
1,721,722	2. 6.79	27. 6.79	(JOINT VENTURE (AGREEMENT WITH (PLANS	(THE HONG KONG CHIAP HUA (MANUFACTORY COMPANY (1947) (LIMITED AND OTHERS	(VIDE MEMORIAL)		—			

CONTINUED ON CARD NO.

57

This is the exhibit marked ... referred to in the Affirmation/Affid... of Kwong Hon Chee
Dated the 16th day of May 1981
Before me,
(sd.) Herman H. Ho...

0	1	2	3	4	5	6	7	8	9	0	1	2	3	4	5	6	7	8	9	0	1	2	3	4	5	6	7	8	9	0	1	2	3	4	5	6	7	8	9

CROWN LEASE REGISTER

RECORD OF OWNERS

A

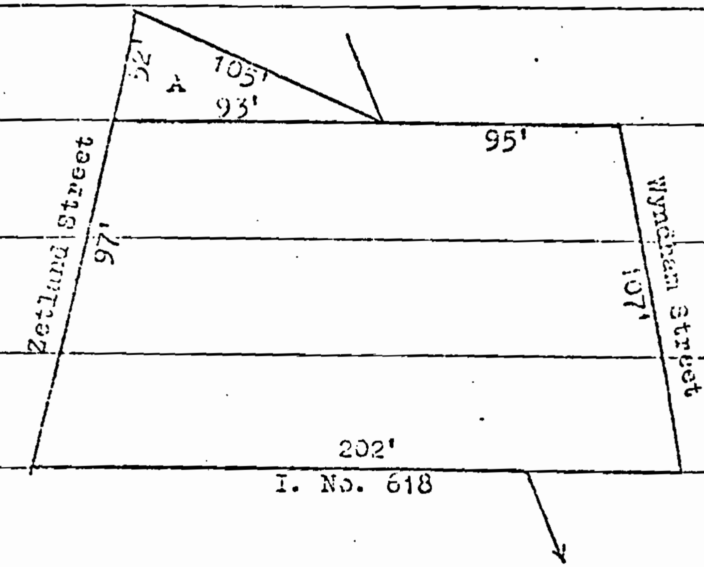
4557

Annual Rental: $144.12

	Commencement of Term	Term of Years	Measurements N.	S.	E.	W.	Contents, Square Feet
INLAND LOT NO. 617	25.6.1865	999	202'	200'	149'	107'	21,801

LOCALITY	Lease executed on 17.7.1865 On the Part of the Crown	Lessee	Date of Payment of First Half Year's Rent
North. Close I. No. 618 South. A Public Road East. Zetland Street West. Wyndham Street	By WILLIAM THOMAS MERCER	By JOHN DENT, FRANCIS CHOMLEY and ALEXANDER TURING.	25.12.1865

LEASEHOLDER	INSTRUMENTS REGISTERED Memorial No.	Date of Instrument	Date of Registration	Consideration	REMARKS
(JOHN DENT, (FRANCIS CHOMLEY and (ALEXANDER TURING					Sd.
GUSTAV OVERBECK	3,622	20.10.1865	21.10.1865	$5,000	Sd.
(ARDASHIR PESTONJI SETNA and (ARTHUR A.D. SASSOON only	3,866	23.5.1866	5.6.1866	$42,500	Sd.
ARTHUR ABRAHAM DAVID SASSOON	4,986	22.3.1870	30.3.1870	$25,000	Sd.
(LEOPOLD de ROTHSCHILD (Executor)	50,494	1.5.1912	23.8.1912	—	Sd.



Above entries transferred from Volume K Folio 128

43

CROWN LEASE REGISTER

INCUMBRANCES ETC.

58

Memorial No.	Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Reassignments etc. Date of Instrument	Reassignments etc. Date of Registra.
[illegible]	25.10.1865	26.10.1865	(DEPOSIT OF TITLE (DEEDS BY WAY OF (EQUITABLE MORTGAGE	HERMANN KAISER	(Portion of ($40,000	13% p.a.				
3,672	25.11.1865	25.11.1865	(LEASE OF SECTION A (FOR 50 YEARS FROM (1.11.1865	(JOHN DENT, (FRANCIS CHILLEY and (ALEXANDER TURING	—	(The Rental ($10.00 p.a.				
4,835	20.1.1868	21.1.1868	(MORTGAGE OF ARDASHIR (P SETNA'S UNDIVIDED (MOIETY OR SHARE	(ARTHUR ABRAHAM DAVID (SASSOON	(Portion of ($25,000	$10% p.a.		4,984 4,985	16.3.1870 16.3.1870	(Satisfied (30.3.1870 (Reassigne (30.3.1870
4,769	19.6.1869	24.6.1869	(SURRENDER OF SEC- (TION A	(ARDASHIR PESTONJEE SETNA (and ARTHUR A.D. SASSOON	$1,500	—				
—	—	—	Above entries transferred from Volume K folio 123 31/5/72 p. Land Officer.		—	—				

CONTINUED ON CARD NO. B

REGISTRAR GENERAL'S DEPARTMENT
CERTIFIED TRUE COPY
Cynthia M. L. Man (Miss)
Date

44.

59

CROWN LEASE REGISTER

4553

D NO. B

RECORD OF OWNERS

Annual Rental: $144.12

Commencement of Term	Term of Years	Measurements				Contents, Square Feet

INLAND LOT NO. 617

LOCALITY	Lease executed on		Date of Payment of First Half Year's Rent
	On the Part of the Crown	Lessee	
	By	By	

LEASEHOLDER	INSTRUMENTS REGISTERED				REMARKS
	Memorial No.	Date of Instrument	Date of Registration	Consideration	
(LEOPOLD de ROTHSCHILD ((Executor)	50,494	1. 5.12	23. 8.12	—	
(KWAN YIK CHI (2½) (LEUNG CHI SAN (1½)	50,786	1.10.12	3.10.12	$142,000	
—	Above entries transferred from Volume K folio 128 (Lands Office)				
	31/5/72	D. Lands Office			

45.

CROWN LEASE REGISTER

INCUMBRANCES ETC.

Lot No. 617
(Sd.) W.K. THOMSON
P. Land Officer.

Inst. No.	Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Date of Instrument	Date Registratio
50,737	1.10.12	3.10.12	MORTGAGE	(SIR CATCHICK PAUL CHATER (& ERNEST HAMILTON SHARP	$100,000	$6½% p.a.	✓	64,996	3. 4.18	(Reassigne (5. 4.18
61,348	7.12.16	11.12.16	(DECLARATION OF (TRUST AS TO 5th	LEUNG PAT YU	$34,875	—	✓	66,733 66,693	4.11.18 31.10.18	(R.P. Reass (6.11.18 (Sec.G Reass (1.11.18
64,554	22. 1.18	23. 1.18	(MORTGAGE BY (LEUNG CHI SAN, (KWAN YIK CHI AND (LEUNG PAT U	(THE BANQUE de L'INDO (CHINE	($ 80,000 & ($100,000	$8½% p.a.	✓	66,460 65,463	29. 5.18 - do -	(Sec.A Reas (1. 6.18 (Sec.C Reass (1. 6.18
—	—	—	—	—	—	—	✓	65,483 66,390	4. 6.18 23. 9.18	(Sec.B Reass (5. 6.18 (Sec.D Reass (16. 9.18
—	—	—	—	—	—	—	✓	66,440 66,625	25. 9.18 19.10.18	(Sec.E Reass (2.10.18 (Sec.F Reass (23.10.18
65,451	29. 5.18	1. 6.18	ASSIGNMENT OF SEC.A	HO WA SANG	$23,000	C.R.$9.00	✓	Now Sec	Vol.LXX	Fol.98
65,460	- do -	- do -	ASSIGNMENT OF SEC.C	(KWAN HOON YING alias (KWAN YIK CHI	$25,000	C.R.$6.75	✓	Refer to Vol.LXX		Fol.118
65,484	4. 6.18	5. 6.18	ASSIGNMENT OF SEC.B	LAI YAU	$21,000	C.R.$7.95	✓	Refer to Vol.LXXVI		Fol.64
—	—	—	Above entries transferred from Volume K folio 120		—	—				

31/5/72 P. Land Officer.

CONTINUED ON CARD NO. C

46.

CROWN LEASE REGISTER

4553

LAND NO. C

RECORD OF OWNERS

Annual Rental: $144.12 (I.L.No. 617)

Commencement of Term	Term of Years	Measurements				Contents, Square Feet

THE REMAINING PORTION OF INLAND LOT NO. 617

7 Qu Hing Terrace

LOCALITY	Lease executed on		Date of Payment of First Half Year's Rent
	On the Part of the Crown	Lessee	
	By	By	47.

LEASEHOLDER	INSTRUMENTS REGISTERED				REMARKS
	Memorial No.	Date of Instrument	Date of Registration	Consideration	
(KWAN YIN CHI (2½) (TAING CHI SAN (1½)	50,736	1.10.12.	3.10.12	$142,000	(I.L.No. 617)
	Above entries transferred from Volume X folio 128				
	31/5/72		D. Land Offices		

Afw

CROWN LEASE REGISTER

INCUMBRANCES ETC.

62

	Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Date of Instrument	Date Registered
65,391	23. 9.18	26. 9.18	(ASSIGNMENT OF (SECTION D	U YIK MAN	$17,000	C.R.$6.90		Refer to Vol.LXXXVIII Fol.136		
—	—	—	—	—	—	—		69,244	13. 9.19	ss.1 of s.E Reassigned 19. 9.19
66,141	29. 9.18	2.10.18	(MORTGAGE OF (SECTION E	CHAN SHEK SHAN	$54,000	(7.80% per 12 (lunar months		69,245	- do -	ss.2 of s.E Reassigned 19. 9.19
								72,402	2. 9.20	R.P. of s.E Reassigned 3. 9.20
—	—	—	—	—	—	—		72,459	- do -	ss.3 of s.E Reassigned 9. 9.20
66,626	19.10.18	23.10.18	(ASSIGNMENT OF SUB- (SEC. 1 OF SEC. F	CHUNG YIN WA	$21,000	C.R.$5.85		Refer to Vol.LXXVI Fol.48.		
66,627	- do -	- do -	(ASSIGNMENT OF (R.P. OF SEC. F	(FOK LAU and (FOK PUN SHI (Executor & Executrix)	$41,500	C.R.$11.60		Refer to Vol.CXVI Fol.102		
66,694	31.10.18	1.11.18	(ASSIGNMENT OF (SECTION G	U CHI HOI	$24,000	C.R.$5.91		Refer to Vol.100 Fol.74		
66,734	4.11.18	6.11.18	(ASSIGNMENT OF (SECTION H	CHAN KAI	$44,000	C.R.$21.92		Refer to Vol.LXXII Fol.36		
—	—	—	Above entries transferred from Volume I folio 128		—	—				

31/5/72 p. Land Officer

CONTINUED ON CARD NO. D

63

CROWN LEASE REGISTER

4560

CARD NO. D

RECORD OF OWNERS

Annual Rental: $ 144.12. (I.L.No. 617)

Description of Land	Commencement of Term	Term of Years	Measurements				Contents, Squ Feet
THE REMAINING PORTION OF INLAND LOT NO. 617							

LOCALITY	Lease executed on		Date of Paymen First Half Year's I
	On the Part of the Crown	Lessee	
	By	By	49.

LEASEHOLDER	INSTRUMENTS REGISTERED				REMARKS
	Memorial No.	Date of Instrument	Date of Registration	Consideration	
(KWAN YIK CHI (2 1/2) (LEUNG CHI SAN* (1/2)	50,786	1.10.12	3.10.12	$142,000	(As to interest of LEUNG PAT YU, vide Mem. No. 61,348 in Card B. As to Mortgage of Section E, vide Mem. No. 66,441 in Card C. (I.L.NO.617)
(WILLIAM HENRY YOUNG (otherwise (YOUNG KAM WA	71,834	26. 6.20	28. 6.20	$3,500	*(Probate of the will of LEUNG CHI SAN rcnd. by Mem. No. 71,738 on 16.6.1920. LEUNG KING IU & LEUNG NG SHI (Executors) R.P. (Subject to Mtge. Mem. No. 68,547 overleaf. (Reassigned Vide Mem. No. 77,208 overleaf.
	Above entries transferred from Volume 71 folio 62 K. H. LO (Miss) 31 / 5 / 72 p. Land Officer.				

CROWN LEASE REGISTER

INCUMBRANCES ETC.

64

	Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Date of Instrument	Date of Registration
6,899	19.11.18	26.11.18	(MORTGAGE OF SEC-TIONS I & J	(HAJEE MAHOMED (HASSAN NEMAZEE	$26,000	@8% p.a.		73,290	26.11.20	(Section J (Reassigned 3.12.20 (Section I
6,899	20.11.18	- do -	(ASSIGNMENT OF SEC-TION K	FUNG TAT HANG	$17,000	C.R.$6.90		73,289	- do -	(Reassigned 3.12.20
7,367	3. 1.19	14. 1.19	(MORTGAGE OF SEC-TION L	CHEUNG MAN HING	$52,000	($8 per mil (per lun.mth.		Refer to Vol.LXXX Fol.37		
8,027	7. 4.19	9. 4.19	(MORTGAGE OF SEC-TION M	SIDNEY MICHAEL	$12,000	@9% p.a.		73,864	15. 1.21	(Reassigned 19. 1.21
8,547	10. 6.19	17. 6.19	(MORTGAGE OF THE (R.P.	(THE I ON MARINE & FIRE (INSURANCE CO. LTD.	$13,000	($7 per mil (per lun.mth.		(Reassigned, vide infra. (Refer to Vol.LXXXVIII Fol.16		
8,976	14. 8.19	20. 8.19	(ASSIGNMENT OF SUB-SEC.1 OF SEC. E	CHAN TAT TING	($4,500 ((Subject (to Mtge.*)	C.R.$7.00		77,208	30. 9.21	(Reassigned 3.10.21
8,977	- do -	- do -	(ASSIGNMENT OF SUB-SEC. 2 OF SEC. E	- DO -	($3,500 ((Subject (to Mtge.*)	C.R.$7.00		(*Vide Mem.No.69,2 (Refer to Vol.LXXX	4. Reassigne Fol.128	
1,981	10. 7.20	15. 7.20	(ASSIGNMENT OF SUB-SEC. 3 OF SEC. E	QUAN CHUNG	($4,500 ((Subject (to Mtge.*)	C.R.$7.00		(*Vide Mem.No.69,24 (Refer to Vol.LXXV	5, Reassigned Fol.88	
								(*Vide Mem.No.72,45 (Refer to Vol.CXIV	9, Reassigned Fol.152	
—	—	—			—	—				

Above entries transferred from Volume 71 Folio 62

31/5/72 for Land Officer

CONTINUED ON CARD NO. E

65

CROWN LEASE REGISTER

4561

CARD NO. E

RECORD OF OWNERS

Annual Rental: $144.12 (I.L.No.617)

	Commencement of Term	Term of Years	Measurements				Contents, Square Feet
THE REMAINING PORTION OF INLAND LOT NO. 617							

LOCALITY	Lease executed on		Date of Payment of First Half Year's Rent
	On the Part of the Crown	Lessee	
	By	By	51.

LEASEHOLDER	INSTRUMENTS REGISTERED				REMARKS
	Memorial No.	Date of Instrument	Date of Registration	Consideration	
(WILLIAM HENRY YOUNG otherwise (YAUNG KAM WA	71,834	26. 6.20	28. 6.20	$3,500	(Reassigned Vide Mem.No.77,208 in Card D. (Subject to Mtge.Mem.No.68,547 in Card D.
	Above entries transferred from Volume 71 Folio 62				(Refer to Vol. LXXXX Fol. 142 for Section I only.)
	31/5/72		D. Land Offices		

CROWN LEASE REGISTER

INCUMBRANCES ETC.

	Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Date of Instrument	Date of Registration
71,996	10. 7.20	16. 7.20	(ASSIGNMENT OF THE (R.P. OF SECTION E (AS PER PLAN	LEUNG SAI WING	($5,000 ((Subject to (Mortgage^{ø})	—	[signature]	(^{ø}Vide Mem.72,402, (Vide Vol.100 Fol.18		Reassigned.
72,262	14. 8.20	19. 8.20	(ASSIGNMENT OF SEC.J (SUBJECT TO MORTGAGE (MEM.NO.66,898	CHAN HARR	($5,000 ((Subject to ($13,000 pt. (Mortgage^{e}	C.R.$6.20	[signature]	(^{e}Vide Mem.No.73,290 in Card (Refer to Vol.LXXVI Fol.74		
73,201	27.11.20	3.12.20	MORTGAGE OF SEC.I	LI KOON CHUN	$13,000	($8 per mil (per lun.mth.	[signature]	136,439	7. 3.33	(Reassigned (9. 3.33
73,365	15. 1.21	19. 1.21	MORTGAGE OF SEC.L	SHIU YAM LUN	$52,000	($7.50 per (mil per (lunar month	[signature]	89,390	10. 1.24	(R.P. of s.L (Reassigned (17. 1.24 (ss.1
—	—	—	—	—	—	—	[signature]	89,468	11. 1.24	(Reassigned (22. 1.24 (ss.2
								~~89,469~~	~~- do -~~	(Reassigned ~~(22. 1.24~~
								Refer to Vol.LXXVIII Fol.9[illegible]		
74,763	25. 3.21	29. 3.21	(EXTENSION OF MORTGAGE ((MEM.NO.68,007 OF (SECTION E)	(SIDNEY MICHAEL ((Mortgagee) (LEUNG KING IU, (LEUNG NG SHI,	($12,000 ((Principal (Sum)	$9% p.a.	[signature]	(Reassigned, vide infra		
79,417	15. 5.22	15. 5.22	- DO -	(KWAN YIK CHI and (LEUNG FAT U ((Mortgagors) SIDNEY MICHAEL	($12,000 ((Principal (Sum)	- DO -	[signature]	(Refer to Vol.LXXXVIII Fol.15		
87,846	25. 9.35	27. 9.35	MORTGAGE	LI PO CHUN	$10,000	($6.50 per ($1,000 per (Ch.lun.mth.	[signature]	152,072	9.10.36	(Reassigned (13.10.36
—	—	—	Above entries transferred from Volume 71 folio 62 / 15[illegible] 71 [signature]		—	—				

31/5/72 p. Land Officer.

CONTINUED ON CARD NO. F

RD NO. F

新界錄冊號 4160

CROWN LEASE REGISTER

RECORD OF OWNERS

4569

Annual Rental: $ 144.12 (I.L.No.617)

THE REMAINING PORTION OF INLAND LOT NO. 617

Commencement of Term	Term of Years	Measurements				Contents, Square Feet

LOCALITY	Lease executed on		Date of Payment of First Half Year's Ren.
	On the Part of the Crown	Lessee	
	By	By	53.

LEASEHOLDER	INSTRUMENTS REGISTERED				REMARKS
	Memorial No.	Date of Instrument	Date of Registration	Consideration	
(WILLIAM HENRY YOUNG (otherwise (YOUNG KAM WA	71,834	26. 6.20	28. 6.20	$6,500	(Reassigned Vide Mem.No.77,208 in Card D. (Subject to Mtge.Mem.No.68,547 in Card D.
(YOUNG KWOK HONG ((Administrator)	184,784	2. 5.46	17. 6.48	—	
(YOUNG KWOK CHOW (or CHAU) ((Administrator)	191,357	26. 5.49	4. 6.49	—	(Letters of Administration de Bonis Non.)
(LUI LONG HIN* 1/2 and (LUI SAU HAM 1/2 ((Tenants in Common)	193,620	20. 9.49	28. 9.49	$20,000	
(LOUIE SUI HING) ((Administrator)) 1/2*	295,272	8. 5.59	28. 5.59	—	

ORIGINAL P. No. 1 OF 1955.
THE CROWN RENT (ANNUAL) FOR
the R.P. of Inland Lot No. 617
is DOLLARS six ($ 6.00)
(S. 137) (Sd.) W.K. WILSON
21/12/59 D. L. & Collector

Above entries transferred from Volume 159 Folio 71

CROWN LEASE REGISTER

INCUMBRANCES ETC.

68

No.	Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Date of Instrument	Date of Registra.
152,073	9.10.36	13.10.36	MORTGAGE	CHAN KWOK YIN	$10,000	($5 per $1,000 per Ch.lun.mth.		155,422	7. 9.37	(Reassigne (9. 9.37
155,423	7. 9.37	9. 9.37	- DO -	YU HING COMPANY LTD.	$10,000	- DO -		158,823	27. 8.38	(Reassign (30. 8.38
187,893	30.11.48	6.12.48	- DO -	FONG SHING	$30,000	($15 per $1,000 per Ch.lun.mth.		193,619	20. 9.49	(Reassigne (28. 9.49
—	—	—	Above entries transferred from Volume 159 folio 71 K.M.T.O. (Ass) 31/5/72 p. Land Officer.		—	—				

54.

CONTINUED ON CARD NO. G

69

CROWN LEASE REGISTER

4867

D NO. G

RECORD OF OWNERS

Annual Rental: $6.00 (Determined)

	Commencement of Term	Term of Years	Measurements				Contents, Square Feet
THE REMAINING PORTION OF INLAND LOT NO. 617							

LOCALITY	Lease executed on		Date of Payment of First Half Year's Rent
	On the Part of the Crown	Lessee	
	By	By	55.

LEASEHOLDER	INSTRUMENTS REGISTERED				REMARKS
	Memorial No.	Date of Instrument	Date of Registration	Consideration	
(LUI LONG MIN* 1/2 and (LUI SAU HAM 1/2 ((Tenants in Common)	193,620	20. 9.49	28. 9.49	$50,000	
(LOUIE SUI HING (("Administrator") 1/2*	295,272	8. 5.59	28. 5.59	—	
LU SIU WAN	825,843	29. 7.71	25. 8.71	$100,000	
—	Above entries transferred from Volume 199 folio 71 31/5/72 D. Land Officer.				

CROWN LEASE REGISTER

INCUMBRANCES ETC.

No.	Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Reassignments etc. Date of Instrument	Reassignments etc. Date of Registration
1,721,722	2. 6.79	27. 6.79	(JOINT VENTURE (AGREEMENT WITH (PLANS	(THE HONG KONG CHIAP HUA (MANUFACTORY COMPANY (1947) (LIMITED AND OTHERS	(VIDE MEMORIAL)					

CONTINUED ON CARD NO.

71

1 10

K - 123

第 2934 號

SECTION REGISTER

RECORD OF OWNERS

SECTION B OF INLAND LOT No. 617

8 On Hing Terrace

Carving out Mem. No. 55,484

Annual Crown Rent: $ 7.05

HOLDER	INSTRUMENTS REGISTERED Memorial No.	Date of Instrument	Date of Registration	Consideration	REMARKS
[illegible]	68,134	[illegible].1918	5.6.1918	$11,000	
[illegible]	72,054	26.7.1930	28.7.1930	$22,500	
[illegible]	164,269	19.1.1940	24.1.1940	$21,500	ORDINANCE NO. [illegible] THE [illegible] Sec.B of I.L.No.617 [illegible] Eight $8.00 (A. 197 , (Sd.) J.K.Thomson 31/1/1950 p. Land Officer.
[illegible]	223,416	24.2.1954	4.3.1954	$56,500	

Above entries transferred from Volume [illegible] folio [illegible]

K. H. LO (Miss)

p. Land Officer.

REGISTRAR GENERAL'S DEPARTMENT
CERTIFIED TRUE COPY

Cynthia F. L. Man (Miss)
Assistant Registrar
Date 22 APR 1981

of Long [illegible]
Dated this 16 day of May
Before me,
(Sd) Herman Ho

SECTION REGISTER

INCUMBRANCES ETC.

Memorial No.	Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Date of Instrument	Date Registrat.
[illegible]	7. 8.32	12. 3.32	MORTGAGE	(THE WAI TAK LAND INVESTMENT (& LOAN CO. LTD.	(pt. ($46,000	($6 p.m. p.l.m.	✓	145,737	5.3.1935	(Reassign (7.3.1935
[illegible]	5.9.1933	8.9.1933	(EXTENSION OF (MORTGAGE M.M.132859 (AND INDENTURE VARYING (RATE OF INTEREST	- DO -	(pt. ($40,000	(15 p.m. (p.l.m.				
[illegible]	[illegible].1935	15.3.1935	MORTGAGE	(CHU [illegible] and [illegible] LAI (CHUEN (JOINT-TENANTS)	pt. $14,000	($5 p. ($1,000 p. (Ch.l.m.	✓	164,[illegible]	19.1.19[illegible]	(Reassig (2[illegible].1.1[illegible]
[illegible]	[illegible].1940	27.[illegible].1940	- DO -	[illegible] YUK IP	$16,000	($6.25 p.m. (p.Ch.l.m.	✓	168,571	7.3.1942	(Reassig (11.3.19[illegible]
[illegible]	7.[illegible].1941	11.[illegible].1941	- DO -	TANG KIT WAI	- DO -	($6 p. ($1,000 p. (Ch.l.m.	✓	172,303	[illegible].2.1943	(Reassig (3.3.194[illegible]
201,305	1.12.1950	26.12.1950	- DO -	(THE [illegible] SAVINGS (BANK LIMITED	$28,000	(15 p.c. (p. Cal. M.	✓	223,415	[illegible].2.1951	(Reassig (4.3.195[illegible]
[illegible],776	1.5.1962	17.5.1962	(LEASE OF 1ST FLOOR (OF NO.3 [illegible] (TERRACE [illegible] (& 5 YRS. FROM (1.5.1962	CHAN [illegible]	--	(Rent: $530 (p. Cal. M.	✓			
			Above entries tr[illegible] Volume 76 folio [illegible] 25 OCT 1977	[illegible] ([signature]) [illegible]LO (Mr) [illegible] Land Officer.						
1,1[illegible],780	16.10.74	27.11.74	(MORTGAGE TO SECURE (BANKING FACILITIES	HANG SENG BANK LIMITED	(Extent • ($200,000	(Vide (Memorial	✓	1,[illegible]	7. 3.7[illegible]	([illegible] (4. 4.7[illegible]

CONTINUED ON CARD NO. 3

SECTION REGISTER

9551

LAND NO 3

RECORD OF OWNERS

Carving out Mem. No. 69,984

Annual Crown Rent: $ 8.00 (re-assessed)

HOLDER	INSTRUMENTS REGISTERED				REMARKS
	Memorial No.	Date of Instrument	Date of Registration	Consideration	
					(vide incumbrances publ. in previous deed)
[illegible]	[illegible]	23. 3.19	4. 3.19	$58,500	
[illegible]	1,033,053	9. 3.79	4. 4.79	$2,100,000	

59.

SECTION REGISTER

INCUMBRANCES ETC.

Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental		Reassignments etc. Memorial No.	Reassignments etc. Date of Instrument	Reassignments etc. Date of Registration
13.11.78	3. 1.79	(AGREEMENT WITH [illegible] (PLANS	(WITH [illegible] ([illegible] COMPANY LIMITED)	£2,000,000	-		(Vide assignment Mem. (No.1633[illegible]) overleaf.		
3. 6.79	27. 6.79	(JOINT VENDURE (AGREEMENT WITH (PLANS	(SHO HONG HONG JOINT HUA (PROPERTY COMPANY (1947) (LIMITED AND OTHERS	(VIDE MEMORIAL)					

60.

CONTINUED ON CARD NO.

(sd.) Herman H.M.

3717

[illegible] 223

SECTION REGISTER

RECORD OF OWNERS

SECTION A OF INLAND LOT NO. 617

9 On Hing Terrace

Carving out Mem. No. [illegible] (Determined Rent $10
(Vide Application No.197
(Vide Vol.K Folio 123

Annual Crown Rent: $ 9.00

HOLDER	Memorial No.	Date of Instrument	Date of Registration	Consideration	REMARKS
	INSTRUMENTS REGISTERED				
[illegible] SAN[illegible]	55,461	29. 5.18	1. 6.18	$23,000	
[illegible] LAU HO ([illegible])	176,711	15. 2.47	24. 3.47	—	
[illegible] CHUN	220,17[illegible]	21. 9.53	8.10.53	$62,000	

Above entries transferred from Volume 70 folio 83
(signature)
K. Y. [illegible] (Miss)
[illegible]/5/72 for Land Officer.

REGISTRAR GENERAL'S DEPARTMENT
CERTIFIED TRUE COPY
(signature)
Cynthia M. L. Man (Miss)
Assistant Registrar
Date [illegible] 1981

SECTION REGISTER

INCUMBRANCES ETC.

Memorial No.	Date of Instrument	Date of Registration	Nature of Instrument	In favour of	Consideration	Interest or Rental	Reassignments etc. Memorial No.	Reassignments etc. Date of Instrument	Reassignments etc. Date of Registration
65,462	29. 5.19	1. 6.19	MORTGAGE	(THE CHINA [illegible] FIRE (INSURANCE CO. LTD.	$11,000	$7½% p.a.	81,408	28.10.22	(Reassig (1.11.22
16?,111	9. 7.40	11. 7.40	(MORTGAGE TO SECURE (OVERDRAFT	THE BANK OF EAST ASIA LTD.	(Pt. Ext. ($20,000	7% p.a.	187,255	29.10.42	(Reassig (4.11.48
187,256	30.10.48	4.11.48	MORTGAGE	- Do -	(pt. ($50,000	(One per centum (per Cal. Mth.	220,172	24. 9.53	(Reassig (8.10.53
			Above entries transferred from Volume 70 folio 88 … 31/5/72 … for Land Officer.						
1,721,72?	2. 6.79	27. 6.79	(JOINT (VENTURE AGREEMENT (WITH PLANS	(THE HONG KONG [illegible] (LABORATORY COMPANY (1947) (LIMITED AND OTHERS	(VIDE MEMORIAL)				

62.

CONTINUED ON CARD NO.

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

and

IN THE MATTER OF Section D, Section K, the remaining Portion, Section B and Section A of Inland Lot 617 with the adjoining buildings thereon known respectively as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong.

BETWEEN	CHENG YICK CHI	1st Plaintiff
	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff

- and -

THE HON. THE ATTORNEY GENERAL — Defendant

THE EXHIBIT REFERRED TO IN THE AFFIDAVIT OF LEUNG HUNG CHEE FILED HEREIN ON THE 18TH DAY OF MAY 1981.

EXHIBIT MARKED	NATURE	DATED	PAGES
"LHC-5"	Copy letter from the Civil Engineering Office Headquarters	21.2.1968	1

PHILIP K. H. WONG & CO.,
SOLICITORS & NOTARIES
HONG KONG.

In the High Court

Plaintiff's Evidence
No. 2
Affidavit of Leung Hung Chee with exhibits
16th May 1981 (cont'd)

CIVIL ENGINEERING OFFICE HEADQUARTERS
The Rodney Block, Ex-Naval Dockyard,
Queen's Road, East
Hong Kong.

In reply please quote:

R.D.H.11/3709/50 21 February, 1968.

Mr. FONG Fu-wah,
c/o Guy W.K. Chan,
401, Wing On Life Bldg.,
Des Voeux Road, C.,
Hong Kong.

Dear Sir,

Drainage Connection for I.L. 617
S.E. s.s. 1, 2, 3 & R.P. 1-4,
On-Hing Terrace

I refer to the P.W.D. Form 48 dated 16.2.68 on the above subject and wish to inform you that as the connections required lies within private land, the work may be carried out by your goodself.

The signed P.W.D. Form 48 is returned herewith.

Yours faithfully,

Sgd. K.C. Wong
(K.C. Wong)
for Chief Engineer, Roads &
Drainage/H.K.

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

and

IN THE MATTER OF Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot 617 with the adjoining buildings thereon known respectively as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong.

BETWEEN	CHENG YICK CHI	1st Plaintiff
	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff

and

THE HON. THE ATTORNEY GENERAL	Defendant

THE EXHIBIT REFERRED TO IN THE AFFIDAVIT OF LEUNG HUNG CHEE FILED HEREIN ON THE 18TH DAY OF MAY 1981

EXHIBIT MARKED	NATURE	DATED	PAGES
"LHC-6"	Copies of plans (Proposed Commercial Building on I.L. 617 Sec. A, B, D, K and R.P., Zetland Street)		10

PHILIP K.H. WONG & CO.,
SOLICITORS & NOTARIES,
HONG KONG.

This is the exhibit marked "LHC-6" referred to in the ~~Affirmation /~~ Affidavit of Leung Hung Chee
Dated the 16th day of May 1981
Before me,
(Sd.) Herman Hui
Solicitor,
Hong Kong.

GENERAL NOTES:

1. ALL STAIRCASE TO HAVE RISERS NOT MORE THAN 175 AND TREADS NOT LESS THAN 225.
2. ALL BRICK WORK TO BE BUILT IN 1:3 CEM MORTAR
3. ALL LAV TO HAVE 1500 HIGH GLAZED TILE DADO
4. DRAINAGE AND W. C. PLAN TO BE SUBMITTED LATER
5. R. C. DETAILS AND CALCULATION TO BE SUBMITTED LATER.
6. HEADROOM FROM FLOOR TO UNDER-SIDE OF BEAM TO BE NOT LESS THAN 2.3 M.

NOTES FOR FIRE SERVICES:

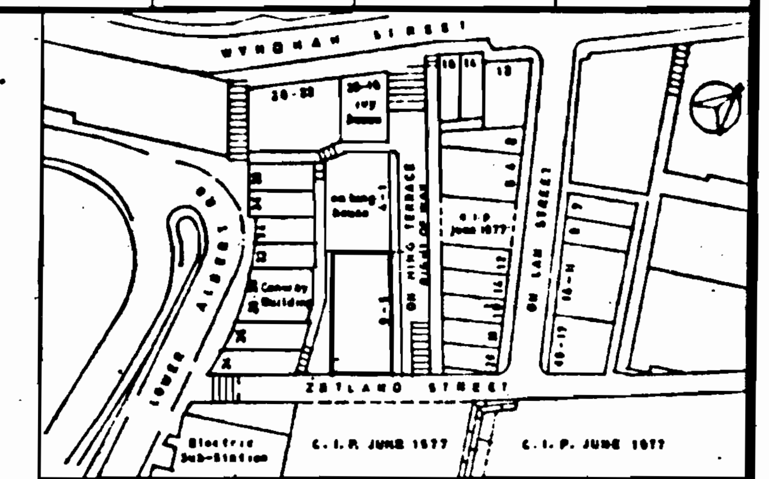
1. NO STORAGE OF DANGEROUS GOODS WITHOUT THE AUTHORITY OF THE DIRECTOR OF FIRE SERVICES.
2. LIFT MARKED 'A' TO BE ARRANGED AS FIREMAN'S LIFT.
3. FIRE ALARM SYSTEM TO BE THROUGHOUT THE BUILDING AND INCORPORATED IN THE [illegible] INSTALLATION
4. AN AUTOMATIC SPRINKLER INSTALLATION TO BE PROVIDED AND INSTALLED IN ACCORDANCE WITH THE 29th EDITION F.O.C. RULES TO PROTECT ALL FLOORS OF THE BUILDING.
5. A PUMP SUCTION TANK OF 105 000 LITRE TO BE PROVIDED FOR THE AUTOMATIC SPRINKLER SYSTEM INSTALLATION. A COPY OF THE CONSENT FROM THE WATER AUTHORITY FOR SUCH SUPPLY TO THE TANK IS SUBMITTED HEREWITH FOR YOUR REFERENCE.
6. (1) PIPE DUCTS SHOULD BE OF SUBSTANTIAL FIRE AND MECHANICAL RESISTANT CONSTRUCTION, i.e. BRICK OR CONCRETE. CONSIDERATION SHOULD BE GIVEN TO THE SITTING OF THE DUCT SO THAT THE SAME PROTECTION IS ALSO AVAILABLE TO THE SERVICE WIRING RUNNING OFF THE DUCT TO INDIVIDUAL CONSUMERS ON EACH FLOOR
   (2) PIPE DUCTS SHOULD BE SEALED UP AT POINTS WHICH THEY PASS THROUGH FLOORS AND COMPARTMENT WALLS, AND ALL INSPECTION DOORS SHOULD BE OF 50mm HARDWOOD SELF-CLOSING OR EQUIVALENT.
7. ELECTRICAL CIRCUITS TO BE PROTECTED BY MINIATURE CIRCUIT BREAKERS IN LIEU OF CONVENTIONAL RE-WIREABLE FUSES.
8. WALL AND CEILING LININGS: ALL INTERNAL LININGS FOR ACOUSTIC OR THERMAL INSULATION OR DECORATIVE PURPOSES TO BE OF CLASS 1 OR 2 RATE OF SURFACE FLAME SPREAD AS LAID DOWN BY B.S.S. NO 476 PART 7 (1971)
9. ALL INTERMEDIATE BOOSTER PUMP TO BE PROVIDED AT 13th FL LEV. SO AS TO MAINTAIN A PRESSURE OF NOT LESS THAN 50 p.s.i. AT HIGHER LEVEL WHEN WORKING THROUGH THE FIRE SERVICE INLET.
10. PARITY VALVES TO BE PROVIDED WHERE NECESSARY SO AS TO MAINTAIN A PRESSURE NOT EXCEEDING 100 p.s.i. OR NOT LESS THAN 50 p.s.i. AT ANY ONE HYDRANT POINT
11. STANDARD REQUIREMENTS FOR CONSUMER SUBSTATIONS USING OIL FILLED TRANSFORMER AND SWITCHGEAR IN BUILDING TO BE COMPLIED WITH WHERE APPLICABLE.
12. THE WORDS "EMERGENCY GENERATOR" AND "NO SMOKING" NOTICE IN 125mm ENGLISH AND CHINESE CHARACTERS TO BE INDICATED AT THE ENTRANCE TO THE ROOM
13. A SPRINKLER ANNUNCIATOR PANEL TO BE PROVIDED TO INDICATE THE FLOOR UPON WHICH SPRINKLERS ARE OPERATING.

	BRICK WORKS
	CONCRETE WORKS
	75mm VI-CON BLOCK
	TILE FINISHES
	PLASTER WORKS
	METAL WORKS

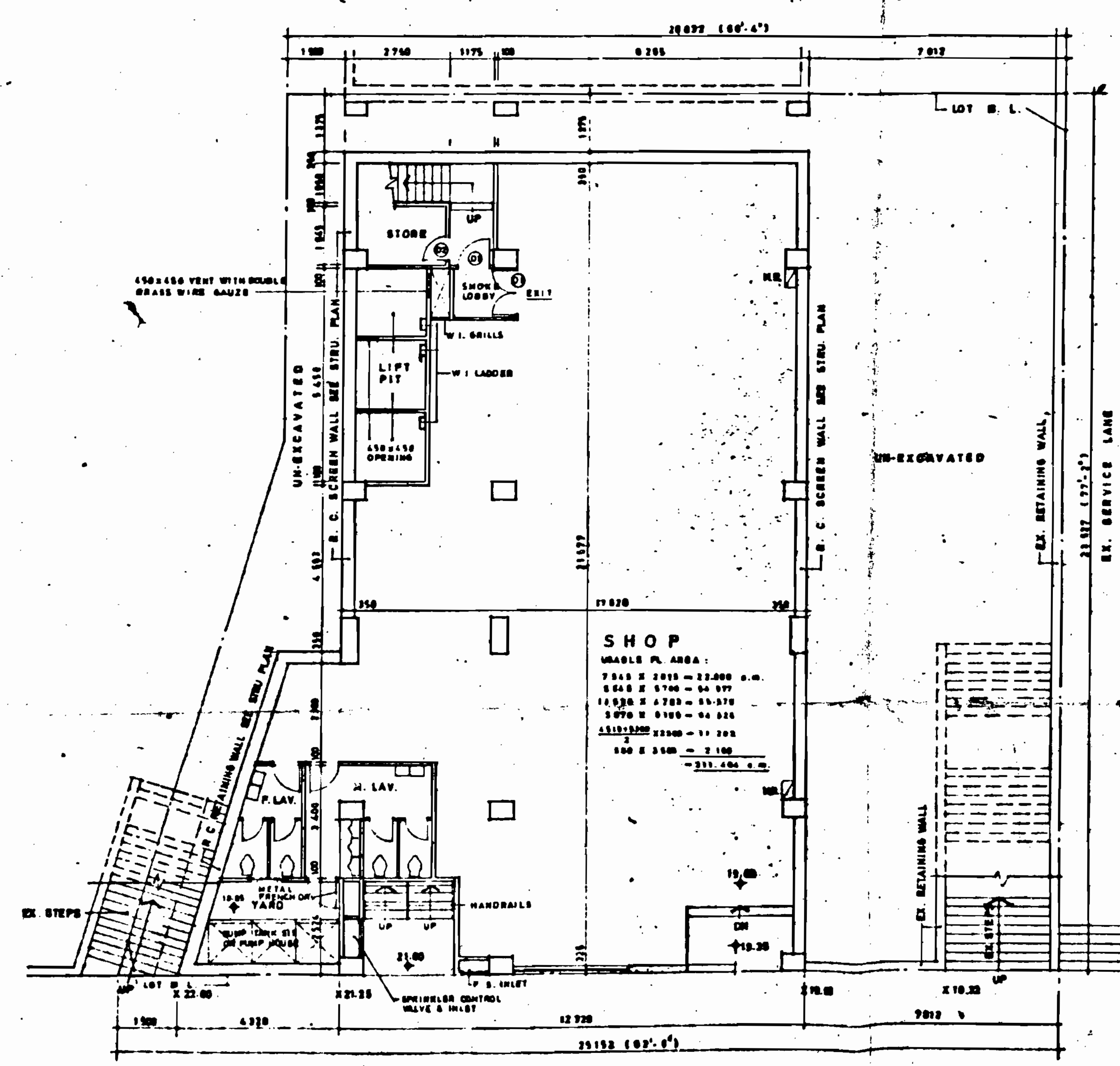
NOTES:

- D1 50mm NOMINAL HARD WOOD SELF-CLOSING DOOR WITH WIRED GLASS UPPER PANEL
- D2 50mm NOMINAL HARD WOOD SELF-CLOSING DOOR.
- D3 HARD WOOD SELF-CLOSING DOOR.
- D4 50mm NOMINAL HARD WOOD DOOR WITH PLAIN GLASS UPPER PANEL.
- D5 50mm NOMINAL HARD WOOD SELF-CLOSING PANEL

B O D REF NO.	F S D REF NO.	CROWN LANDS	LABOUR DEPT	HIGHWAYS DIV
2/1117/79	[illegible]			



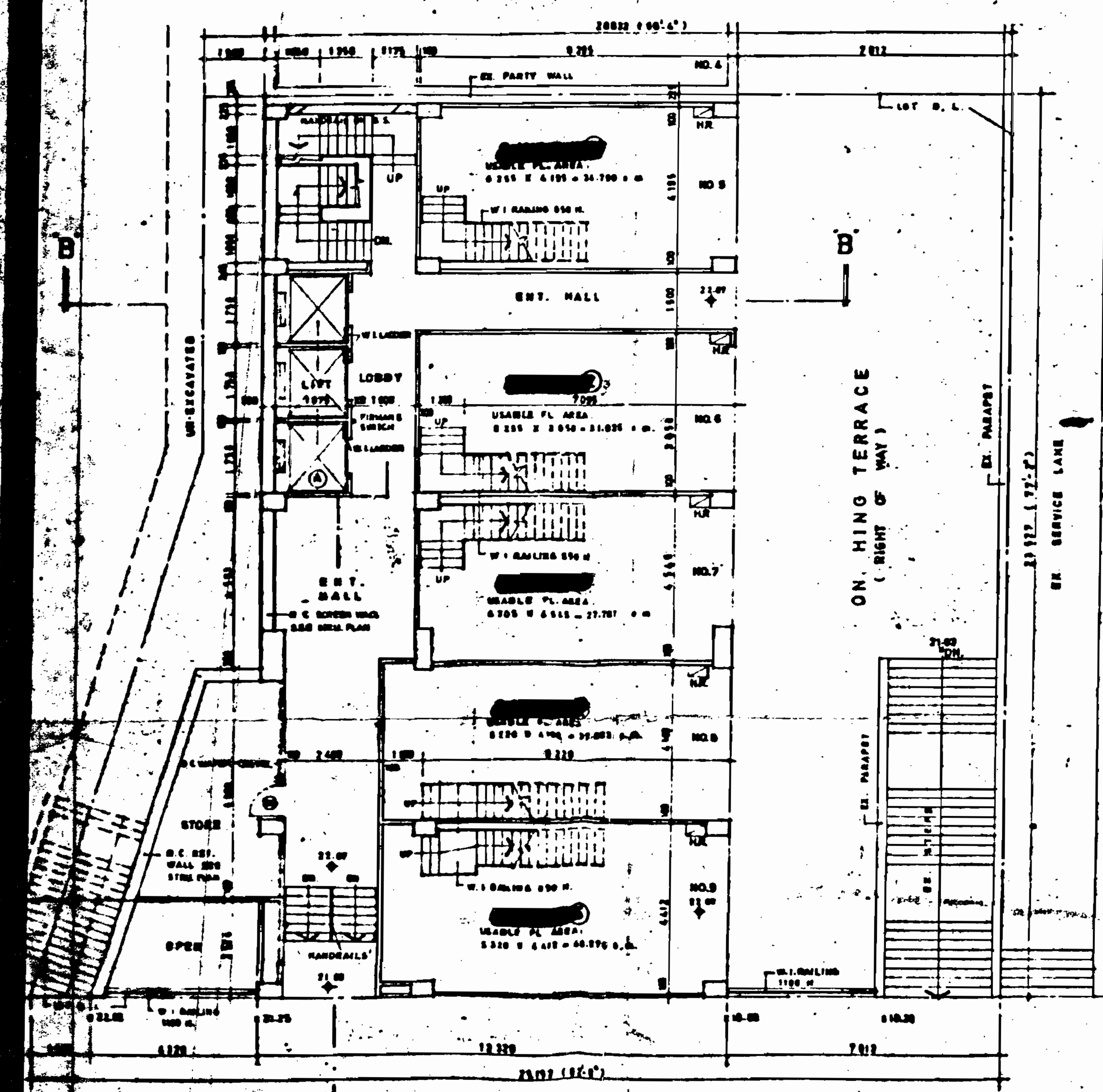
BLOCK PLAN SCALE: 1 TO 1000



ZETLAND STREET (8.103 m WIDE)

LOWER GROUND FLOOR PLAN

AUTOMATIC SPRINKLER SYSTEM TO BE PROVIDED



ZETLAND STREET

[redacted]

AUTOMATIC SPRINKLER SYSTEM TO BE PROVIDED

PROJECT: PROPOSED COMMERCIAL BUILDING ON I. L. 617 SEC. A. B. D. K. & R. P. ZETLAND STREET. HONG KONG	TITLE: PLANS	DESIGNED / DRAWN / CHECKED / SCALE 1:100 / DATE 25th JUNE 79	SIGNATURE

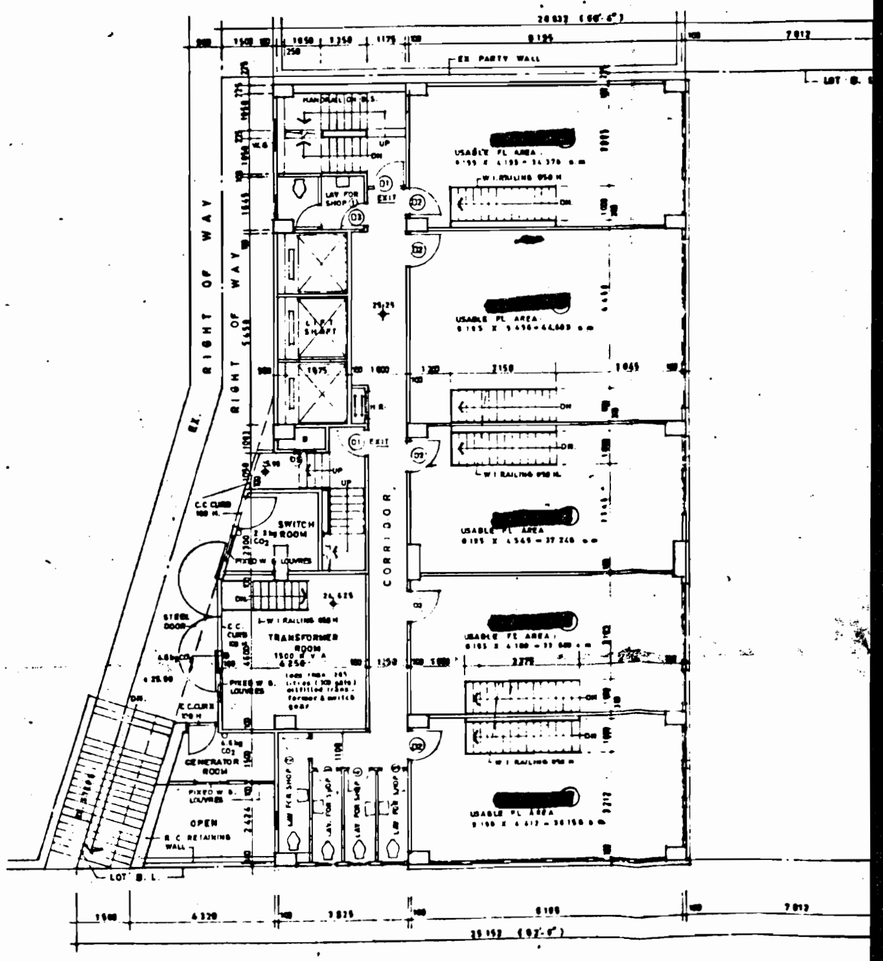
H. C. LEUNG & ASSOCIATES
ARCHITECTS & ENGINEERS
AUTHORIZED PERSON
CHARTERED STRUCTURAL ENGINEER
1101 MANNING HOUSE, 38-48 QUEEN'S RD. C. H.K.
TEL. 5-240126 & 5-230840

SIGNATURE

DWG. NO. G-1

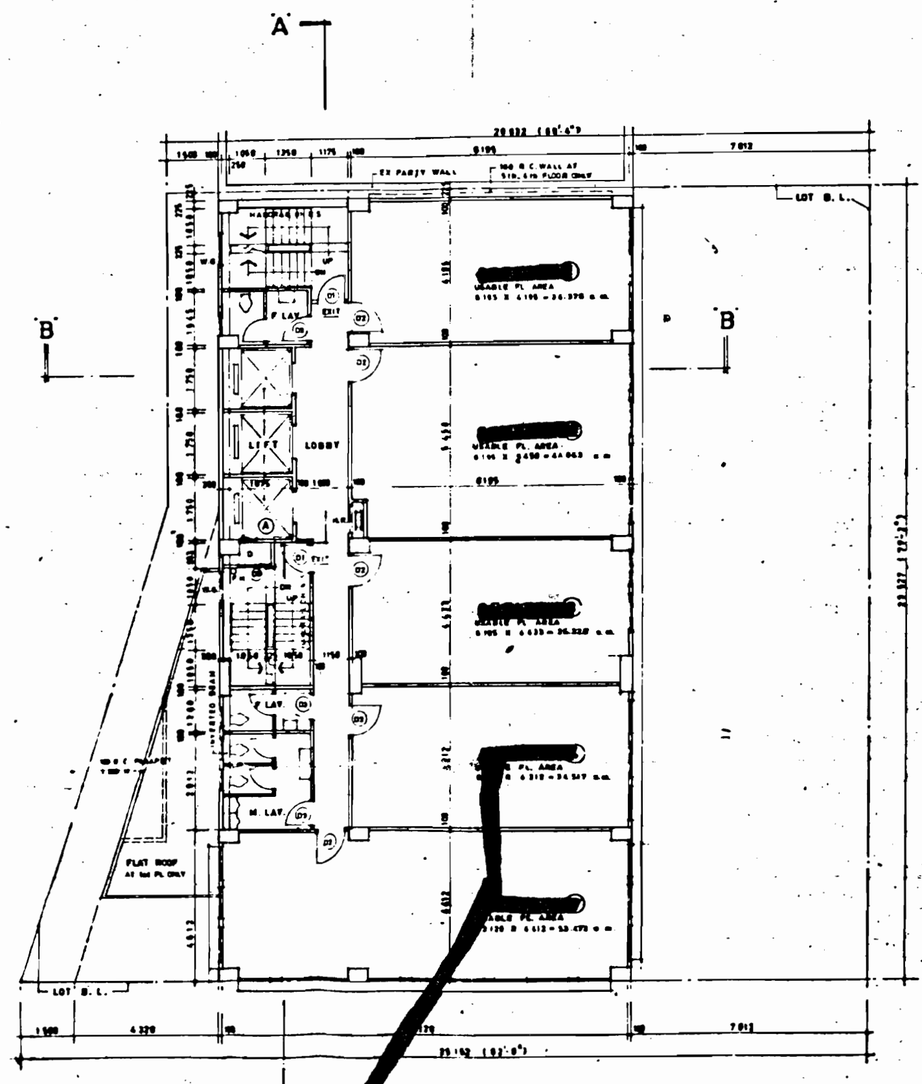
JOB NO.

B O D REF NO	F S D REF NO.	CROWN LANDS	LABOUR DEPT.	HIGHWAYS DIV
2/1117/79				



PLAN

AUTOMATIC SPRINKLER SYSTEM TO BE PROVIDED



FLOOR PLAN

AUTOMATIC SPRINKLER SYSTEM TO BE PROVIDED

PROJECT:

PROPOSED COMMERCIAL BUILDING

ON I. L. 617 SEC. A. B. D. K. & R. P. ZETLAND STREET. HONG KONG

TITLE:

PL

REVISIONS	SIGNATURE

H. C. LEUNG & ASSOCIATES
ARCHITECTS & ENGINEERS
AUTHORIZED PERSON
ON-AIRFREED STRUCTURAL ENGINEER
1101 MANNING HOUSE 38-48 QUEEN'S RD C H K
TEL 5-240126-8 5-238640

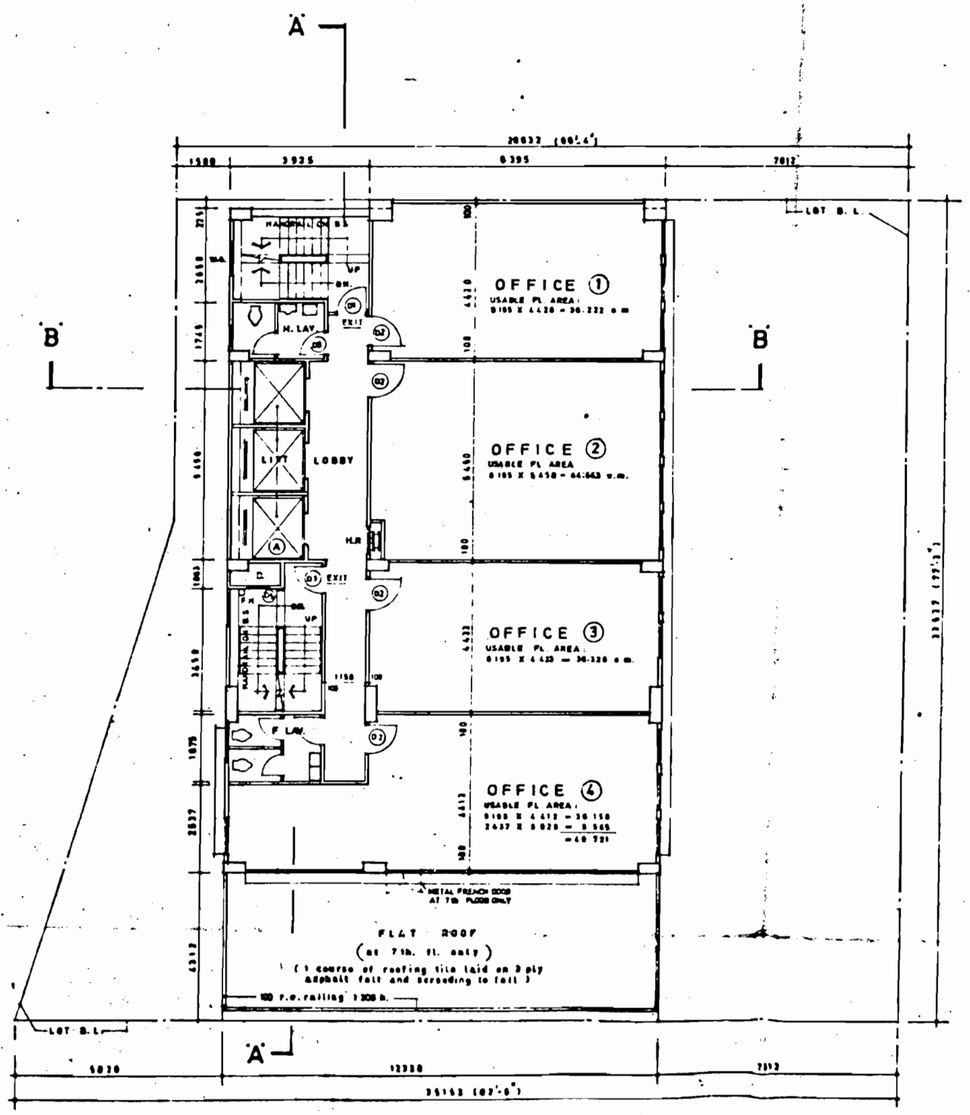
SIGNATURE

DWG. NO. G-2

JOB NO.

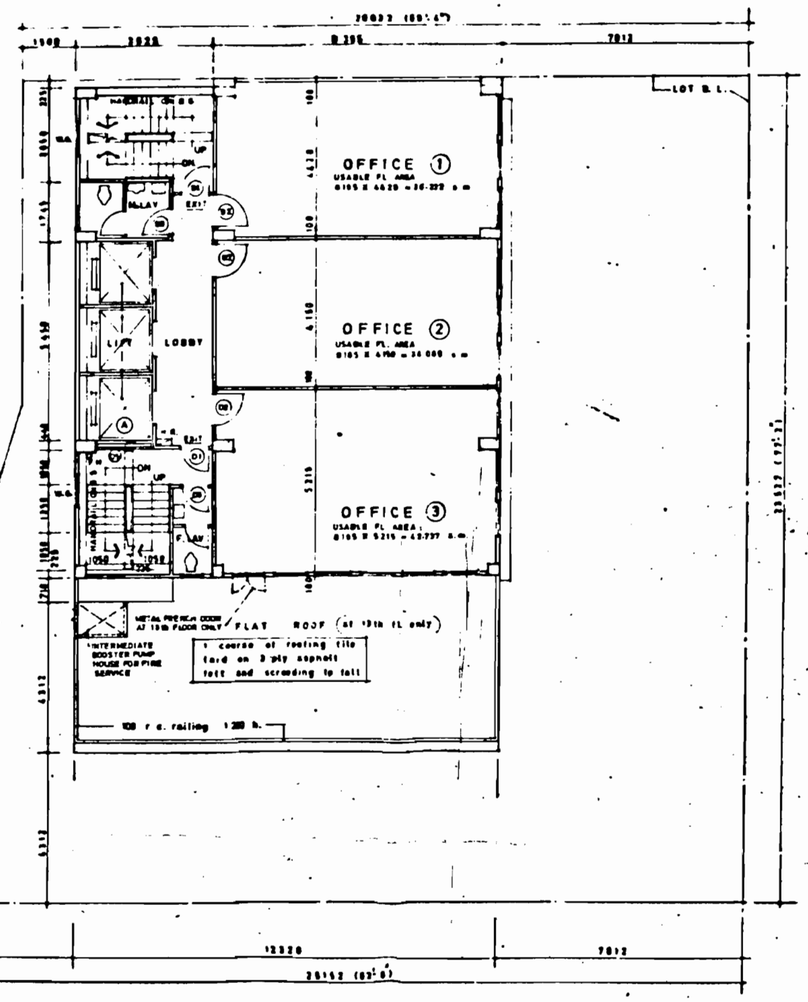
961

B O O REF NO	F S D REF NO.	CROWN LANDS	LABOUR DEPT	HIGHWAYS DIV
2/1117/79				



7th. TO 12th. FLOOR PLAN

AUTOMATIC SPRINKLER SYSTEM TO BE PROVIDED



13th. TO 18th. FLOOR PLAN

AUTOMATIC SPRINKLER SYSTEM TO BE PROVIDED

PROPOSED COMMERCIAL BUILDING

ON I. L. 617 SEC. A. B. D. K. & R. P. ZETLAND STREET HONG KONG

TITLE: PLANS

DESIGNED	
DRAWN	
CHECKED	
SCALE	1:100
DATE	25th JUNE, 79

SIGNS	SIGNATURE

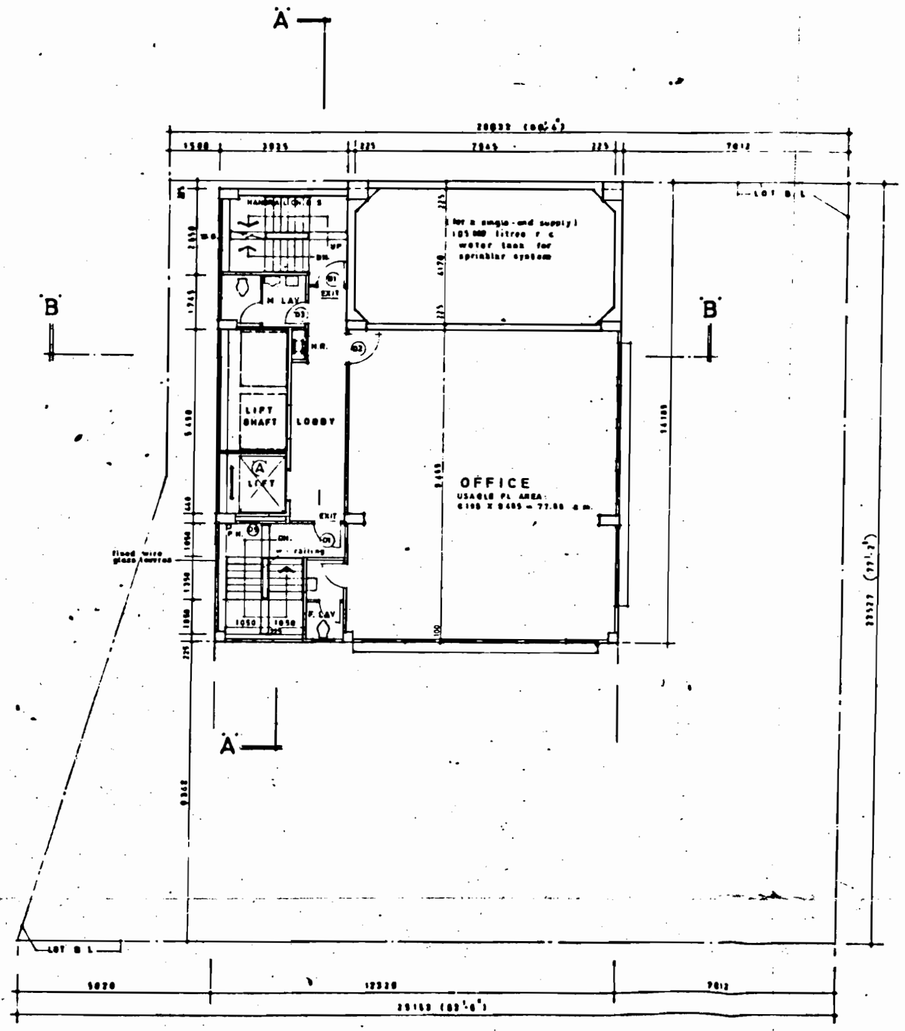
H. C. LEUNG & ASSOCIATES
ARCHITECTS & ENGINEERS
AUTHORIZED PERSON
CHARTERED STRUCTURAL ENGINEER
1101 MANNING HOUSE, 38-48 QUEEN'S RD C H K
TEL 5-248126-8 5-238840

SIGNATURE

DWG. NO. G·3

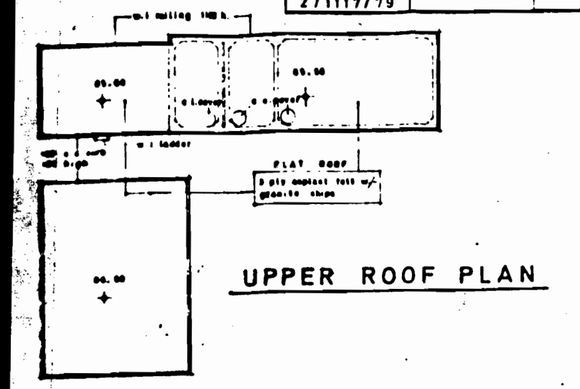
JOB NO.

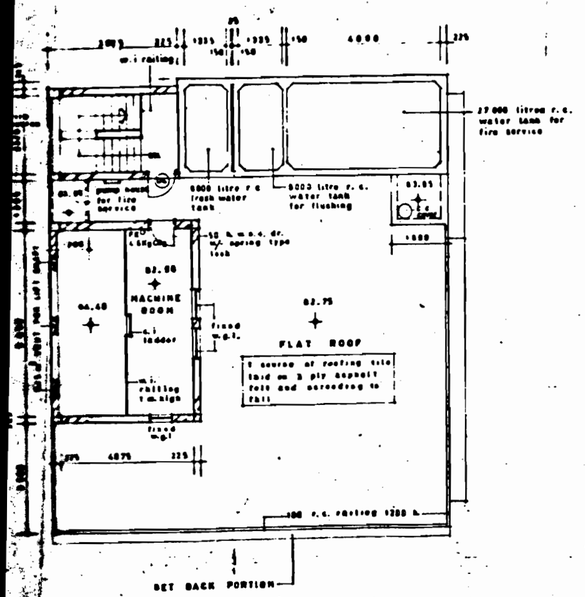
B.D.O. REF NO	F.S.D. REF NO	CROWN LANDS	LABOUR DEPT	HIGHWAYS DIV
2/1117/79				



19th. FLOOR PLAN

AUTOMATIC SPRINKLER SYSTEM TO BE PROVIDED





ROOF PLAN

POSED COMMERCIAL BUILDING . 617 SEC. A. B. D. K. & R. P. ZETLAND STREET HONG KONG	TITLE: PLANS	DESIGNED		DATE	REVI			SIGNATURE	H. C. LEUNG & ASSOCIATES ARCHITECTS & ENGINEERS AUTHORIZED PERSON CHARTERED STRUCTURAL ENGINEER 1101 MANNING HOUSE, 38-48 QUEEN'S RD. C. H.K. TEL. 5-248128-9 5-238640	SIGNATURE		DWG. NO. G·4
		DRAWN										JOB NO.
		CHECKED										
		SCALE	1 100									
		DATE	25th JUNE 79									

B.O.D. REF NO.	F.S.D. REF NO.	CROWN LANDS	LABOUR DEPT.	HIGHWAYS DIV.
2/1117/79				

FRONT ELEVATION (FACING ZETLAND ST.)

PROJECT:

PROPOSED COMMERCIAL BUILDING

ON I. L. 617 SEC. A. B. D. K. & R. P. ZETLAND STREET. HONG KONG

TITLE:

ELEV.

DESIGNED	—	DATE	REVISIONS
DRAWN			
CHECKED			
SCALE	1 : 100		
DATE	25th JUNE 79		

SIGNATURE

H. C. LEUNG & ASSOCIATES
ARCHITECTS & ENGINEERS
AUTHORIZED PERSON
CHARTERED STRUCTURAL ENGINEER
1101 MANNING HOUSE 38-48 QUEEN'S RD. C. H.K.
TEL. 5-248176 8 5-238040

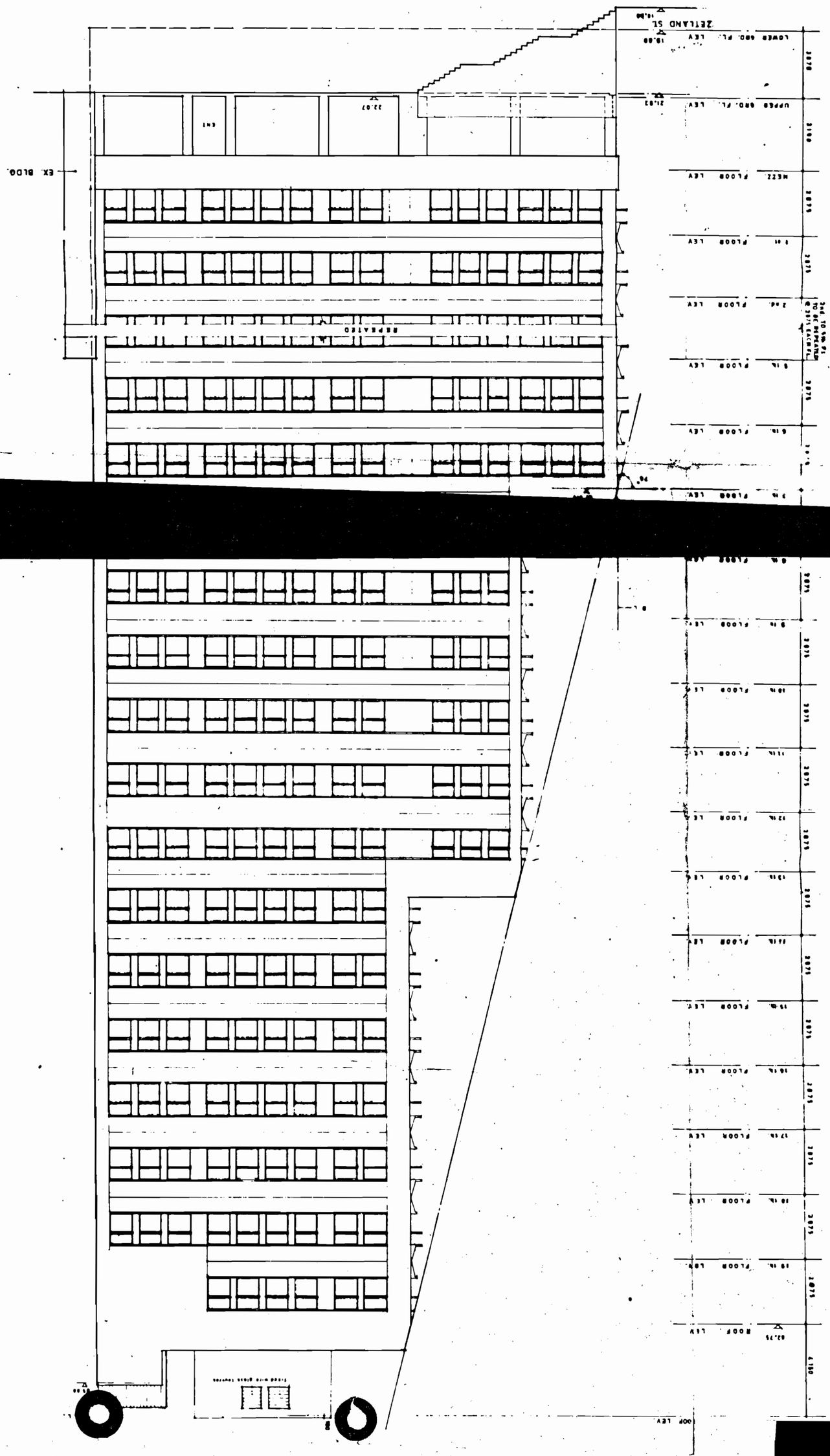
SIGNATURE

DWG NO. G·5

JOB NO.

B.O.D. REF NO. 2/111 7/79 | F.S.D. REF NO. | CROWN LANDS | LABOUR DEPT. | HK/MWS DIV

SIDE ELEVATION (FACING ON HING TERRACE)



H. C. LEUNG & ASSOCIATES
ARCHITECTS & ENGINEERS
AUTHORIZED PERSON
CHARTERED STRUCTURAL ENGINEER
SIGNATURE

DWG. NO. G·6
JOB NO.

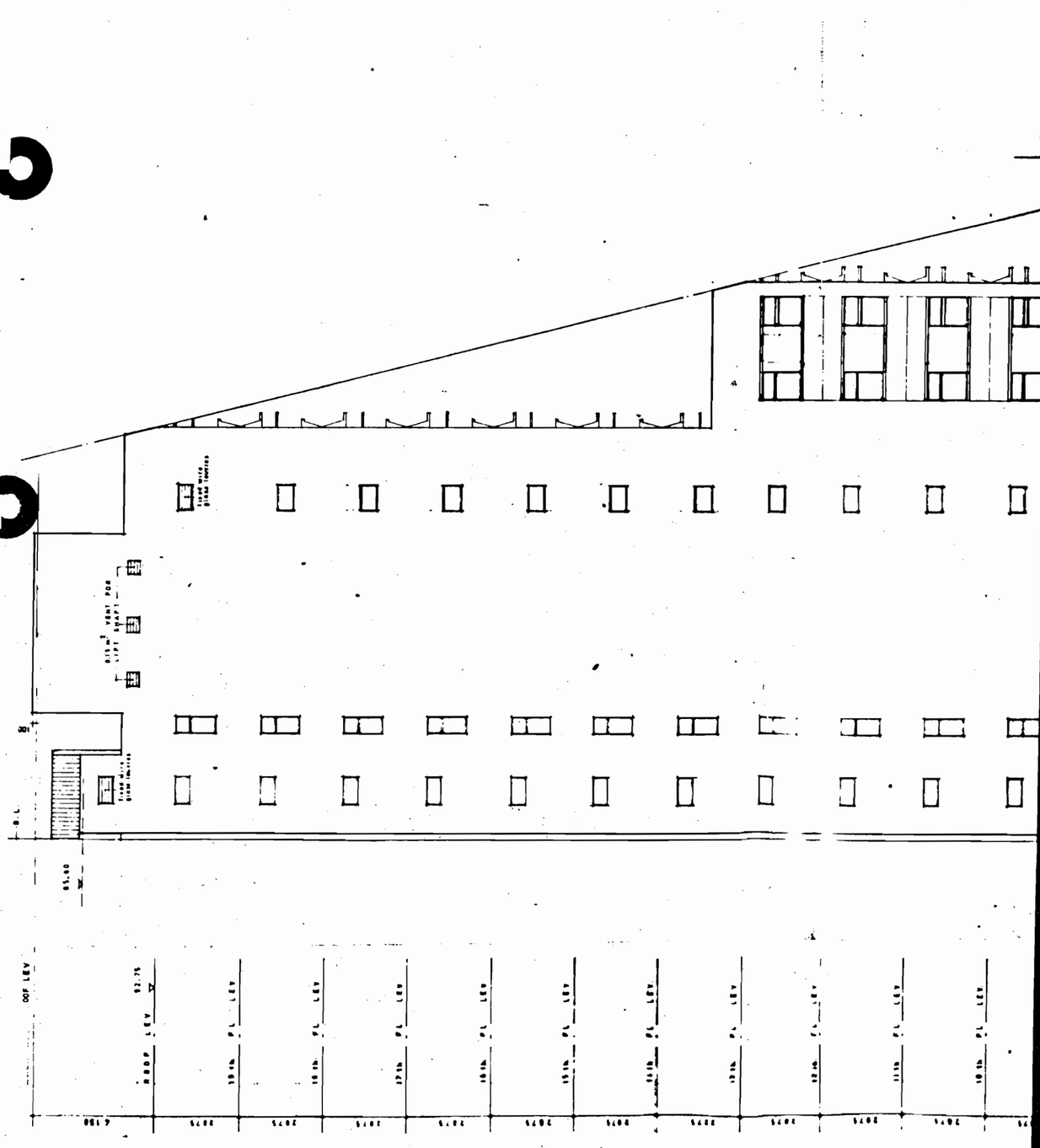
SIGNATURE | DATE

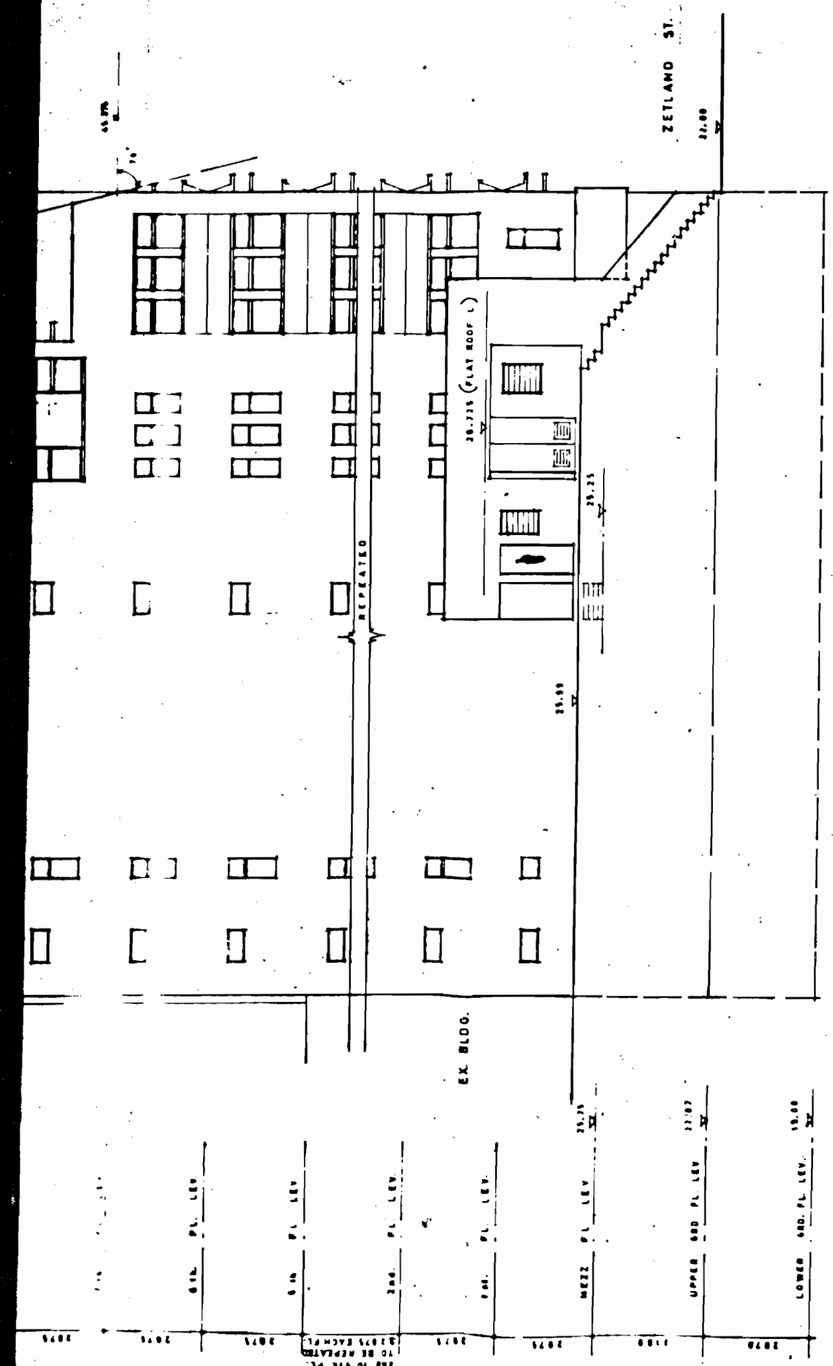
TITLE: ELEV.

DESIGNED | DRAWN | CHECKED | SCALE 1:100 | DATE

PROPOSED COMMERCIAL BUILDING
ON I. L. 617 SEC. A, B, D, K, & R. P. ZETLAND STREET, HONG KONG

B.O.O REF NO	F.S.D REF NO.	CROWN LANDS	LABOUR DEPT.	HIGHWAYS DIV
2/1117/79				





SIDE ELEVATION (FACING RIGHT OF WAY)

PROPOSED COMMERCIAL BUILDING
ON I.L. 617 SEC A.B.D.K.& R.P. ZETLAND STREET. HONG KONG

TITLE: ELEV.

DESIGNED	
DRAWN	
CHECKED	
SCALE	
DATE	

REVISIONS	SIGNATURE

H. C. LEUNG & ASSOCIATES
ARCHITECTS & ENGINEERS
AUTHORIZED PERSON
CHARTERED STRUCTURAL ENGINEER
1101 MANNING HOUSE 38-48 QUEEN'S RD C H.K.
TEL 5-248126-8 5-216640

SIGNATURE

DWG. NO. G·7

JOB NO.

B.D. REF NO.	F.S.D. REF NO.	CROWN LANDS	LABOUR DEPT.	HIGHWAYS DIV.
2/1117/78				

SECTION A-A

PROJECT:

PROPOSED COMMERCIAL BUILDING

ON I.L. 617 SEC. A.B.D.K. & R.P. ZETLAND STREET, HONG KONG

TITLE: SECTION

DESIGNED	
DRAWN	
CHECKED	
SCALE	
DATE	

REVISIONS		SIGNATURE
	1	

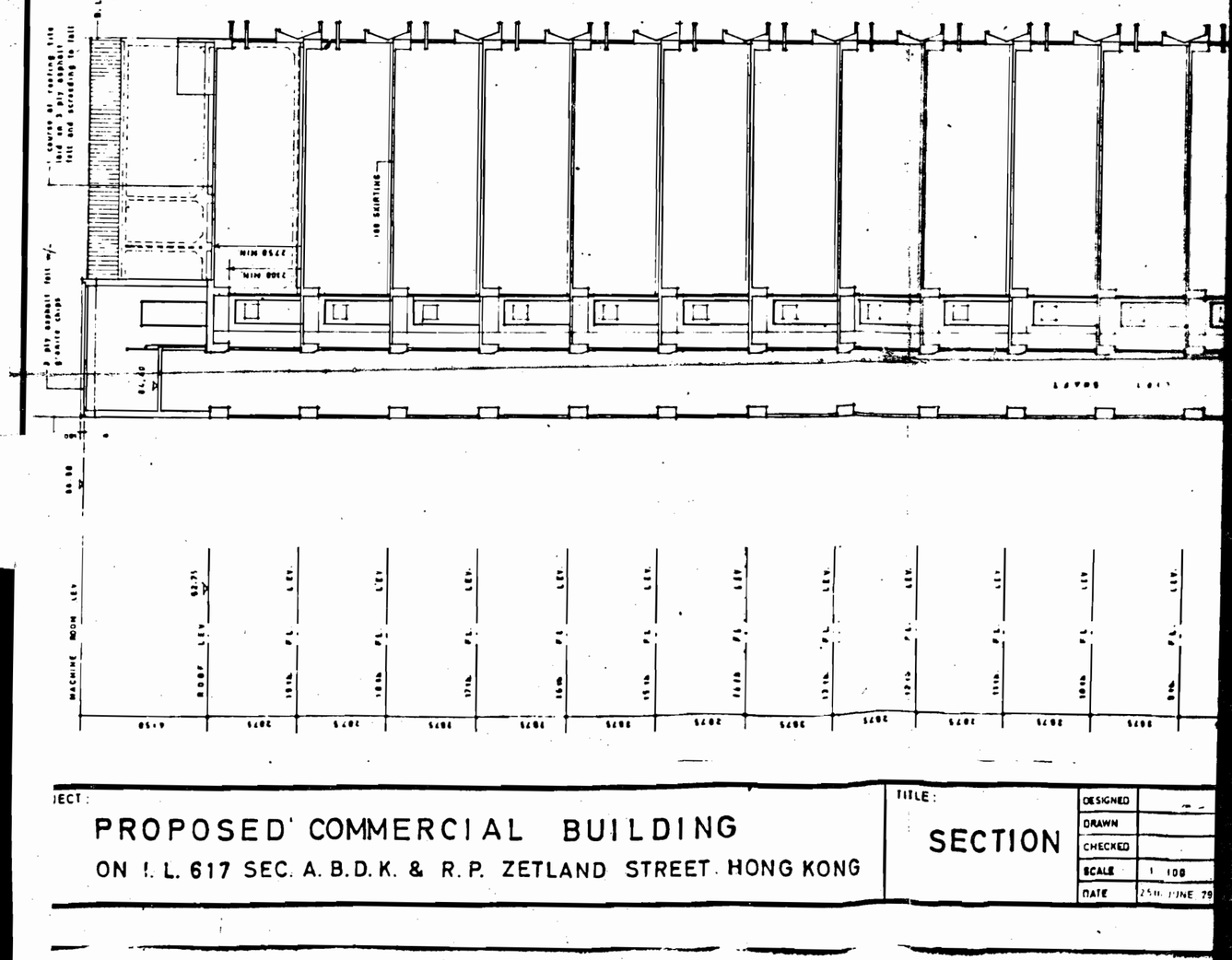
H. C. LEUNG & ASSOCIATES
ARCHITECTS & ENGINEERS
AUTHORIZED PERSON
CHARTERED STRUCTURAL ENGINEER
1101 MANNING HOUSE 38-48 QUEEN'S RD C. H.K.
TEL 5-248128-8 5-239840

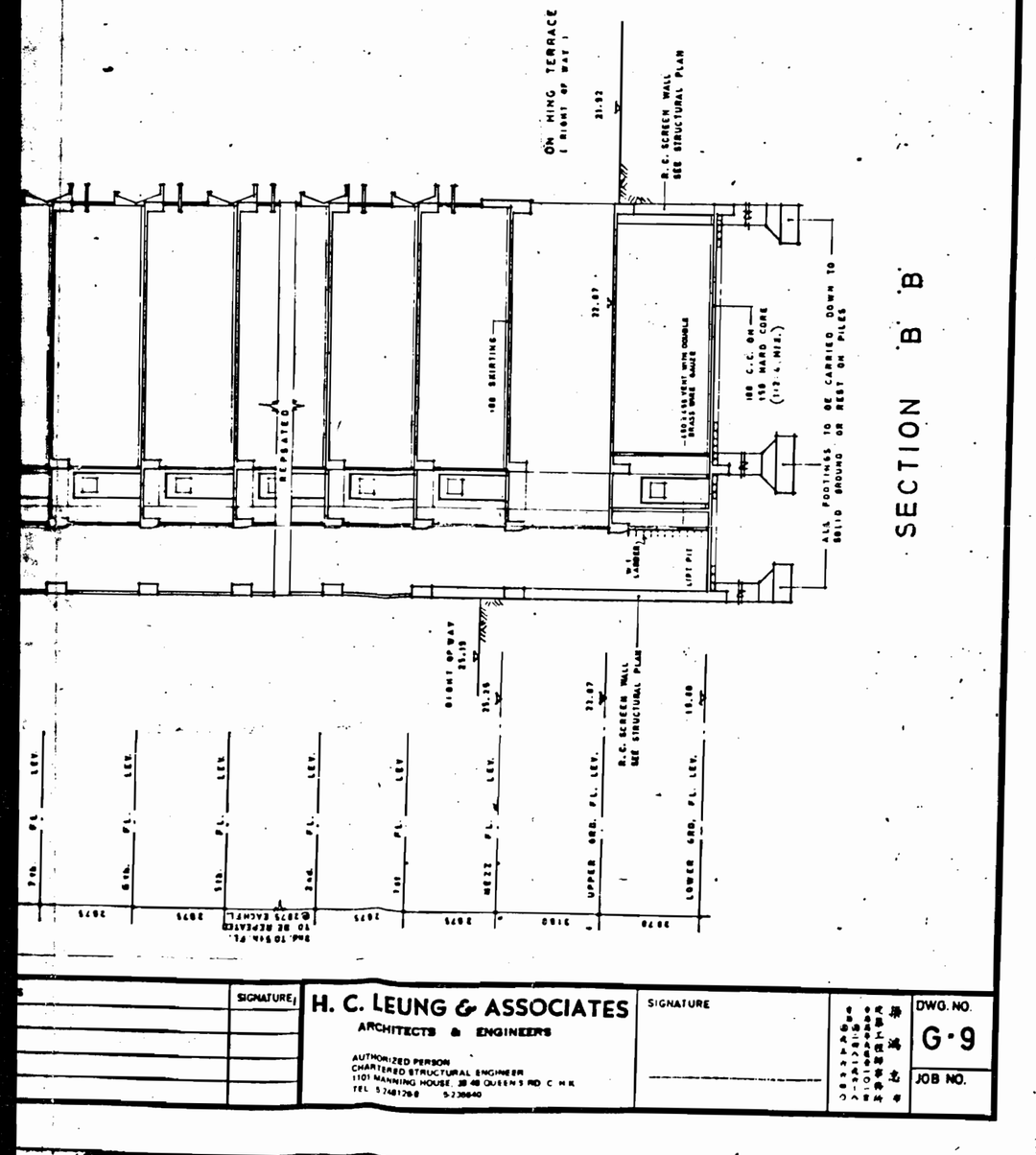
SIGNATURE

DWG NO. G-8

JOB NO.

B.O.O. REF. NO.	F.S.O. REF. NO.	CROWN LANDS	LABOUR DEPT.	HIGHWAYS DIV.
2/1117/79				





SECTION B B

PROJECT:

PROPOSED COMMERCIAL BUILDING

ON I. L. 617 SEC. A, B, D, K. & R. P. ZETLAND STREET HONG KONG

TITLE:

SECTION

DESIGNED	
DRAWN	
CHECKED	
SCALE	1 : 100
DATE	25th JUNE 79

SIGNATURE

H. C. LEUNG & ASSOCIATES
ARCHITECTS & ENGINEERS

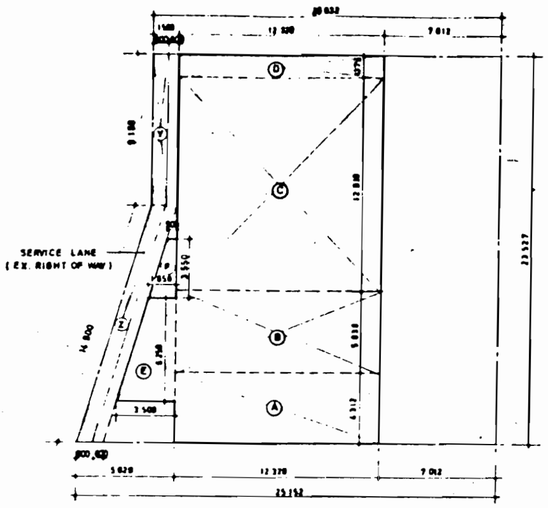
AUTHORIZED PERSON
CHARTERED STRUCTURAL ENGINEER
1101 MANNING HOUSE 38-48 QUEEN'S RD C H.K.
TEL. 5-248128-8 5-238640

SIGNATURE

DWG. NO. G·9

JOB NO.

B.O.O. REF. NO.	F.S.D. REF. NO.	CROWN LANDS	LABOUR DEPT.	HIGHWAYS DEV.
2/1117/79				



LOWER GRD. TO 19th. FLOOR PLAN

CALCULATION OF SITE COVERAGE AND PLOT RATIO :

1. SITE ——CLASS 'A'

2. SITE COVERAGE

AREA OF SITE = 518 992 s.m. (5586.30 s.f.) — (Ⓨ + Ⓩ) (EX. RIGHT OF WAY AREA) = 489.34

PERCENTAGE SITE COVERAGE :

LOWER GRD. FL. TO MEZZ. FL. (EACH FL.) = 309.763 X 1/489.347 X 100 = 6

1st FL. TO 19th FL. (EACH FL.) = 289.853 X 1/489.347 X 100 = 5

PERMITTED PERCENTAGE SITE COVERAGE :

LOWER GRD. FL. TO MEZZ. FL. NOT EXCEEDING 18 m = 1

1st. FL. TO 19th. OVER 51 m =

3. PLOT RATIO :

GROSS FLOOR AREA :

LOWER GROUND FLOOR	= 289.007	s.m.
UPPER GROUND FLOOR	= 305.947	"
MEZZ. FLOOR	= 309.763	"
1st. TO 6th FLOOR 289.853 X 6	= 1739.118	"
7th. TO 12th FLOOR 236.729 X 6	= 1420.374	"
13th. TO 19th. FLOOR 174.759 X 7	= 1223.313	"
	= 5287.522	s.m.

ACTUAL PLOT RATIO :

$\frac{5287.522}{489.347}$ = 10.632

PERMITTED PLOT RATIO = 15

DIAGRAM OF SITE COVERAGE & GROSS FLOOR AREA

CALCULATION OF SITE COVERAGE

Ⓐ	=	12 320	X 4 312	=	53.124 s.m.
Ⓑ	=	12 320	X 5 030	=	61.970 "
Ⓒ	=	12 810	X 12 320	=	157.819 "
Ⓓ	=	12 320	X 1 378	=	16.940 "
Ⓔ	=	$\frac{1650+3500}{2}$	X 6 250	=	18.054 "
Ⓕ	=	$\frac{500+1650}{2}$	X 3 550	=	3.816 "
				=	309.763 s.m.

LOWER GROUND FLOOR :
= Ⓐ + Ⓑ + Ⓒ + Ⓔ = 289.007 s.m.

UPPER GROUND FLOOR :
= Ⓐ + Ⓑ + Ⓒ + Ⓓ + Ⓔ = 305.947 s.m.

MEZZ. FLOOR :
= Ⓐ + Ⓑ + Ⓒ + Ⓓ + Ⓔ + Ⓕ = 309.763 s.m.

1st. TO 6th. FLOOR (EACH FLOOR)
= Ⓐ + Ⓑ + Ⓒ + Ⓓ = 289.853 s.m.

7th. TO 12th. FLOOR (EACH FLOOR) :
= Ⓑ + Ⓒ + Ⓓ = 236.729 s.m.

13th. TO 19th FLOOR (EACH FLOOR) .
= Ⓒ + Ⓓ = 174.759 s.m.

EX. RIGHT OF WAY AREA :

Ⓨ	=	800	X 9 110	=	8.235 s.m.
Ⓩ	=	800	X 14 988	=	13.410 "
				=	21.645 s.m.

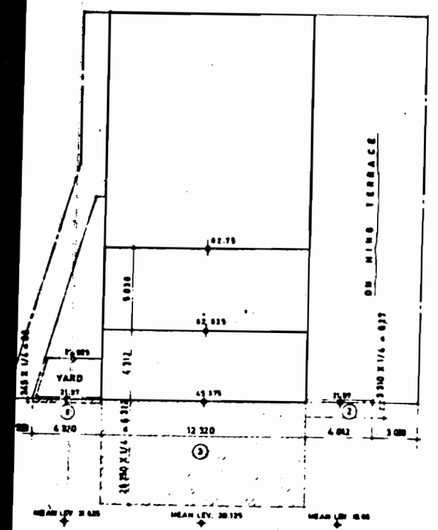


DIAGRAM OF STREET SHADOW AREA

CALCULATION OF STREET SHADOW AREA

STREET SHADOW AREA FACING ZETLAND STREET

WIDTH OF STREET = 5.103 m

FRONTAGE " = 25.152 m

PERMISSIBLE STREET SHADOW AREA

25 152 X 5 103 X 1/2 = 64.181 s.m.

64 181 X 24.97% = 16.270 s.m.

= 81.486 s.m.

ACTUAL STREET SHADOW AREA

① =	86 X 4 328	=	0.372 s.m.
② =	827 X 4 012	=	3.318 "
③ =	6 312 X 12 320	=	77.764 "
		=	81.486 s.m.

FIRE RESISTANCE REQUIRMENT FOR ELEMENT OF CONSTRUCTION

FLOOR	USE	CLASS	COMPARTMENT OF BLDG. FLOOR AREA (m^2)	COMPARTMENT OF BLDG. VOLUME (m^3)	P.R.P. REQUIRED	MINIMUM DIMENSION OF ELEMENT R.C. SLAB THICKLESS	COVER TO STEEL	R.C. BEAM	R.C. COL. MIN SIZE
LOWER GROUND FLOOR	SHOP	2	289.007	867.751	1 HR	100 mm	15 mm	25 mm	275 mm
UPPER GROUND AND MEZZ. FLOOR	SHOP	2	305.947	877.911	1 HR	100 mm	15 mm	25 mm	325 mm
1st. TO 6th FLOOR (EACH STOREY)	OFFICE	3	289.853	631.527	1 HR	100 mm	15 mm	25 mm	225 mm
7th. TO 12th FLOOR (EACH STOREY)	OFFICE	3	236.729	900.196	1 HR	100 mm	15 mm	25 mm	225 mm
13th. TO 19th FLOOR (EACH STOREY)	OFFICE	3	174.759	508.432	1 HR	100 mm	15 mm	25 mm	225 mm
ROOF	MACHINE ROOM	6	——	——	2 HRS	225 mm	15 mm	50 mm	300 mm

SCHEDULE O

USE	PERMITTED DENSITY (m^2/PERSON)	USA ARE
SHOP	1.9	2
SHOP STORE ① TO ⑤	1.5	(LA
① TO ③	9	2
① TO ④	9	9
① TO ⑤	9	1
—	—	

ENT OF SANITARY FITMENTS

CAPACITY PERSONS	W.C. M. REQ'D	W.C. M. PRO'D	W.C. F. REQ'D	W.C. F. PRO'D	BASIN M. REQ'D	BASIN M. PRO'D	BASIN F. REQ'D	BASIN F. PRO'D	URINAL M. REQ'D	URINAL M. PRO'D
44	1	1	2	2	1	1	2	2	1	2
6	1	1	1		1	1				
33	1	3	2	2	1	1	1	1	1	1
15	1	1	1	2	1	1	1	1	1	1
15	1	1	1	1	1	1	1	1	1	1
—	—	—	—	—	—	—	—	—	—	—

SCHEDULE OF REQUIREMENT OF EXIT DOOR AND EXIT ROUTES

USE	PERMITTED DENSITY (m^2 PERSON)	USABLE FLOOR AREA (m^2)	CAPACITY (PERSONS)	MINIMUM N° OF EXIT DOOR OR EXIT ROUTE REQ'D	MINIMUM N° OF EXIT DOOR OR EXIT ROUTE PRO'D	MINIMUM OF WIDTH EXIT DOOR REQ'D	MINIMUM OF WIDTH EXIT DOOR PRO'D	MINIMUM OF WIDTH EXIT ROUTE REQ'D	MINIMUM OF WIDTH EXIT ROUTE PRO'D
——	——	——	——	——	——	——	——	——	——
——	——	——	——	——	——	——	——	——	——
——	9	303.258	33	1	2	750 mm	850 mm	900 mm	1050 mm
——	9	167.534	18	1	2	750 mm	850 mm	900 mm	1050 mm
——	9	113.960	13	1	2	750 mm	850 mm	900 mm	1050 mm
——	——	——	——	——	——	——	——	——	——

PROJECT.

PROPOSED COMMERCIAL BUILDING

ON I.L. 617 SEC. A.B.D.K. & R.P. ZETLAND STREET. HONG KONG

TITLE.

CALCULATION

DESIGNED	
DRAWN	
CHECKED	
SCALE	
DATE	

TE	REVISIONS	SIGNATURE

H. C. LEUNG & ASSOCIATES
ARCHITECTS & ENGINEERS
AUTHORIZED PERSON
CHARTERED STRUCTURAL ENGINEER
1101 MANNING HOUSE 38 48 QUEEN'S RD C H.K.
TEL. 5-248126 8 5-215690

SIGNATURE

DWG. NO. G-10

JOB NO.

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

and

IN THE MATTER OF Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot 617 with the adjoining buildings thereon known respectively as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong.

BETWEEN	CHENG YICK CHI	1st Plaintiff
	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff

and

THE HON. THE ATTORNEY GENERAL	Defendant

THE EXHIBIT REFERRED TO IN THE AFFIDAVIT OF LEUNG HUNG CHEE FILED HEREIN ON THE 18TH DAY OF MAY 1981.

EXHIBIT MARKED	NATURE	DATED	PAGES
"LHC-7"	Copy letter from the Office of the Building Authority	22.8.1979	2

PHILIP K. H. WONG & CO.,

SOLICITORS & NOTARIES,

HONG KONG.

2/1117/79

Office of the Building Authority,
Public Works Department,
Murray Building, 8-10th floors,
Garden Road,
Hong Kong.

H.C. Leung, Esq.,
1101 Manning House,
38 Queens Road, C.,
Hong Kong.

Tel. No. 5-2670-2355

22nd August 1979

Dear Sir,

5-9 On Hing Terrace - I.L. 617
s.A, B, D, K & R.P.

I refer to your application dated 4th July 1979 for approval of proposals.

It is the usual practice in the Buildings Ordinance Office for all submissions to be checked carefully to ensure that contraventions of the Buildings Ordinance and Regulations are not present and that from other aspects where the public interest is involved, the proposals are viable. However, the pressure of work in the Buildings Ordinance Office is such that this usual practice cannot be followed without most serious delay continuing to affect all submissions to the B.O.O. Therefore, your application has been checked on the basis of certain elementary checks only but this elementary checking has disclosed that

(Please see overleaf)

and your proposal therefore is disapproved.

This curtailment of the usual range of checks emphasizes your duties and responsibilities as Authorised Person and I must stress the importance the Building Authority attaches to the proper assumption of responsibility by Authorised Persons. It is self-evidence that any alteration to a building during erection or on completion, costs money and causes delays. Where the Building Authority is of the opinion that an Authorised Person has failed in his duty appropriate action will be taken.

Please ensure, therefore, that a re-submission complies fully with the Buildings Ordinance and Regulations, and that all relevant information is attached.

Yours faithfully,

Sgd. T.B. Novak
(T.B. Novak)
pro Building Authority.

a) The Director of Fire Services has not issued a fire certificate. (Buildings Ordinance Sec. 16(1)(b)). A copy of his comments is enclosed herewith.

b) There is excessive street shadow area. (Building (Planning) Reg. 16). Your request for a modification in this respect will not be granted because the top floor has been designed with a splay. Also, your calculations are incorrect in that this site is of 'B' classification and street shadow has also to be shown on On Hing Terrace.

c) Your calculations for site coverage and plot ratio are incorrect because you have included in your site area the areas of land taken up by On Hing Terrace and the rear service lane. (Building (Planning) Reg. 23(2)(a)).

d) The transformer room doors open outwards across the service lane. (Building (Planning) Reg. 15). Your requested modification will not be granted as one of the doors is not flush against the wall of the building when fully open.

e) Architectural features project over Crown Land. (Buildings Ordinance Section 31(1).

f) Due to the width of the staircase at the main entrance to the building off Zetland Street a central handrail is required. (Building (Planning) Regulation 41(1)).

g) A smoke lobby is required to the staircase at Lower G/F level. (Building (Planning) Reg. 41(1)).

h) Ventilation has not been provided to the bottoms of the liftways. (Building (Lifts) Reg. 11(2)(a)).

i) The tops of the staircases require ventilation. (Building (Planning) Reg. 40(b)).

5. Before consent for excavation and/or foundation works can be given, I shall require to be satisfied under Section 17(1) Item 7 of the Buildings Ordinance that adequate precautionary measures will be taken to safeguard the stability of the adjacent streets and any private buildings or parts thereof that may be affected. It is therefore suggested that prior to making an application for such consent proposals are

submitted for the necessary temporary and permanent support together with details of phased working procedures for my consideration.

6. Your site formation submission must contain the information required by items 1 & 2 of Appendix 1 of the Geotechnical Control Branch's Standard Folios and Appendices, failing which approval of the site formation plans may be refused under the Buildings Ordinance Section 16(1)(i).

7. Before consent for demolition will be given I shall require details of your shoring proposals with regard to the party wall shared with No. 4 On Hing Terrace otherwise your application may be refused under Buildings Ordinance Section 16(5).

8. Your plans are returned herewith.

No. 3

Affirmation of Cheng Wei-dart with exhibits - 5th June 1981

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

- and -

IN THE MATTER OF Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot 617 with the adjoining buildings thereon known respectively as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong.

BETWEEN	CHENG YICK CHI	1st Plaintiff
	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff
	and	
	THE HON. THE ATTORNEY GENERAL	Defendant

I, CHENG WEI-DART of Hong Kong a Chief Building Surveyor in the employ of the Hong Kong Government (Building Ordinance Office of the Building Authority) do solemnly sincerely and truly affirm that:-

1. I am authorised by the Building Authority to make this affirmation and I refer to the Affidavit of LEUNG HUNG CHEE filed herein and sworn on the 16th day of May 1981.

2. I do not dispute the matters set forth in paragraph 2 thereof.

3. I do not dispute the matters set forth in paragraph 3 thereof.

4. I do not dispute the matters set forth in paragraph 4 thereof.

5. I do not dispute the matters set forth in paragraph 5 thereof except to say that On Hing Terrace is a street giving all parties including the public access to the buildings having frontages thereon and to the public from Wyndham Street to Zetland Street and further that while Mason's Lane may in practice be impassable it does exist.

6. I do not dispute the matters set forth in paragraph 6 thereof.

7. I do not dispute the matters set forth in paragraph 7 thereof except to say that the existing buildings referred to therein are separate individual structures erected at some time in or about 1918 comprising 4 storeys in each building.

8. I do not dispute the matters set forth in paragraph 8 except to say that the said rights of way referred to therein are in no way restricted the wording thereof being "together with a right of way over" and or "together with a full free and uninterrupted right of way and passage" and in the reservation of rights of way the wording being "subject to a full free and uninterrupted right of way and passage" or words to like effect and expressed to be in favour of "servants workmen and others" or words to a like effect, the method by which such right of way could or should be exercised being not defined or restricted in any way.

9. I do not dispute the matters set forth in paragraph 9 thereof except to say that from enquiries I have made confirm that the public has at all times utilised On Hing Terrace as and for a street.

10. In regard to paragraph 10 thereof I say that the land comprising On Hing Terrace is not unleased Crown land as is evidenced by the lease conditions relating thereto and now produced and shown to me marked CWD 1 is the original Indenture (lease conditions) in regard to Inland Lot No. 617 and further that I believe the La Taverna restaurant building is an unauthorised structure no building permit having been applied for or issued for same and that pursuant to the provisions of the Buildings Ordinance it is

competent for the Building Authority to require demolition thereof.

11. In regard to paragraph 11 thereof I believe that On Hing Terrace is a street within the meaning of the Buildings Ordinance as the same has been in existence and used by the public as and for a street (and I refer to paragraph 9 of the said Affidavit) since the year 1918 or thereabouts and accordingly the provisions of Regulation 23(2)(b) do not apply as alleged.

12. I do not dispute the matters set forth in paragraph 12 thereof except to say that the width of On Hing Terrace is in excess of 4.5 metres.

13. In regard to paragraph 13 thereof I believe that the site is a class B site pursuant to Regulation 2 as cited in that it is a corner site abutting on two streets neither of which is less than 4.5 metres wide and consequentially shadow area calculations pursuant to Regulation 16 are necessary in respect of both On Hing Terrace and Zetland Street. I believe that On Hing Terrace (described as the unbuilt portion) cannot or should not be included as part of the site for the calculation of site coverage and plot ratio.

14. I do not dispute the matters set forth in paragraph 14 thereof except to say that subsequent to the letter dated 22nd August 1979 a submission was made to the Building Authority by letter dated 25th September 1979 from H.C. Leung & Associates and now produced and shown to me is a copy of such letter marked CWD 2 and further now produced and shown to me marked CWD 3 is a copy of a letter from the Building Authority addressed to the Plaintiffs' architect dated 23rd November 1979 replying to the aforesaid letter marked CWD 2.

15. In regard to paragraph 15 I believe that the site was uncorrectly taken by the Plaintiffs as a class A site and I refer to paragraph 13 hereof and I further say that the Plaintiffs could not build on or over On Hing Terrace or the scavenging lane in any event.

16. That in or about the month of November 1964 and May 1965 the Building Authority approved plans for the construction of a building at 1-4 On Hing Terrace wherein On Hing Terrace was confirmed as being the street applicable thereto for all necessary calculations and approvals that being together with the scavenging lane at the rear thereof the only street frontages for the described site and now produced and shown to me and marked

CWD 4 and CWD 5 are two plans of the building known as 1-4 On Hing Terrace.

17. I believe that the declarations sought by the Plaintiffs should not be made bythis Honourable Court.

AFFIRMED at C.D.O. (Central Western) Hong Kong, this 5th day of June 1981) signed

Before me,
signed
D. Teny (Mrs.)
Commissioner for Oaths.

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

and

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	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff

and

THE HON. THE ATTORNEY GENERAL — Defendant

Exhibit

referred to in the

Affirmation of CHENG WEI-DART

Filed herein on the 8th day of June, 1981.

Exhibit Marked	Description	Date	No. of Sheets
CWD 1	The Original Indenture (lease conditions)	17.7.1865	5

ATTORNEY GENERAL'S CHAMBERS,

HONG KONG.

Inland Lot No. 617

THIS INDENTURE of two parts made the Seventeenth day of July, 1865, between Our Sovereign Lady Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, of the one part, and John Dent, Francis Chomley and Alexander Turing of the other part

Whereas by Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland, made and dated at Westminster, the Fifth day of April in the Sixth Year of the Reign of Her said Majesty, the Island of Hongkong and its Dependencies were erected into a Colony, and full power and authority to the Governor of the said Colony of Hongkong, for the time being, were given and granted in the Name of Her said Majesty, and on Her behalf (but subject nevertheless to such provisions as might be in that respect contained in any Instructions which might from time to time be addressed to him by Her said Majesty,) to make and execute, in the Name and on the behalf of Her said Majesty, under the Public Seal of the said Colony, grants of Land to Her said Majesty belonging, within the said Colony, to private persons for their own use and benefit, or to any Persons, Bodies Politic or Corporate, in trust, for the public uses of Her said Majesty's Subjects there resident, or any of them; AND WHEREAS by certain other Letters Patent under the Great Seal as aforesaid, bearing date the twenty second day of June in the Seventy third Year of the Reign of Her said Majesty, Sir HerculesGeorge Robert Robinson, Knight was constituted and appointed Governor and Commander-in-Chief of the said Colony of Hongkong, and its Dependencies; AND WHEREAS by certain Instructions of Her said Majesty, addressed to the then Governor of Hongkong, under Her said Majesty's Signet and Sign Manual, and dated the Sixth day of April, 1843. The said Governor was amongst other things, instructed to grant Leases of the Land in the said Colony belonging to Her said Majesty; AND WHEREAS further on the departure of the said Governor Sir Hercules George Robert Robinson, William Thomas Mercer illegible under the terms of the Royal Charter, Government of the said Colony; Now This Indenture Witnesseth that in consideration of the yearly rents, conditions and agreements hereinafter reserved and contained by and on the part and behalf of the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators and Assigns to be paid, done and performed; and also of the sum of Five Current Dollars, which are at this time a legal

tender in the said Colony of Hongkong, in hand paid to the said William Thomas Mercer as Acting Governor of the said Colony, for the use of Her said Majesty, by the said John Dent, Francis Chomley and Alexander Turing

two lines in deed illegible

John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators and Assigns ALL that piece or parcel of Ground situate, lying and being at Victoria in the said Island of Hongkong, abutting on the North side thereof on a lease registered in the Land Office as Inland Lot Number Six hundred and eighteen and measuring thereon two hundred and two feet, on the South side thereof on a Public Road and measuring thereon two hundred feet, on the East side thereof on Zetland Street and measuring thereon one hundred and forty-nine feet and on the West side thereof on Wyndham Street and measuring thereon one hundred and seven feet; which said piece or parcel of ground contains in the whole Twenty one thousand eight hundred and one square feet and is registered in the Land Office as Inland Lot Number Six hundred and seventeen in the names of the said John Dent, Francis Chomley and Alexander Turing, together with all easements, profits, commodities and appurtenances whatsoever to the said demised premises belonging, or in any wise appertaining, EXCEPT AND ALWAYS RESERVED unto Her said Majesty, Her Heirs, Successors and Assigns, full power to resume and take possession of all or any part of the said piece or parcel of Ground hereby demised, if required for the improvement of the said Colony of Hongkong, or for any other public purpose whatsoever, Three Calendar Months' notice being given to the Occupation thereof of its being so required, and a full and fair Compensation for the said Land and the Buildings thereon, being paid to the said John Dent, Francis Chomley and Alexander Turing, their Heirs, Executors, Administrators or Assigns, at a valuation to be fairly and impartially made by the Surveyor or Her said Majesty, Her Heirs, Successors or assigns and in which said valuation the benefit to accrue to the said John Dent, Francis Chomley and Alexander Turing, their Heirs, Executors, Administrators or Assigns from any such improvement or public purpose shall be allowed by way of set-off against any Damage he or they may suffer from such resumption as aforesaid; EXCEPT AND RESERVED ALSO all Mines, Minerals and Quarries of Stone in, under and upon the said premises, and all such Earth, Soil, Marl, Clay, Chalk, Brick-earth, Gravel, Sand, Stone and Stones, and other Earths or Materials, which now are or hereafter during the continuance of this demise, shall be under or upon the said premises, or any part or parts

thereof, as Her said Majesty, Her Heirs, Successors and Assigns may require for the Roads, Public Buildings, or other Public Purposes of the said Colony of Hongkong; with full liberty of Ingress, Egress and Regress to and for Her said Majesty, Her Heirs, Successors and Assigns, and Her and their agents, servants and workmen, at reasonable times in the year during the continuance of this demise, with or without horses, carts, carriages and all other necessary things into, upon, from and out of all or any part or parts of the premises herein before demised, to view, dig for, convert and carry away, the said excepted Minerals, Stone, Earths and other things respectively, or any part or parts thereof respectively, thereby doing as little damage as possible to the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators or Assigns; AND SAVE AND EXCEPT also full power to make and conduct in, through and under the said hereby demised premises, all and any public or common sewers, drains or watercourses.

TO HAVE AND TO HOLD the said piece or parcel of ground and premises hereby demised, or intended so to be, with their and every of their appurtenances, unto the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators and Assigns, from the Twenty-fifth day of June A.D. 1865, for and during and unto the full end and term of nine hundred and ninety nine years from thence next ensuing and fully to be complete and ended: YIELDING AND PAYING therefor yearly and every year the Sum of one hundred and forty four dollars and twelve cents in Current Dollars of the said Colony of Hongkong, by half-yearly payments, on the Twenty-fourth day of June and the Twenty-fifth day of December, in every Year, free and clear of and from all Taxes, Rates, Charges, Impositions and Assessments whatsoever, imposed or to be imposed upon or in respect of the said hereby demised premises or any part thereof during the term hereby granted; the first half-yearly payment of the said yearly rent or Sum of one hundred and forty four dollars and twelve cents to be made on the Twenty fifth day of December 1865

AND THE SAID John Dent, Francis Chomley and Alexander Turing for themselves, their Heirs, Executors, Administrators and Assigns doth hereby covenant, promise and agree, to and with Her said Majesty, Her Heirs, Successors and Assigns by these presents, in manner following, that is to say, that they the said John Dent, Francis

Chomley and Alexander Turing illegible Executors, Administrators or Assigns illegible term of nine hundred and ninety-nine years hereby illegible to be paid to Her said Majesty, Her Heirs, Successors and Assigns, the said yearly sum of one hundred and forty four dollars and twelve cents clear of all taxes and deductions as aforesaid in the several days and times, and in the manner herein before reserved and made payable; AND ALSO that they the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators and Assigns shall and will during all the said term hereby granted, bear, pay and discharge all taxes, charges and impositions whatsoever,as are or shall be hereafter assessed or charged on, or in anywise imposed upon or in respect of the said premises hereby demised or intended so to be or any part thereof.

AND that they the said John Dent, Francis Chomley, and Alexander Turing, their Executors, Administrators or Assigns, shall and will, before the expiration of the first year of the term hereby granted, at his and their own proper costs and charges, in a good, substantial and workman-like manner erect, build and completely finish fit for use, one or more good, substantial and safe brick or stone messuage or tenement, messuages or tenements, upon some part of the ground hereby demised, with proper fences, walls, sewers, drains and all other usual or necessary appurtenances, and shall and will before the expiration of the said first year lay out and expend thereon the Sum of one thousand four hundred and forty one dollars and upwards, which said messuage or tenement, messuages or tenements, shall be of the same rate of building, elevation, character and description, and shall front and range in an uniform manner with the messuages or tenements in the same Street, and the whole to be done to the satisfaction of the Surveyor of Her said Majesty, Her Heirs, Successors or Assigns.

AND ALSO that in case the said messuage or tenement shall not have so as aforesaid been built and completely finished with such additions and appurtenances as aforesaid before the expiration of the said first year of the term hereby granted, according to the covenant next hereinbefore contained then that they the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators or Assigns shall and will, before the expiration of six calendar months next after the said Surveyor of Her said Majesty, Her Heirs, Successors or Assigns, or such other

person as the Governor shall in that behalf appoint, shall have required him so to do, at his and their own proper costs and charges, in a good, substantial and workmanlike manner erect, build and completely finish fit for use, one or more good, substantial and safe brick or stone messuage or tenement, messuages or tenements, upon some part of the ground hereby demised, with proper fences, walls, sewers, drains and all other usual or necessary appurtenances, and shall and will, before the expiration of such six calendar months as aforesaid, lay out and expend thereon the sum of one thousand four hundred and forty one dollars and upwards, which said messuage or tenement, messuages or tenements, shall be of the same rate of building, elevation, character and descripton, and shall front and range in an uniform manner with the messuages and tenements in the same Street, and the whole to be done to the satisfaction of the Surveyor of Her said Majesty, Her Heirs, Successors or Assigns within the expiration of such six calendar months as last aforesaid;

AND ALSO that the said John Dent, Francis Chomley, and Alexander Turing, their Executors, Administrators and Assigns, shall and will, from time to time, and at all times, from and after the said messuage or tenement, erections and buildings on the said piece of ground hereby demised shall be respectively completed and finished, during the remainder of the said term hereby granted, when, where, and as often as need or occasion shall be and require, at his and their own proper costs and charges, well and sufficiently Repair, Uphold, Support, Maintain, Pave, Purge, Scour, Cleanse, Empty, Amend and keep the said messuage or tenement, messuages or tenements, erections and buildings, and all the Walls, Rails, Lights, Pavements, Privies, Sinks, Drains and Watercourses thereunto belonging, and which shall in any wise belong or appertain unto the same, in, by and with all and all manner of needful and necessary reparations, cleansings and amendments whatsoever, the whole to be done to the satisfaction of the Surveyor of Her said Majesty, Her Heirs, Successors or Assigns; AND THE SAID messuage or tenement, messuages or tenements, erections, buildings and premises, so being well and sufficiently repaired, sustained and amended, at the end, or sooner determination of the said term, shall and will peaceably and quietly deliver up to Her said Majesty, Her Heirs, Successors or Assigns;

AND ALSO that the said John Dent, Francis Chomley

and Alexander Turing, their Executors, Administrators and Assigns shall and will, during the term hereby granted, as often as need shall require, bear, pay and allow a reasonable share and proportion for and towards the costs and charges of making, building, repairing and amending, all or any roads, pavement, channels, fences and party-walls, draughts, private or public sewers and drains, requisite for, or in, or belonging to the said demised premises, or any part thereof, in common with other premises near or adjoining thereto and that such proportion shall be fixed and ascertained by the Surveyor of Her said Majesty, Her Heirs, Successors or Assigns, and shall be recoverable in the nature of rent in arrear; AND FURTHER that it shall and may be lawful to and for Her said Majesty, Her Heirs, Successors or Assigns, by Her or their Surveyor, or other persons deputed to act for her or them, twice or oftener in every year during the said term, at all reasonable times in the day, to enter and come into and upon the said parcel of ground hereby demised, and into any messuages or tenements, which may at any time be built thereon, to view, search and see the condition of the same, and of all decays, defects and wants of reparation and amendment, which upon every such view or views shall be found, to give or leave notice or warning in writing, at or upon the said demised premises, unto or for the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators or Assigns, to repair and amend the same within three Calendar Months then next following, within which said time or space of three Calendar Months, after every such notice or warning shall be so given, or left as aforesaid, the said John Dent, Francis Chomley and Alexander Turing, for themselves, their Executors, Administrators and Assigns doth hereby covenant, promise and agree with Her said Majesty, Her Heirs, Successors and Assigns, to repair and amend all such decays, defects and wants of reparation and amendment accordingly;

AND FURTHER that the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators and Assigns illegible upon the said premises or any part thereof, the trade or business of a Brazier, Slaughterman, Soap-maker, Sugar-maker, Fellmonger, Melter of tallow, Oilman, Butcher, Distiller, Victualler or Tavern-keeper, Blacksmith, Nightman, Scavenger or any or either of them, or any other noisy, noisome or offensive trade or business whatever, without the previous license of Her said Majesty, Her Heirs, Successors or Assigns, signified by

the Governor of the said Colony of Hongkong, or other person duly authorized in that behalf;

AND ALSO that they the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators or Assigns, shall not nor will, let, underlet, mortgage, or otherwise assign over, or otherwise part with, all or any part of the said hereby demised premises, for all or any part of the said term of nine hundred and ninety-nine years, without at the same time registering such alienation in the Land Office, or in such other Office as may hereafter be instituted for the purposes of Registration in the said Colony of Hongkong, and paying all reasonable fees and other expenses thereon.

PROVIDED ALWAYS, and these presents are upon this express condition, that in case the said yearly rent of One hundred and forty four dollars and twelve cents in current Dollars as aforesaid hereinbefore reserved or any part thereof, shall be in arrear and unpaid by the space of twenty-one days next over, or after any or either of the said days whereon the same ought to be paid as aforesaid, (being lawfully demanded upon, or at any time after the said twenty-one days, and not paid when demanded) or in case the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators or Assigns shall not, before the expiration of the first year of the term hereby granted, at his and their own proper costs and charges, in a good, substantial and workmanlike manner erect, build and completely finish fit for use, such one or more good, substantial and safe brick or stone messuage or tenement, messuages or tenements, as hereinbefore in that behalf mentioned, upon some part of the ground hereby demised, with proper fences, walls, sewers, drains and all other usual or necessary appurtenances, or in case they the said John Dent, Francis Chomley, and Alexander Turing, their Executors, Administrators or Assigns shall not have, within such first year as aforesaid, laid out and expended thereon the sum of one thousand four hundred and forty one dollars or in case the whole of such erections and buildings shall not be done and made to the satisfaction of the Surveyor of Her said Majesty, Her Heirs, Successors or Assigns or of such other person as the Governor shall in that behalf appoint, or in case the said messuage or tenement shall not have so as aforesaid been built and completely finished with such additions and appurtenances as aforesaid, before the expiration of the said first year of the term hereby granted, according to the covenant herein-

before contained, and in case they, the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators or Assigns shall not, before the expiration of six Calendar Months next after the said Surveyor of Her Majesty, Her Heirs, Successors or Assigns or such other person as the Governor shall in that behalf appoint, shall have requested him so to do, at his and their own proper costs and charges in a good substantial and workmanlike manner have erected, built and completely finished fit for use, one or more such good, substantial and safe brick or stone messuage or tenement, messuages or tenements, as herein-before in that behalf mentioned, upon some part of the ground hereby demised, with proper fences, walls, sewers, drains and all other usual necessary appurtenances, or in case they the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators or Assigns shall not have, within such six Calendar Months as aforesaid, laid out and expended thereon the sum of one thousand four hundred and forty one dollars, or in case the whole of such last mentioned erections and buildings shall not be done and made to the satisfaction of the Surveyor of Her said Majesty, Her Heirs, Successors or Assigns or of such other person as the Governor shall in that behalf appoint within such six Calendar Months as last aforesaid or in case of breach or non-performance of any or either of the other covenants, clauses, conditions, agreements or provisions herein contained, and by or on the part and behalf of the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators or Assigns to be kept, done and performed, then and in either of the said cases, from thenceforth, and at all times thereafter, it shall and may be lawful to and for Her Majesty, Her Heirs, Successors or Assigns by the Governor of Hong kong or other person duly authorized in that behalf, into and upon the said hereby demised premises, or any part thereof, in the name of the whole, to re-enter, and the same to have again, retain, repossess and enjoy, as in Her or their first or former estate, as if these presents had not been made; and the said John Dent, Francis Chomley and Alexander Turing, their Executors, Administrators and Assigns, and all other occupiers of the said premises, thereout and thence utterly to expel, put out and amove, this Indenture or anything contained herein to the contrary notwithstanding.

IN WITNESS whereof the said John Dent, Francis Chomley and Alexander Turing hath hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered

Signed John Dent

Illegible

Examined and Certified to be correct.

Sgd. Illegible

Surveyor General

Registered

Inland Lot No. 617

John Dent, Francis Chomley and Alexander Turing.

Registered,

Vol. K Fol. 128

Sgd. Illegible

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

and

IN THE MATTER OF Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot 617 with the adjoining buildings thereon known respectively as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong.

BETWEEN	CHENG YICK CHI	1st Plaintiff
	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff
	and	
	THE HON. THE ATTORNEY GENERAL	Defendant

Exhibit

referred to in the

Affirmation of CHENG WEI-DART

Filed herein on the 8th day of June, 1981

Exhibit Marked	Description	Date	No. of Sheets
CWD 2	Letter	25.9.79	2

ATTORNEY GENERAL'S CHAMBERS,

HONG KONG.

A. C. LEUNG & ASSOCIATES
ARCHITECTS & ENGINEERS
1101 Manning House, 38-48 Queen's Rd.C.
HONG KONG.

Our ref:
Your ref: BOO: 2/1117/79 25th September, 1979

The Building Authority,
Buildings Ordinance Office,
P.W.D., Murray Building,
Hong Kong.

Dear Sir,

Proposed Commercial Building on I.L. 617 s.A, B, D, K & R.P. at Nos. 5, 6, 7, 8 & 9 On Hing Terrace, Hong Kong.

With reference to your letter dated 22nd August, 1979, I beg to submit herewith for your re-consideration six sets of amended building plans, Drg. Nos. G1 to G10, together with two copies of hypothetical scheme, Drg. No. G11, and a Form 29. In which, your requirements, as stated in paragraph 2(d), (e), (f), (g), (h) & (i) of the said letter, and the comments of F.S.D. have been incorporated accordingly. The certificate from Fire Services Department will be submitted later in due course.

Refer to your para. 2(b), the street shadow area of Zetland Street is now amended and a hypothetical scheme is given. About the street area on the open area on the side, my Clients submit that the open area is their private property and is not a street. In fact, it is a raised terrace for the private use of its owners. The site is not a Class B site. As shown on my drawings, the figures of plot ratio and site coverage are according to the schedule of Class A site. It is correct that there is a right of way on the open area at the side, but this is only served to my Client and the adjoining building owners. Your re-consideration is requested. Further, the para. 2(c) also explains the case.

Referring the para. 2(c) of your letter, the open area at the side and the lane area are part of my Client's lot. They are not used as public lane or street required by the Building Authority and therefore, qualified for site coverage. Meanwhile, the proposed building is a commercial building and will be served by Zetland Street which is open to Fire Engine. I note that there are similar cases approved by the Building

Authority, i.e. (i) the site in Chatham Court, Tsim Sha Tsui, (ii) No. 1-9 Monmouth Terrace, Hong Kong, (iii) Nos. 11-15 Seymour Road, Hong Kong.

You will also see that while the permitted plot ratio is 15 on 10.188 proposed, exemption of Building (Planning) Reg. 23(2) is also applied as stated in the attached Form 29.

In view of above, my Client and I should be most grateful if my proposal would meet with your kind approval.

Yours faithfully,

Sgd. Illegible

GOVERNMENT OF HONG KONG

Form 29

BUILDINGS ORDINANCE.

(Chapter 123).

Section 42.

Application to the Building Authority for modification of and/or exemption from the provisions of the Buildings Ordinance and/or regulations made thereunder.

25th September, 1979

To the Building Authority,

Pursuant to the provisions of section 42 of the Buildings Ordinance, I hereby make application for a modification of and/or exemption from the provisions of -

(a) (here specify any sections of the Buildings Ordinance)

1) Section 31(1): To permit the projection of architectural features over Crown Lands as shown on plan.

(b) (here specify any regulations made under the Buildings Ordinance)

2) Planning Reg. 15: To permit the transformer room door to be opened outward at G/

3) Planning Reg. 23(2)(a): To permit the terrace and rear services lane to be included in the site area.

4) Planning Reg. 16: To permit the increase of shadow area of the building but not exceed 25%.

2. I note hereunder the special circumstances in connexion with my proposals in support of this application -

1. The architectural features area for good looking of the building.

2. The transformer room door will be flush with the lane when it is opened and will not obstruct the public.

3. Both the terrace and rear service lane are private property and forming part of the lot.

4. For architectural features and the building height not exceed the permitted plot ratio.

Sgd. Illegible
Signature

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

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IN THE MATTER of Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot 617 with the adjoining buildings thereon known respectively as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong.

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	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff

and

THE HON. THE ATTORNEY GENERAL	Defendant

Exhibit
referred to in the
Affirmation of CHENG WEI-DART

Filed herein on the 8th day of June, 1981

Exhibit Marked	Description	Date	No. of Sheets
CWD 3	Letter	23.11.79	21

ATTORNEY GENERAL'S CHAMBERS,
HONG KONG.

The Building Authority,
Public Works Department,
Murray Building,
8-10th floors,
Garden Road, Hong Kong.

MC. Leung, Esq.,
1101 Manning House,
38-48 Queen's Road C.,
Hong Kong.

Tel. No. 5-2670-2356

23 November 1979

Dear Sir,

Proposed commercial Building on I.L. 617 s.A,B,D,K & R.P. Nos. 5-9 On Hing Terrace, Hong Kong

I refer to your application dated 25th September 1979 for approval of proposals.

It is the usual practice in the Buildings Ordinance Office for all submissions to be checked carefully to ensure that contraventions of the Buildings Ordinance and Regulations are not present and that from other aspects where the public interest is involved, the proposals are viable. However, the pressure of work in the Buildings Ordinance Office is such that this usual practice cannot be followed without most serious delay continuing to affect all submission to the B.O.O. Therefore, your application has been checked on the basis of certain elementary checks only but this elementary checking has disclosed that

(Please see overleaf)

and your proposal therefore is disapproved.

This curtailment of the usual range of checks emphasizes your duties and responsibilities as Authorised Person and I must stress the importance the Building Authority attaches to the proper assumption of responsibility by Authorised Persons. It is self-evidence that any alteration to a building during erection or on completion, costs money and causes delays. Where the Building Authority is of the opinion that an Authorised Person has failed in his duty appropriate action will be taken.

Please ensure, therefore, that a re-submission complies fully with the Buildings Ordinance and Regulations, and that all relevant information is attached.

Yours faithfully,
Sgd.
(C.H. Leung) pro Building Authority

c.c. H.K. Chiap Hua Manufactory Co. (1947) Ltd.,
Wing Lung Bank Building, 12/F.,
45 Des Voeux Road C., Hong Kong.

Your street shadow area calculations are incorrect as this is a Class B site. (Building (Planning) Regulation 16).

Your calculations for plot ratio and site coverage are incorrect as you have included On Hing Terrace within your site area (Building (Planning) Regulation 23(2)).

5. For your information your requested modifications of Building (Planning) Regs. 15 & 16 would also have been granted subject to my comments in paragraph 2.

6. An exemption of Section 31(1) of the Buildings Ordinance would have been granted.

7. The comments made in paragraphs 5, 6 & 7 of my letter to you of the 22nd August 1979 are still applicable.

8. A copy of comments received from the Director of Fire Services is enclosed herewith for your information.

9. Your plans are returned herewith.

1981, No. 233

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	MAK SIU CHUN	5th Plaintiff

and

THE HON. THE ATTORNEY GENERAL	Defendant

Exhibit

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Filed herein on the 8th day of June, 1981

Exhibit Marked	Description	Date	No. of Sheets
CWD 4	Plans	11.1964	1

ATTORNEY GENERAL'S CHAMBERS,

HONG KONG.

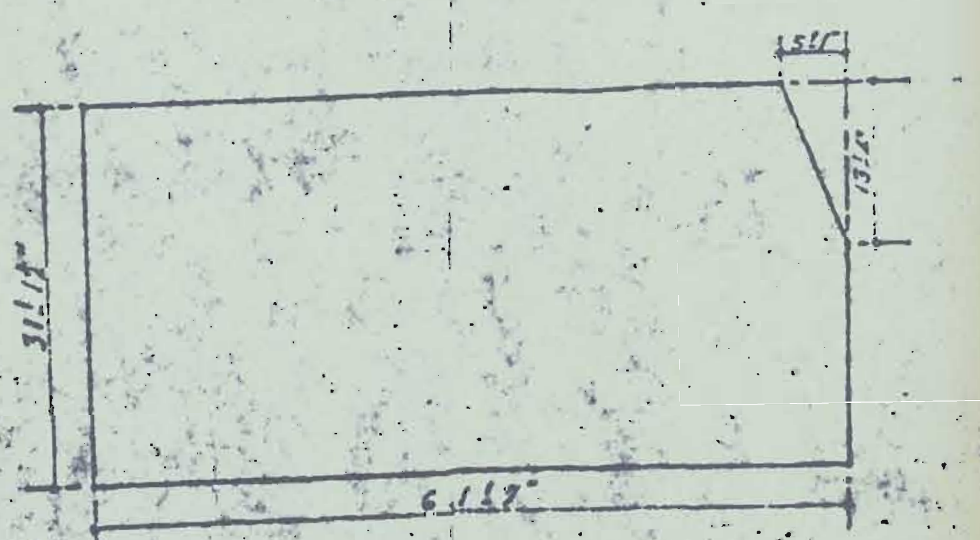

DIAGRAM SHOWING SITE COVERAGE OF 5TH. — 8TH. FLOOR

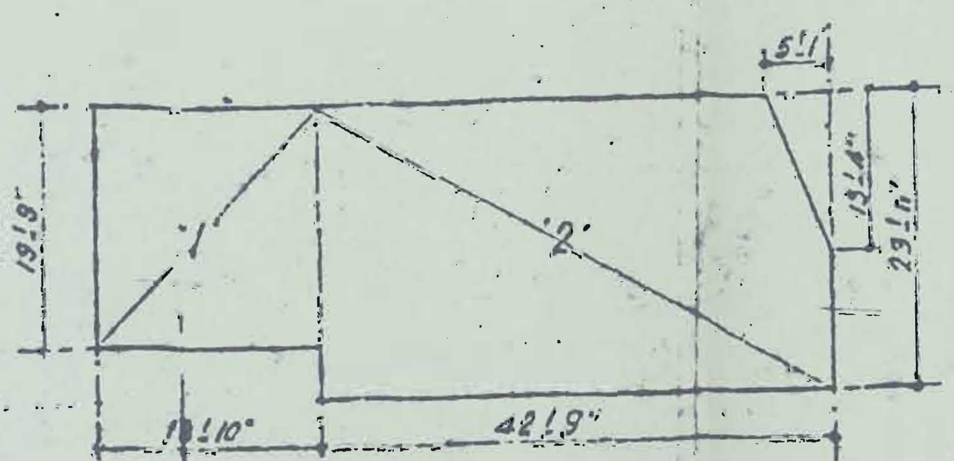

DIAGRAM SHOWING SITE COVERAGE 9TH. — 11TH. FLOOR

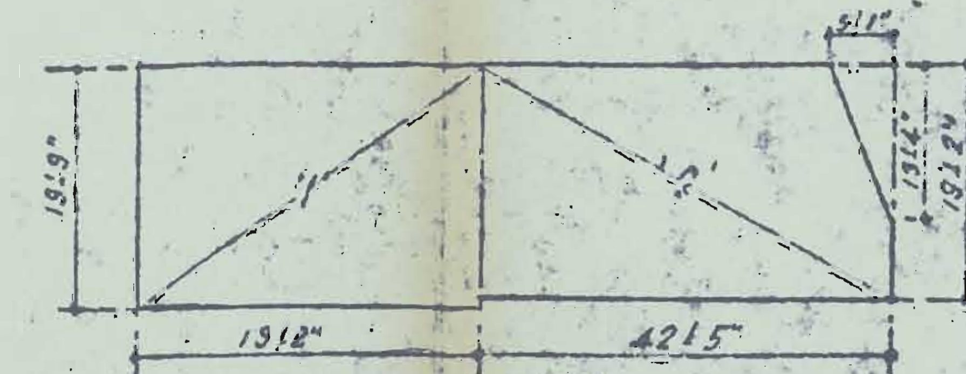

DIAGRAM SHOWING SITE COVERAGE OF 12TH. — 13TH. FLOOR

DIAGRAM SHOWING SITE COVERAGE OF 4TH. FLOOR

DIAGRAM SHOWING SITE COVERAGE OF GROUND — 3RD. FLOOR

CALCULATIONS OF SITE COVERAGE & PLOT RATIO :—

CLASS OF SITE = CLASS A

AREA OF SITE = 61'7" x 41'4" − $\frac{5'1" \times 13'4"}{2}$ = 2511.524 SQ. FT.

SITE COVERAGE :—

'a' GRD. LEV. TO 1ST. SET BACK = 61'7" x 41'4" − $\frac{5'1" \times 13'4"}{2}$ = 2511.524 SQ. FT.

'b' ABOVE 1ST SET BACK = 61'7" x 31'1½" − $\frac{5'1" \times 13'4"}{2}$ = 1,882.885 SQ. FT.

PERCENTAGE SITE COVERAGE :—

'a' GRD. LEV. TO 1ST. SET BACK = $\frac{2,511.524}{2,511.524}$ x 100% = 100%

'b' ABOVE 1ST. SET BACK = $\frac{1882.885}{2511.524}$ x 100% = 74.97%

PERMITTED PERCENTAGE SITE COVERAGE :—

(TOTAL HEIGHT OF BUILDING = 135'0")

'a' GRD. LEV. TO 1ST. SET BACK = 100% (BELOW 50'0")

'b' ABOVE 1ST. SET BACK = 75% (NOT EXCEED 140'0")

TOTAL GROSS FLOOR AREA :—

'a' GRD. — 3RD. FLOOR = 61'7" x 41'4" − $\frac{5'1" \times 13'4"}{2}$ = 2,511.524 SQ. FT. x 4 = 10,046.096 SQ. FT.

4TH. FLOOR = 61'7" x 39'5½" − $\frac{5'1" \times 13'4"}{2}$ = 2,396.05 " " x 1 = 2,396.056 " "

'b' 5TH. — 8TH. FLOOR = 61'7" x 31'1½" − $\frac{5'1" \times 13'4"}{2}$ = 1,882.885 SQ. FT. x 4 = 7,531.540 " "

9TH. — 11TH. FLOOR = '1' + '2' = 18'10" x 19'9" + 42'9" x 23'11" − $\frac{5'1" \times 13'4"}{2}$ = 1,360.475 " " x 3 = 4,081.425 " "

12TH. — 13TH. FLOOR = '1' + '2' = 13'2" x 19'9" + 42'5" x 13'2" − $\frac{5'1" \times 13'4"}{2}$ = 1,157.588 " " x 2 = 2,315.176 " "

TOTAL = 26,370.293 SQ. FT.

ACTUAL PLOT RATIO :—

$\frac{26,370.293}{2,511.524}$ = 10.5

PERMISSIBLE PLOT RATIO = 10.5

Approved
BLDG. BUILDING AUTHORITY
20 [illegible]

PROPOSED OFFICE BUILDING
AT NOS. 1, 2, 3, 4, ON [illegible] TERRACE
LOT NOS. [illegible]
JOB NO. [illegible]
DRAWN BY
CHECKED BY
DRAWING NO. 13/[illegible]
SCALE [illegible]
DATE 20 AUG 1954
12 NOV 1954

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

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Exhibit
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Filed herein on the 8th day of June, 1981

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CWD 5	Plans	5.1965	1

ATTORNEY GENERAL'S CHAMBERS

HONG KONG.


NOTE :—
1. ALL 9" PANEL WALLS, BRICK PART & 3" VI-CON BLOCKS TO BE SET IN CEMT. MORTAR OF 1:4 MIXTURE
2. ALL STAIRS TO HAVE ON BOTH SIDES; AND HAVE A CLEAR HEIGHT OF 6'-6" MIN.
3. ALL RISERS OF STAIRS TO BE NOT MORE THAN 7" & TREADS NOT LESS THAN 9"
4. ALL LAVYS. TO HAVE HIGH GLAZED TILE DADO
5. ALL REINFORCED CEMT. CONC. MIXTURE TO BE GRADE ORDINARY (1:2:4 MIX.)
6. ALL DRAINAGE DISPOSAL TO BE SHOWN LATER ON DRAINAGE PLAN
7. WELL, W.CS. & DRAINAGE PLAN TO BE SUBMITTED LATER
8. R.C.C. CALCULATIONS & DETAILS TO BE SUBMITTED LATER
9. SOFFITS OF BEAMS TO BE 7'-6" HIGH CLEAR (MIN.)
10. ALL 9" PANEL WALLS & BRICK PART. ARE IN RED COLOUR THUS:
11. ALL 3" VI-CON BLOCKS PART. ARE IN GREY COLOUR THUS:
12. ALL R.C.C. WALLS ARE IN GREEN COLOUR THUS:
13. DRIVEN PILING WILL NOT BE PERMITTED
BLOCK PLAN
SCALE : 50'-0" = 1"
SHOP (NON-DOMESTIC)
SHOP (NON-DOMESTIC)
SHOP (NON-DOMESTIC)
SHOP (NON-DOMESTIC)
PAVEMENT
RIGHT OF WAY
GROUND FLOOR PLAN
ON KING TERRACE = 24'-0" WIDE
OFFICE (NON-DOMESTIC)
APPROVED 6" R.C.C. WALL TO BE REVISED TO 9" BR. WALL
1ST. FLOOR PLAN
USABLE SPACE = 1,963.82 SQ. FT.
WINDOW AREA REQ.D = 1,963.82 " " X 10% = 196.382 SQ. FT.
WINDOW AREA PROVIDED = (12'-5" + 12'-10" + 14'-0" X2) X 4'-9"
= 53'-2" X 4'-9" = 252.539 SQ. FT.
NET WINDOW AREA = 252.539 SQ. FT. X 80% = 202.031 " "
NOTE :—
ALL ADDITIONAL WORK TO BE SHOWN IN RED COLOUR THUS:
ALL APPROVED WORK TO BE OMITTED TO BE SHOWN IN BLUE COLOUR THUS:
AMENDED SIGN DATE: 19 MAY 1965
PROPOSED OFFICE BUILDING
AT NOS. 1 2 3 4 ON KING TERRACE
S. G. CHIEN
AUTHORIZED ARCHITECT
1/14

No. 4

Order of Mr. Justice Liu upon hearing of Originating Summons - 4th July 1981

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

and

IN THE MATTER OF Section D, Section K, the Remaining Portion, Section B and Section A of the Inland Lot 617 with the adjoining buildings thereon known respectively as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong.

BETWEEN	CHENG YICK CHI	1st Plaintiff
	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff
	and	
	THE ATTORNEY GENERAL	Defendant

BEFORE THE HONOURABLE MR. JUSTICE LIU. IN CHAMBERS

O R D E R

UPON THE APPLICATION of the Plaintiffs by Originating Summons dated the 17th day of February, 1981

AND UPON HEARING leading Counsel for the Plaintiffs and Counsel for the Defendant

AND UPON READING the affidavit of LEUNG Hung Chee filed herein on the 18th day of May 1981 and all the exhibits therein referred to, the affirmation of Cheng Wei Dart filed herein on the

8th day of June 1981 and all the exhibits therein referred to

THIS COURT DOTH DECLARE that:

(a) the portion of the above mentioned properties, not presently built upon, fronting the existing buildings (hereinafter referred to as "the unbuilt portion") is an area dedicated to the Public for the purposes of passage within the meaning of Regulation 23(2)(b) of the Building (Planning) Regulations made under Cap. 123,

(b) the unbuilt portion should be included in the site area for the purposes of calculating the site coverage and plot ratio of a single building to be erected on the above mentioned properties, under the Building (Planning) Regulations,

(c) the above mentioned properties forming one site for a single building is a Class A site within the meaning of Regulation 2 of the Building (Planning) Regulations,

(d) the street shadow calculations for a single building to be erected on the above mentioned properties should be made under Building (Planning) Regulation 16, as for a Class A site and with regard to only one street, namely Zetland Street, on which the above mentioned properties taken as a single site front.

AND IT IS ORDERED that the Defendant do pay the Plaintiffs their costs and it is certified fit for two Counsel.

Dated the 4th of July, 1981.

(J.G. Roy)
Acting Registrar.

No. 5

Judgment of Mr. Justice Liu
4th July 1981

1981, No. 233

IN THE HIGH COURT OF JUSTICE

MISCELLANEOUS PROCEEDINGS

IN THE MATTER OF Section 16 of the Buildings Ordinance Cap. 123 and Regulations 2, 16, 20 to 23 of the Building (Planning) Regulations

and

IN THE MATTER OF Section D, Section K, the Remaining Portion, Section B and Section A of the Inland Lot 617 with the adjoining buildings thereon known respectively as Nos. 5, 6, 7, 8 and 9 On Hing Terrace, Hong Kong.

BETWEEN	CHENG YICK CHI	1st Plaintiff
	ABERDEEN DEVELOPMENT CORPORATION LIMITED	2nd Plaintiff
	LU SIU WAN	3rd Plaintiff
	FIVE UP INVESTMENT COMPANY LIMITED	4th Plaintiff
	MAK SIU CHUN	5th Plaintiff
	and	
	THE HON. THE ATTORNEY GENERAL	Defendant

Coram: LIU, J. in Court
Date : 4th July 1981.

J U D G M E N T

The plaintiffs are the respective owners of the five adjoining houses known as Nos. 5, 6, 7, 8 and 9 On Hing Terrace now standing on Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot 617. In the pre-war erection of these five houses some 60 years ago, a strip of land facing the harbour was left unbuilt upon, which presently lies in front of

this row of five houses and forms part of a raised terrace, called the On Hing Terrace.

Next to this block of five houses stands a post-war building constructed at the end of 1964 or in mid 1965 replacing four separate but adjoining houses known as Nos. 1-4 On Hing Terrace of like dimensions and design as those of the plaintiffs' Nos. 5, 6, 7, 8 and 9. In the approval of the building plans for Nos. 1-4 On Hing Terrace, a similar unbuilt on front portion facing the harbour was treated by the Building Authority as a "street" for the Building Ordinance and all the Building (Planning) Regulations.

The plaintiffs are desirous of erecting on their parcels of land a new building in a joint redevelopment scheme. Their submission of building plans was rejected by the Building Authority on, inter alia, the ground that the unbuilt on portion was a street for the purposes of determining its height, site coverage and plot ratio under the Building (Planning) Regulations.

What was assumed in relation to the new building standing on the site of Nos. 1-4 On Hing Terrace would not bind the plaintiffs as owners of Nos. 5, 6, 7, 8 and 9, but the Building Authority's rejection of the plaintiffs' proposed building plans would at least give the appearance of consistency.

If the area available for redevelopment, as computed under these regulations, were to be exclusive of the unbuilt on portion, the gross floor area of a new building in the plaintiffs' scheme would yield some 1,698 square metres less. Another material aspect for consideration is the true meaning of the term "the frontage of the building" which would affect the permissible height as governed by what is known as "the street shadow area".

By this originating summons, the plaintiffs pray for the following declarations :

(a) that the portion of the above mentioned properties, not presently built upon, fronting the existing buildings (hereinafter referred to as 'the unbuilt portion') is an area dedicated to the public for the purposes of passage within the meaning of Regulation 23(2)(b) of the Building (Planning) Regulations made under Cap. 123,

(b) that the unbuilt portion should be included in the site area for the purposes of calculating the site coverage and plot ratio of a single building to be erected on the above mentioned properties, under the Building (Planning) Regulations,

(c) that the above mentioned properties forming one site for a single building is (sic) a Class A site within the meaning of Regulation 2 of the Building (Planning) Regulations, and

(d) that the street shadow calculations for a single building to be erected on the above mentioned properties should be made under the Building (Planning) Regulation 16, as for a Class A site and with regard to only one street, namely Zetland Street, on which the above named properties taken as a single site front.

Lying to the north of the unbuilt on portion of Nos. 1-9 On Hing Terrace is a narrow lane which is much less than 4.5 metres wide and physically impassable, called Mason's Lane. Nos. 1-9 On Hing Terrace are served in the rear by a small scavenging lane. Suffice it for me to say that Mason's Lane in front and the scavenging lane in the rear may be ignored in these proceedings by reason of their insignificant dimensions. On its east/west sides, the terrace comprising Nos. 1-9 On Hing Terrace is sandwiched between Wyndham Street next to No. 1 and Zetland Street next to No. 9. The unbuilt on portion is inaccessible to vehicular traffic; at each end of the unbuilt on portion steps lead from the Wyndham Street level next to No. 1 and from the Zetland Street level next to No. 9 to the raised terrace at which the unbuilt on portion and the plaintiffs' premises are situated.

It was common ground that the plaintiffs' proposed scheme as presented to the Building Authority was a development on one site and that the unbuilt on portion had duly been dedicated to the public for the purposes of passage.

Counsel for the plaintiffs readily recognized the comprehensive definition of "street" in section 2 of the Building Ordinance as supplemented by that in regulation 2 of the Building (Planning) Regulations. The Court was reminded that both in section 2 and regulation 2, the definition of "street" was prefaced by : "unless the context otherwise requires" and that for the

purposes of regulations 16 and 23, a street must at least be 4.5 metres wide.

Regulation 19 of the Building (Planning) Regulations seems to confer an unfettered discretion on the Building Authority as regards the optimum height of, site coverage and plot ratio for a building which abuts on no street or a street of less than 4.5 metres in width. Regulation 20 deals with permitted site coverage and Regulation 21 permitted plot ratio. These latter two regulations allow varying degrees of maximum land development according to its categorization as "Class A site", "Class B site" or "Class C site". For our present purposes, it would be convenient to take "Class A site" as meaning a site which abuts on one street or more of not less than 4.5 metres wide, "Class B site" as meaning a corner site abutting on two streets both of not less than 4.5 metres wide and "Class C site" as meaning a corner site abutting on three streets all of not less than 4.5 metres wide.

It was submitted on behalf of the plaintiffs that in the absence of any statutory definition for the word "site", the leased areas vested in the plaintiffs under their respective assignments were prima facie the "site". Counsel contended that the only modification sought to be introduced by the Buildings Ordinance was contained in regulation 23(2) of the Building (Planning) Regulations. Regulation 23(1) and (2) read as follows:-

> "23. (1) For the purposes of regulations 19, 20, 21 and 22 -
>
> (a) the height of a building shall be measured from the mean level of the street or streets on which it fronts or abuts or, where the building fronts or abuts on streets having different levels, from the mean level of the lower or lowest of the streets to the mean height of the roof over the highest usable floor space in the building;
>
> (b) the gross floor area of a building shall be the area contained within the external walls of the building measured at each floor level (including any floor below the level of the ground), together with the area of each balcony in the building, which shall be calculated from the overall dimensions of the balcony (including the thickness of the sides

thereof), and the thickness of the external walls of the building; and

(c) a street that is less than 4.5 m shall be deemed not to be a street.

(2) In determining for the purposes of regulation 20, 21 or 22 the area of the site on which a building is erected -

(a) no account shall be taken of any part of any street or service lane; and

(b) there shall be included any area dedicated to the public for the purposes of passage."

For the definitions of "Class A site, "Class B site" or "Class C site" and regulations 19, 20 and 21, the unbuilt on portion was, as I understood counsel, conceded to fall within the wide-ranging definition of "street", but it was urged upon me that both the classifications of site and regulation 23(2) brought into focus the site in contrast with the building thereon. I turn to consider first regulation 23(2). The plaintiffs claimed that paragraph (b) thereof included, for determining the area of the site, the portion unbuilt upon, be it a "street" or not, by reason that the same had been "dedicated to the public for the purposes of passage". That this area had for over 60 years been so dedicated was not contested, though the terms (if any) of such dedication were never clarified in these proceedings. Counsel for the defendant also took no issue with the plaintiffs that regulation 23(2)(a) and regulation 23(2)(b) were not necessarily mutually exclusive, but it was contended that regulation 23(2)(b) envisaged a present or future dedication and would give no credit for a past dedication. I do not share that interpretation, as Mr. Widdicombe pointed out, I think rightly, that regulation 23(2)(b) referred to "any area dedicated to the public" and not "any area to be dedicated to the public". In my judgment, for the purposes of regulations 20, 21 or 22, the "area of the site" will include the dedicated unbuilt on portion within the parcels belonging to the plaintiffs.

Thus, the questions posed for my consideration in prayers (a) and (b) in the originating summons must be answered in the affirmative. Indeed, the unbuilt on area has admittedly been dedicated to the public for the purposes of passage, and such unbuilt on portion must be so included in the site

area for the purposes of calculating the site coverage and plot ratio for the plaintiffs' proposed new building.

"Site" is not defined, but if a "site" were to be restricted to the area of land utilized in or available for development, it would be impossible to include for "the area of the site on which a building is erected" a space dedicated for public passage under regulation 23(2)(b). The segregation of a built up area within the site from the "site" itself may also be found in the language of regulation 21(3) and the definition of "site coverage" in regulation 2.

Regulation 21(3):

"For the purposes of this regulation and of regulations 19, 20 and 22, the plot ratio of a building shall be obtained by dividing the gross floor area of the building by the area of the site on which the building is erected". (The underlining is mine.)

"Site coverage" :

"'Site coverage' means the area of the site that is covered by the building that is erected thereon and, when used in relation to a part of a composite building, means the area of the site on which the building is erected that is covered by that part of the building." (The underlining is mine.)

I concur with counsel's approach that "site" is prima facie the leased area. The area of the site is not confined to and does not necessarily mean the built up area. With these observations on the word "site", I come to the third declaration sought on site classification. "Class A site", "Class B site" and "Class C site" are defined with reference to a site abutting a street or streets or a corner site abutting two or more streets. It need be constantly remembered that it is the "site" abutting a street or streets and not the building thereon which is under consideration. It is noteworthy that whenever "site" appears in the regulations, it is invariably paired only with the verb "abuts", or at times "fronts" but understandably never with "projects over" which seems to be appropriate only to a building. The site of the plaintiffs' abuts Zetland Street and Mason's Lane, the latter of which is less than 4.5 metres in width. The plaintiffs' site abuts only one street and is therefore a Class A site. The answer to the query

raised in the third prayer in the originating summons is also in the affirmative.

I pass on lastly to regulation 16, the basic calculation of the "street shadow area" $\frac{F \times W}{2}$ as supplemented by the formulae in paragraph (3), F being the length of the frontage of the building and W being the width of the steel upon, or over, which the building abuts, fronts or projects. Regulation 16(4) defines "frontage" in relation to a building as meaning the boundary of a site upon which the building is erected.

Regulation 16 is designed primarily to regulate shadows cast over a street. For the purposes of regulation 16, no passage of less than 4.5 metres wide can be a street. It can readily be appreciated that regulation 16 was obviously not intended to enjoy a general application to private ownership. First of all, it is infrequent to spare any open space of 4.5 metres in width on private land. Moreover, it would be optional for an owner to leave no open area within the statutory meaning of a "street".

That regulation 16 aims at controlling access of light and air to a public place laying beyond privately owned property can be demonstrated by the statutorily prescribed perimeter whereby a "street shadow Area" is to be delineated. A "street shadow area" in relation to a building is its shadow cast over a street. Assuming a building to be rectangular in structure with a flat top but set back from the boundary of the lot which leaves no room sufficient to form any "street" within, a "street shadow area" in regulation 16 is contained by (1) a line on the street the projection of which would manage to meet the silhouette of the roof at an angle of 76° with the ground (2) a line formed by the "frontage of the building" i.e. the site boundary opposite the building (and not the bottom edge of that side of the building set back) and (3) two lines drawn at right angles to the centre line of the street from each extremity of the "frontage of the building" i.e. the site boundary opposite the building (again not from each extremity of the bottom edge of that side of the building).

A "street shadow area" means "an area on the surface of a street". If in fact the "frontage of the building" were the bottom edge of the side of the building set back from the lot boundary as in the above given example, the area contained by these four lines would extend coverage well beyond "the surface of the street" to part of the private open space lying in between the lot boundary and the building. That was clearly not the intention

of the Legislature which sought, by regulation 16(4), to restrict a "street shadow area" to "an area on the surface of a street". Consequently, "frontage" in relation to a building being the boundary of the site can only mean the boundary of the lot. Thus, "site" would seem to comprise the whole of the leased area and not merely that portion actually put to use in structural development. Indeed, that appears to be unmistakenly portrayed in the definition of "frontage" in regulation 16(4) in which "site" and "building" are set in sharp contrast. That definition reads:

> "'Frontage' in relation to a building, means that boundary of a site upon which the building is erected which abuts or fronts a street and includes any service lane or other opening within such boundary."

Take a similar building but so set back from the site boundary that an incident ray from the roof silhouette at an angle of 76° with the horizontal would cast a shadow over the unbuilt on portion but not reaching as far as the boundary line, then a strip adjoining the boundary would not be shaded from light. If the open space left unbuilt upon constituted a "street" within the meaning of regulation 16 and if the true meaning of the "frontage of building" is, as it has been shown to be, the lot boundary for that same regulation, the area bounded by these four prescribed lines would be wholly free from any shadow. In another words, the "street shadow area" so mapped out would contain no shadow. That would be intolerably ludicrous. Obviously, regulation 16 was not intended to apply to the situation of having a "street" within a site.

These illustrations have, in my view, demonstrably verified the concepts (1) that "frontage of the building" means the lot boundary, (2) that a "street shadow area" is exclusively referable to an area on the surface of a street and (3) that there can be no "street shadow area" within the boundaries of an assigned lot.

In the instant case, the unbuilt on portion has admittedly been "dedicated to the public for the purposes of passage", but it is not and cannot be denied that otherwise the plaintiffs still retain, as registered owners, all proprietary rights over the entire leased areas. There is no evidence to the contrary. Regulation 16 evidently does not envisage the control of shadows cast over any space within a privately owned site dedicated

for public passage, and immense difficulties would inevitably arise when the regulation is sought to be invoked with reference to such an unbuilt on portion as in these proceedings.

The dedication of the unbuilt on portion for public use has not had the effect of reducing the area of the site or re-aligning its boundary. Once it is accepted that the site boundary is a baseline and that the site boundary has never been shifted, the maximum permissible street shadow area must be calculated with reference to the area statutorily defined without regard to the unbuilt on portion within the site. The proposed building will front Zetland Street as well as 'the street' represented by the unbuilt on portion dedicated, but for these reasons I hold that the street shadow area must be calculated without reference to the nature or dimensions of the dedicated portion. It is quite unnecessary for me to consider if any of the other formulae could be satisfactorily adapted for use in the circumstances of this case.

Mr. Strawbridge argued on behalf of the defendant that for the purposes of regulation 16, "site" meant the actual built up area excluding the portion dedicated for public use or the area available for the proposed redevelopment. For all the above reasons, I cannot subscribe to the definition of "site" canvassed by Mr. Strawbridge. In the instant case, the "street shadow area" for the plaintiffs' proposed building must, in my view, be calculated under regulation 16 with regard to only Zetland Street.

In the circumstances, I would accede wholly to the application in terms and make the declarations sought accordingly with costs to the plaintiffs; certified fit for two counsel.

Sgd. B.L.
(B. Liu)
Judge of the High Court

Mr. Widdicombe, Q.C. and Mr. Oswald Cheung, Q.C. with Miss A. Eu instructed by P.K.H. Wong & Co. for Plaintiffs.

Mr. Strawbridge and Mr. Edward Johnson, Counsel for Defendant.

No. 6

Notice of Appeal - 28th July 1981

Civil Appeal No. 91 of 1981

IN THE HIGH COURT OF JUSTICE

(ON APPEAL FROM HIGH COURT MISCELLANEOUS PROCEEDINGS ACTION NO. 233 OF 1981)

BETWEEN THE ATTORNEY GENERAL — Appellant (Defendant)

and

CHENG YICK CHI

ABERDEEN DEVELOPMENT CORPORATION LIMITED

LU SIU WAN

FIVE UP INVESTMENT COMPANY LIMITED

MAK SIU CHUN — Respondents (Plaintiffs)

NOTICE OF APPEAL

TAKE NOTICE THAT the Court of Appeal will be moved as soon as Counsel can be heard on behalf of the above-named Appellant on appeal from the Order of the Honourable Mr. Justice B. Liu given on the 4th day of July 1981 granting the declarations sought in the Respondents' Originating Summons filed in Action No. 233 of 1981 for an Order that the said Order be set aside and the declarations sought by the Respondents be refused with costs of this Appeal and the costs below to the Appellant.

AND FURTHER TAKE NOTICE THAT the grounds of this Appeal are that the learned Judge had erred in law in that he -

(i) found that the portion of the properties the subject of the Originating Summons (therein called "the unbuilt portion") was an area dedicated to the public for the purposes of passage within the meaning of Regulation 23(2)(b) of the Building (Planning) Regulations made under Chapter 123 Laws of Hong Kong.

(ii) found that the unbuilt portion should be included in the site area for the purposes of calculating the site coverage and plot ratio of a single building to be erected on the properties above-mentioned under the Building (Planning) Regulations.

(iii) found that the properties above-mentioned to be a Class A site within the meaning of Regulation 2 of the Building (Planning) Regulations.

(iv) found that the street shadow calculations for a single building to be erected thereon should be made pursuant to Regulation 16 of the Building (Planning) Regulations as for a Class A site with regard to only Zetland Street.

AND FURTHER TAKE NOTICE THAT the Appellant intends to set down this Appeal.

Dated the day of July, 1981

Sgd.
(Neil Leonard Strawbridge)
Crown Counsel
for the Attorney General

To: Philip K.H. Wong & Co.,
Solicitors & Notaries,
Hong Kong.
Solicitors for the Respondents.

INDORSEMENT AS TO SERVICE

A true copy of this Notice of Appeal was served by me on Messrs. Philip K.H. Wong & Co. Solicitor for the Respondent herein on Tuesday, the 28th day of July, 1981 by leaving the same with their clerk at Worldwide House, 17/F., 19 Des Voeux Road C., H.K.

Indorsed this 28th day of July, 1981.

Sgd.
(K.T. So)
Clerk to Legal Department.

Filed this 28th day of July 1981 at 10.15 a.m./p.m.

No. 7

Letter from Crown Counsel to Solicitors for Respondents - 6th November, 1981

6th November, 1981
W/AJB/tek/6886/79
AGG 22/230/81(NLS)

Messrs. Philip K.H. Wong & Co.
Solicitors,
17th floor,
Worldwide House,
19 Des Voeux Road,
Central,
Hong Kong.

Dear Sirs,

Civil Appeal No. 91 of 1981

We do not intend to address the Court on grounds of appeal Nos. (i) and (ii). You may take it that these two grounds have been abandoned.

We have taken the liberty of sending copies of this letter to Leonard, Cons and Zimmern JJA.

Yours faithfully,

(N.L. Strawbridge)
Crown Counsel

NLS/mc

No. 8

Order of the Court of Appeal - 23rd December 1981

IN THE COURT OF APPEAL

CIVIL APPEAL NO. 91 OF 1981

(On Appeal from High Court Miscellaneous Proceedings No. 233 of 1981)

BETWEEN ATTORNEY GENERAL — Appellant (Defendant)

and

CHENG YICK CHI
ABERDEEN DEVELOPMENT CORPORATION LTD.
LU SIU WAN
FIVE UP INVESTMENT CO. LTD.
MAK SIU CHUN — Respondents (Plaintiffs)

LR. STAMP 26 MAR 1982

BEFORE THE HONOURABLE MR. JUSTICE LEONARD, VICE-PRESIDENT, THE HONOURABLE MR. JUSTICE CONS, J.A. AND THE HONOURABLE MR. JUSTICE ZIMMERN, J.A.

O R D E R

UPON READING the Notice of Appeal filed herein on the 28th day of July 1981 on behalf of the Appellant by way of appeal from the Order of the Honourable Mr. Justice Liu given on the 4th day of July 1981 whereby it was ordered that the declarations sought in the Respondents' Originating Summons filed in Miscellaneous Proceedings No. 233 of 1981 therein be granted with costs

AND UPON READING the said Order dated the 4th day of July 1981.

AND UPON HEARING Counsel for the Appellant and Counsel for the Respondents

IT IS ORDERED that the said Order of the Honourable Mr. Justice Liu dated the 4th day of July 1981, be affirmed, and that this appeal be dismissed with costs to be paid by the Appellant (Defendant) to the Respondents (Plaintiffs).

Dated the 23rd day of December, 1981.

(N.J. Barnett)
Registrar.

No. 9

Judgment of the Court of Appeal - 23rd December, 1981

IN THE COURT OF APPEAL

Civil Appeal No. 91 of 1981

(On appeal from M.P, 233 of 1981)

BETWEEN ATTORNEY GENERAL — Appellant (Defendant)

and

CHENG YICK CHI

ABERDEEN DEVELOPMENT CORPORATION LTD.

LU SIU WAN

FIVE UP INVESTMENT CO. LTD.

MAK SIU CHUN — Respondents (Plaintiffs)

Coram: Hon. Leonard, V.P., Cons & Zimmern, JJ.A.
Date : 23rd December 1981.

J U D G M E N T

The plaintiffs are owners of Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot 617 ("the properties"). At present there are buildings on parts of the properties. These buildings adjoin one another and are known as Nos. 5, 6, 7, 8 and 9 On Hing Terrace. I will call the parts of the properties they occupy the "covered area". The other parts of the properties I will call the "unbuilt portion". The unbuilt portion forms a terrace - a raised level place for walking; on its south side it gives access to houses Nos. 1 to 9 On Hing Terrace. Its north side falls away abruptly to an ugly impassable lane less than 4.5 metres wide known as Mason's Lane from which it is separated by a balustrade and on the south side of which are multi-storeyed blocks. The terrace itself is wide with trees. On its western side there is access by a steep flight of steps to Wyndham Street and on its eastern side by another flight of steps to Zetland Street. It is in part within the ownership of the owners of the properties and as to the remainder within the ownership of the owners of Nos. 1, 2, 3 and 4 On Hing Terrace, the

whole being part of the original I.L. 617. At one place it is partly blocked by an addition to one of these buildings which projects forwards from the building line. This does not however prevent the passage of pedestrians to and from Zetland Street and Wyndham Street. It is common case that it is now, presumably through the unselfishness of the owners or their predecessors in title, dedicated to the public for the purposes of passage but that dedication is limited, by the flights of steps I have mentioned, to pedestrians. The terrace remains part of the properties. It has never been taken over by the crown and never been maintained from public funds.

The owners of the properties now wish to redevelop them. They have in July 1979 submitted joint plans to the Building Authority for the erection of a single building to occupy the entirety of the covered area. This is intended to front and abut on to Zetland Street. Its north side will abut the unbuilt portion but will not intrude on to it. Its south side will abut on to a service lane and its west side (or back) will adjoin No. 4 On Hing Terrace.

The plans were disapproved on the 22nd August 1979 on the grounds, inter alia, that there was excessive street shadow, that the site was a class B site, that "street shadow" has also to be shown on On Hing Terrace" ("street shadow" having only been shown on Zetland Street) and that "calculations for site coverage and plot ratio are incorrect because you have included in your site area the areas of land taken up by On Hing Terrace ....." The plans had been drawn on the basis that the properties formed a class A site and the "street shadow area" calculations were on the basis that the "site" fronted or abutted on one street only, Zetland Street, but the Building Authority maintained (on affidavit) that "the site is a class B site pursuant to Regulation 2. .. in that it is a corner site abutting on two streets neither of which is less than 4.5 metres wide and consequently shadow area calculations pursuant to Regulation 16 are necessary in respect of both On Hing Terrace and Zetland Street. .. On Hing Terrace .. should not be included as part of the site for the calculation of site coverage and plot ratio" (emphasis added)

In the Court below developers sought and obtained 4 declarations which I will summarize as follows:- (A) That the unbuilt portion is an area dedicated to the public for the purposes of passage within the meaning of Regulation 23(2)(b)

of the Building (Planning) Regulations, (B) That the unbuilt portion should be included in the site area for the purposes of calculating the site coverage and plot ratio of a single building to be erected on the properties, (C) That the properties forming one site for a single building is a class A site, and (D) That the street shadow calculations for a single building to be erected on the properties should be made under Building (Planning) Regulation 16 as for a class A site and with regard to only one street namely Zetland Street.

The Attorney General appealed but prior to the hearing before us a member of his chambers informed the solicitors for the respondents that they did not intend to address the Court on grounds of appeal Nos. (i) and (ii) and that these two grounds might be taken as abandoned. In these two grounds the appellant contended simpliciter that the trial judge was wrong in finding as declared in (A) and (B). The remaining two grounds contended that the trial judge was wrong to have found the properties to be a class A site and wrong to have found that street shadow calculations should be made as for a class A site with regard to only Zetland Street. It is with these latter contentions alone that I have to deal but, as I see it, I must deal with them on the basis that Declarations A and B stand and state correctly the factual and legal position; for they are not contested. We therefore start from the position that the unbuilt portion shall be included in determining for the purposes of Regulations 20, 21 and 22 the area of the site on which the building is erected. I would remark that Declaration (B) appears to add nothing for "the purposes of Regulations 20, 21 & 22" are to enable permitted site coverage and plot ratio to be determined. For those limited purposes at least I must, as I see it, regard the unbuilt portion as within "the area of the site". The expression "the area of the site" in those 3 regulations must with reference to this case, mean "the properties" for the properties consist of the unbuilt area and the covered area and of nothing else. It is with these considerations in mind that I approach the application to this case of Regulations 2 & 16 and consider whether the attack on Declarations (C)and (D) is justified.

Mr. Barlow contends that the properties should be classed as a class B site and that the street shadow calculations should be made with regard, not only to Zetland Street but also, to the unbuilt portion. At the basis of his argument

was a contention that the Building (Planning) Regulations required for their true interpretation the acceptance of the three concepts.

(a) that of the "lot" or "leased area" which is, in this case, the properties including both the covered area and the unbuilt portion.

(b) that of the "site" or "area available for building" which he would equate here with the covered area or to put it in another way from which he would exclude the unbuilt portion.

(c) the "building", i.e. the covered area in the instant case which is contiguous with Zetland Street and with On Hing Terrace.

He points to the wording of the definitions of the word "street" in the Ordinance and in the Building (Planning) Regulations. In the Ordinance, the definitions which apply "unless the context otherwise dictates are

> "'street' includes the whole or any part of any square, court or alley, highway, lane, road, roadbridge, footpath, or passage whether a thoroughfare or not;"

There is no express indication that a private street comes within that definition. The definition of private street in the Ordinance reads:

> "'private street' means a street on land held under lease, licence or otherwise from the Crown or on land over which the Crown has granted a right of way."

In the Building (Planning) Regulations it is provided by Regulation 2 that

"2(1) In these Regulations, unless the context otherwise requires, words and expressions have the meaning attributed to them by the Buildings Ordinance and ....

"class A site" means a site not being a class B site or a class C site, that abuts on one street not less than 4.5 metres wide or on more than one such street;

"class B site" means a corner site that abuts on 2 streets neither of which is less than 4.5 metres wide;

"'Street' includes any footpath and private and public street"

The dispute between the parties is the extent to which the Respondents are controlled by the Building (Planning) Regulations in the development of their property. For the purpose of these proceedings the Regulations impose limitations on three things i.e. site coverage plot ratio and height. Height will affect site coverage and plot ratio but the expressions "class A site" "class B site" and "class C site" are not used in Regulation 16 which controls the height of buildings. The only regulations in which the expressions "class A site" "class B site" and "class C site" appear are regulations 20, 21 & 22 & 25. The effect of Regulation 20 is to prohibit "subject to Regulations 19A" (which is irrelevant to my considerations) "and Regulation 22 and depending on the height of the building" site coverages of domestic and of non-domestic buildings on class A, class B and class C sites respectively exceeding "that percentage of the area of the site" specified in the relevant column of the first schedule. Regulation 21 prohibits, again "subject to Regulations 19A and 22 and depending on the height of the building" plot ratios for domestic buildings and for non-domestic buildings on class A, class B and class C sites respectively exceeding the plot ratios specified in other relevant columns of the same schedule. The headings to the various columns in the first schedule are in the following form

First Schedule

Percentage site coverages and plot ratios

Height of building in metres	Domestic buildings					
	Percentage site coverage			Plot ratio		
	Class A site	Class B site	Class C site	Class A site	Class B site	Class C site

Height of building in metres	Non-domestic buildings					
	Percentage site coverage			Plot ratio		
	Class A site	Class B site	Class C site	Class A site	Class B site	Class C site

The general result is that the higher the building the lower the percentage site coverage

and the higher the plot ratio. Domestic buildings will have a relatively lower percentage site coverage and plot ratio than will non-domestic buildings. Class A sites will have a lower percentage site coverage and plot ratio than will class B sites and class B sites than class C sites.

Regulation 22 deals with cases in which the maximum site coverage prescribed by Regulation 20 and maximum plot ratio prescribed by Regulation 21 may be exceeded. It does not help me in determining whether a given site is a class A, B or C site but Mr. Barlow seeks support from it for his contention that the word "site" means something less than the "lot" or leased area and I shall have to consider it. Regulation 22(1) gives to a person proposing to erect a building whether on a class A, B or C site additional site coverage and plot ratio where that developer sets his building back from the boundary of his lot and where the part thereby unbuilt on is dedicated to the public for the purpose of passage with the consent of the government. Regulation 22(2) enables the Building Authority to permit the use of additional site coverage and plot ratio where part of a lot being part that abuts on a street is acquired by the Crown for the purpose of street widening. The extent of additional site coverage and plot ratio that may be made available to a developer in such circumstances is calculated in accordance with complicated provisions. In Regulation 22(1)(a) one is directed to obtain a figure by dividing the product of 1500 and the area <u>of the lot</u> so dedicated by the product of the <u>area of the site</u> and the height of the building. In Regulation 22(1)(b) one is directed to obtain a figure by dividing the product of 5 and the area <u>of the lot</u> so dedicated by <u>the area of the site on which the building is erected.</u> If I understood him correctly Mr. Barlow suggested that this indicated at least a possibility of the presence in the draftsman's mind of the three concepts for which he contended. I find it difficult to understand why it was thought necessary to insert the words "of the lot" in Regulation 22(1)(a) and (b) particularly when what is dedicated is not "a lot" but a right of passage over a lot. One could as easily refer to the "area over which right of passage is dedicated". I think that is what was meant. Furthermore Mr. Barlow can obtain no support from Regulation 22(2) the opening words of which read

"(2) where part of a lot, being a part that

abuts on a street is acquired by the Crown, either by agreement or by resumption under the Crown Lands Resumption Ordinance, for the purpose of street widening, the Building Authority may permit -

> (a) the site coverage for a building erected on that lot, being a class A, B or C site or for any part of the building to exceed the permitted percentage site coverage ....."

The word "being" appears to equate the class A, B or C site with that lot (part of which has been acquired by the Crown) and therefore to indicate that the draftsman regarded "site" and "lot" as synonomous.

To return to the general question posed by the attack on Declaration (C). Because (a) the unbuilt portion is an area dedicated to the public within the meaning of Regulation 23(2)(b) and because (b) the unbuilt portion should be included in the site area for the purposes of calculating site coverage and plot ratio and because (c) an area can not abut on part of that very area - it must, by the very nature of things, abut on something outside it - and because (d) I can find no warrant in the Regulations for distinguishing between the "leased area" and "the area of the site", I am driven to the conclusion that the properties abut only on Zetland Street and are a class A site. Declaration (C) is therefore in my opinion valid.

It remains to consider Declaration (D). The declaration sought and made was to the effect that the street shadow calculations for a single building to be erected on the properties should be made (pursuant to Regulation 16 of the Building (Planning) Regulations) as for a class A site with regard to only Zetland Street on which the properties taken as a single site front.

The difficulty as to this declaration is that although I have held that the properties are a class A site and although the properties front or abut only upon Zetland Street Regulation 16 appears to me to concern itself not so much with sites as with buildings on sites. The relevant paragraphs of the letter of the 22nd August 1979 disapproving the plans to which I have already referred suggest that the classification of a site as class A, B or C determines the manner in which street shadow calculations should be made. The same suggestion is made in paragraph 13 of the

affidavit of Mr. Cheng Wai-dart of the 5th June 1981. This reads in part

> "I believe that the site is a class B site ..... in that it is a corner site abutting on two streets neither of which is less than 4.5 metres wide and consequentially shadow area calculations pursuant to Regulation 16 are necessary in respect of both On Hing Terrace and Zetland Street ..... "

Mr. Barlow's approach before us was similar; for the greater part of his argument was directed to that part of the judgment in which Liu J. came to the conclusion that the site was a class A site rather than a class B site. This seems to me to be the wrong approach for street shadow calculations are based on buildings to be erected and not on the classification of sites on which they are to be erected. By Regulation 16(1) it is laid down that "where a building abuts fronts or projects over a street the height of such building shall be determined by reference to the street shadow area thereof". The building the subject of the disapproved plans will clearly abut on both Zetland Street and On Hing Terrace notwithstanding the fact that On Hing Terrace is part of its site.

Its street shadow area will be

> "an area on the surface of a street contained by -
>
> (a) a line formed by the projection from every part of the side of the building abutting, fronting or projecting over such street of planes at an angle of 76° from the horizontal from the highest point on such building or on any projection therefrom of a permanent nature, from which such planes could be drawn uninterrupted by any other part of that building;
>
> (b) a line formed by the frontage of the building; and
>
> (c) lines drawn from each extremity of the frontage of the building at right angles to the centre line of the street",

and that area shall not exceed the area obtained by applying the formula given in Regulation 16(2) and (3). Its street shadow area vis-a-vis Zetland Street is capable of ascertainment and no

objection to the manner of its ascertainment on the disapproved plans has been made. The difficulty arises with regard to the method of its ascertainment vis-a-vis On Hing Terrace. As I see it, when seeking to ascertain it I must look first to the definition of street shadow area contained in 16(4) which I have quoted. Applying this definition to the properties I must find an area on the surface of On Hing Terrace contained by four lines. Line (b) is a line drawn by the frontage of the building. This must, as I see it, be a line drawn along the verge of Mason's Lane where Mason's Lane touches On Hing Terrace parallel and equal in length to the side of the building where it abuts on On Hing Terrace. There will be two lines (c) each running from Mason's Lane at right angles to the centre of On Hing Terrace.

Finally there will be (a) the line formed by the projection from every part of the side of the building abutting On Hing Terrace of planes at an angle of 76° from the horizontal from the highest point on such building or on any projection therefrom of a permanent nature from which such planes could be drawn uninterrupted by any other part of that building. My explanation for the necessity of drawing each of these lines is as follows

Line (b) a line formed by the frontage of the building.

There is no definition of the phrase "frontage of the building" but there is a definition of "frontage" in relation to a building which I think must be the same thing. It means "that boundary of a site upon which the building is erected which abuts or fronts a street and includes any service lane or other opening within such boundary." The boundary which abuts the street (On Hing Terrace) is, if it exits or can be imagined, necessarily that which also abuts Mason's Lane and divides it from On Hing Terrace. I am accepting for the purposes of this explanation that On Hing Terrace is a street and that the proposed building abuts it. I am also accepting that the boundary between Mason's Lane and On Hing Terrace abuts both. If the boundary did not abut On Hing Terrace it would not abut a street more than 4.5M. wide. There would then be no method of containing any area.

Lines (c) One would normally expect these lines to project outwards from the site and not inwards to the centre of a street on the site.

That again can not be on our facts for if it were one could not imagine any area as contained by them.

Line (a) - here I have followed the definition exactly. The difficulty in finding or calculating the extent of an area on the surface of On Hing Terrace contained by these lines is that the higher the building the smaller will be the area obtained by applying the formula because the area must be calculated not with regard to the frontage of the actual building but with regard to the boundary of the site. This cannot have been the intention of the Governor in Council and I am forced as a result to the conclusion that there is a casus omissus in the Regulations. They do not cater for and cannot be made to cater for the situation in point.

The result as I see it is that the Respondent is entitled to a declaration in terms of Declaration D with the omission therefrom of the words "as for a class A site". Street shadow calculations are not made with reference to the class of the site in question.

I would dismiss this appeal.

Cons, J.A.:

This appeal has been argued to a large extent as though two questions were involved, "What is the correct classification of the site which the five plaintiffs together have at On Hing Terrace?" and "How is that site affected by Regulation 16 of the Building (Planning) Regulations?". However, to my mind the two questions are so closely interwoven together within the Regulations, in particular within Part III thereof, that neither can be adequately dealt with in isolation from the other. And as I see it now the answers to both depend upon the answer to yet a third question, "What are the boundaries of that site?"

Let me make two preliminary observations. Firstly, I take the expressions "the site" and "the site on which a building is erected" to be synonymous. They appear to be used interchangeably throughout the Regulations and I have been unable to discern any rhyme or reason for the distinction. Secondly, neither of those expressions relates merely to that part of the ground which will be actually covered by the proposed building.

We are then left with two possible approaches to the question posed. Mr. Widdicombe, who appears for the building owners, says we must look to the whole of leased area, regardless of whether the public have rights of passage over part of it or not. Mr. Barlow, who appears for the Attorney General, would restrict us to that area of the land which is available for actual building; the rest has become "a street" and, for the purposes of the Regulations, can be nothing else.

Although there are many definitions set out in the Building Ordinance, under which the Planning Regulations are made, and many more in the Regulations themselves, the draftsman has not included a definition for "the site". Taking the words in their popular sense I would agree generally speaking with Mr. Widdicombe that they would refer to the leased area. When a man says that he has bought a site in the country and intends to build a cottage thereon, he means the whole of the land he has bought. From that point of view he would expect to be able to build on whatever part of it he fancied. If he could not, he would probably add "but I cannot build on that part because there is a stream" or "because my neighbour has a right of way across of the corner". If there were a road through it I think it more likely he would say "a road runs across my site", rather than "I have two sites, one on either side of a road". However, the popular sense of a word may have to be modified when it is found not to suit the context of the legislation in which it appears, and this is more likely when the legislation is of a technical or specialized nature.

In my view there can be no doubt that the unbuilt portion of On Hing Terrace is a street, whether one applies the definition contained in the Ordinance, the Regulations or the common law. It is flanked by a row of houses and runs between what are acknowledged to be two public streets, Wyndham Street and Zetland Street. For over sixty years the public have been allowed to use the terrace to pass from one of those streets to the other. The inference is that it has at some stage been dedicated to the public as a highway. Indeed the Judge so found in the Court below. He granted a declaration that the terrace "is an area dedicated to the public for the purposes of passage within the meaning of Regulation 23(2)(b)".

Regulation 23(2) is as follows:

"(2) In determining for the purposes of regulation 20, 21 or 22 the area of the site on which a building is erected -

(a) no account shall be taken of any part of any street or service lane; and

(b) there shall be included any area dedicated to the public for the purpose of passage."

The Judge below, applying that Regulation, made a further declaration that the terrace "should be included in the site area for the purposes of calculating the site coverage and plot ratio of a single building to be erected" thereon. No appeal now is brought by the Attorney against either of those declarations, although they were originally included in his notice of appeal.

Mr. Widdicombe contends that it automatically follows from the acceptance of those declarations, and the wording of Regulation 23, that On Hing Terrace is within "the site". For my part I do not see that it does. The Regulation does not provide that the area dedicated shall be included in the site. It provides that that area shall be included when determining for the purposes of Regulations 20, 21 and 22 the area of the site. Those Regulations are not concerned with boundaries, but with areas, or to be strictly accurate, with calculations by which the maxima for particular areas may be discovered. The "site area" is an important figure in those calculations, but to my mind it does not follow that for those purposes the site area must necessarily be an actual undivided area on the surface. The words "shall be included" could be equally well applied to the figure used in the calculations.

An alternative contention of Mr. Widdicombe is that even if Mr. Barlow's construction be correct, in the instant circumstances the land available for actual building and the leased land are in fact one and the same; although the public has a right of way along the terrace the owners could, with the permission of the Building Authority under Section 31 of the Ordinance, build above the terrace or they could without the need of any permission, develop beneath it.

The short answer to the first suggestion is that at the moment no permission has been

granted by the Building Authority and it is to the position at the moment that we must direct our minds. It would also seem unlikely, from the tenacity with which this matter has been pursued, that the Authority would ever give permission to build over the entire terrace.

There is more attraction in the second suggestion. It is no distortion of language to say that "the site" extends to all that lies beneath it as well as that above. There may be difficulties with regard to lighting and ventilation, but the owners could go downwards without any fear of contravening the regulations as to the height or site coverage. Plot ratio could probably also be calculated, although the definition in Regulation 21(3) would need amendment, replacing "the area of the site on which the building is erected" by "the area of the site under which the building is erected".

The need for that amendment illustrates to my mind the weakness of the argument. Even if "the site" be taken to include the air above and the earth beneath, there is still a large part in the middle that cannot in any event be touched, i.e. the surface and a reasonable space above. In my view it is then not possible with good sense to say that On Hing Terrace is available for actual building. The leased area and the area contended for by Mr. Barlow are in the present instance not one and the same.

Mr. Barlow draws our attention to Regulation 22. He does not rely upon its contents as such, but uses it to show that the draftsman did have in mind a distinction between the leased area and the land available for actual building, for the regulation makes provision for "the lot" and "the site on which a building is erected" in such a way that it is most unlikely that they were intended to have the same meaning.

Mr. Widdicombe explains the use of the different expressions therein by reference to the second part of the regulation, which deals with the situation where part of the land is surrendered to the Crown. Once that has been done, he says, it is necessary to have expressions which differentiate the original lot from the land retained, the distinction is not necessary for the first part of the Regulation, but the same expressions were probably employed for the sake of uniformity.

The explanation is consistent with a passage

that appears at pages 27 and 28 of "Valuation of Development Land in Hong Kong" by Mr. P.J. Roberts and which Mr. Widdicombe adopts as part of his argument. In that passage, Mr. Roberts applies the formulae set out in Regulation 22 to hypothetical developments. For his calculations under Subrule (1), he uses the whole of the leased area including that which is dedicated to the public; but for his calculations under Subrule (2) he uses only that part of the leased area that remains after the acquisition by the Crown.

On this interpretation of the formulae it will be noticed that although the words of the operative parts of both subrules of the site are the same, the owner who dedicates his land to the public receives greater benefits by way of site coverage and plot ratio than the owner from whom the land is acquired by the Crown (1). He may also receive a greater benefit by way of height, for if the boundary of his site is taken to remain as it was before the dedication, and it is a boundary which abuts a street not less than 4.5 m wide, which brings Regulation 16 into operation, such of the shadow of his building as falls within the dedicated area will not be counted against him.

The additional height could perhaps be an accidental bonus for the Explanatory Note which introduced this regulation in 1962 spoke only of increased "floor area" in order to encourage developers to provide additional space for pedestrian circulation at ground level. It may therefore be ignored. But whether the legislature intended there to be an inevitable disparity in site coverage and plot ratio between those who dedicated and those who surrendered is open to doubt. The Explanatory Note, when referring to surrender after dealing with dedication, spoke of "a similar increase".

Except that the Building Authority has a discretion in the application of Subrule (2) - where as Subrule (1) is automatic, provided that the Government has consented - there is no disparity if Mr. Barlow's construction is adopted. The formulae would produce the same result in each case and there would be no

(1) Although the initial figures in Subrule (1) are lower than those in Subrule (2), when applied to the larger site area they appear always to produce a more advantageous result.

additional height bonus to either. However the regulation is not without its difficulties for him. In both subrules, although in slightly different words, in each, the draftsman appears to equate "lot" with "site". In the former we find "Where ..... a building on a Class A, B or C site is set back from a boundary of the lot on which it is erected ....." and in the latter, "..... the site coverage of a building erected on that lot, being a Class A, B or C site .....".

Mr. Widdicombe's principle problem, as I see it, is Regulation 16. Subrule (1) provides:

> "Where a building abuts, fronts or projects over a street, the height of such building shall be determined by reference to the street shadow area thereof."

Subrule (2) provides that the shadow shall not exceed an area obtained by the application of formulae set out in that subrule and in (3). The formulae are based on the length of the site along the street and the width of the street or streets themselves. The actual shadow of the building may be discovered by the application of the definition contained in Subrule (4).

> "'street shadow area' in relation to a building, means an area on the surface of a street contained by -
>
> (a) a line formed by the projection from every part of the side of the building abutting, fronting or projecting over such street of planes at an angle of 76° from the horizontal from the highest point on such building or on any projection therefrom of a permanent nature, from which such planes could be drawn uninterrupted by any other part of that building;
>
> (b) a line formed by the frontage of the building; and
>
> (c) lines drawn from each extremity of the frontage of the building at right angles to the centre line of the street."

If taken literally the (a) line of the definition could not be drawn properly except in relation to a building occupying the whole width of the site and of uniform height throughout. However the shadow is clearly intended to reflect the general outline of the building as it abuts

or fronts the street and apparently it is worked that way in practice. The problem in the present case is with line (b), because "frontage" is given a particular definition for the purposes of the regulation :

> "'frontage' in relation to a building, means that boundary of a site upon which the building is erected which abuts or fronts a street and includes any service lane or other opening within such boundary;"

If Mr. Barlow is correct that boundary runs along the nearer side of the open terrace, i.e. the front of the proposed building itself, and the shadow can be easily measured as it would fall upon the open terrace. It is a perfectly normal situation and the shadow can be imagined as a genuine shadow provided the sun were in the right position.

However if Mr. Widdicombe is correct the boundary runs along the far side of the open terrace. In other words, the street which the building abuts is within the site itself. Mr. Widdicombe has convincingly demonstrated that in that situation the regulation cannot be made to work satisfactorily or perhaps at all. The shadow can in no way be imagined as a natural shadow. It would not start at the foot of the building and stretch away from it. It would start from a point quite unconnected with the building and stretch towards it, initially getting smaller as the building increased in height. Only eventually might it commence to stretch away from the building and start to get larger. That is an absurd result and Mr. Widdicombe therefor argues that it is clear the regulation was never intended to apply in circumstances where the street on which the building abutted or fronted was outside the leased area. The definition of street in the Ordinance is prefaced with the words "unless the context otherwise requires". Mr. Widdicombe suggests that this is such an occasion.

If that suggestion is correct, then another almost equally curious result arises. Although On Hing Terrace would not be considered a street in relation to the present proposed development, it would be a street in relation to development by the owners of land on the far side of Mason Lane. This point was not raised in argument and it may well be that Mr. Widdicombe would have re-phrased his suggestion and said that a street in regulation 16 means any street other than a private street, which I take On Hing Terrace to be

by virtue of the definition in the Ordinance. In that case the far owners would also reap the advantage. However the definition of street in the regulations expressly includes a private street, and although that definition is also prefaced by the words "unless the context otherwise requires" that express inclusion would appear to indicate some intended emphasis by the legislature.

I hope that the foregoing comments sufficiently illustrate the impossibility of an overall construction which is consistent throughout the legislation. Either when applying a regulation which contains the word street we ignore something that is so obviously a street for all other purposes, or we accept that Regulation 22 is, on the face of it, self-contradictory, although the introduction of the reference to classes of site does not appear to affect the substance.

Ultimately I have come to the conclusion that the former option is to be preferred. It seems to me that if we adopt Mr. Barlow's approach we create no anomaly and do less violence to the language, and I think also to the intention of the legislation. That intention I take to be to control the density of development by relating buildings to the sites which they abut or front. To that end it is immaterial that the street in question was originally created by private rather than by public grant.

For these reasons I find that the unbuilt portion of On Hing Terrace is not within the plaintiff's site as that expression is used in the Regulations. It is for all purposes a street. By definition then the site is not a Class A site and the street shadow calculations should not be made as for a site of that class. I would allow the appeal and set aside the declarations granted below.

Zimmern, J.A. :

On Hing Terrace is a charming and secluded plot of land formed many years ago a short distance up the hill from Queen's Road Central. On the western side it is bounded by Wyndham Street and on the eastern Zetland Street. The only approaches to the terrace are from these two streets up granite steps. On the southern side it abuts on to Mason Lane many feet below, which is now blocked and on the northern a narrow service

lane. In 1918 there were built on the terrace 9 houses well set back from the northern boundary of the plot and some time in the sixties houses 1-4 on the Wyndham Street end were redeveloped. The present owners of houses 5 to 9 in a joint venture are now desirous of developing their land into a modern composite building. Their Architects submitted plans to the Building Authority who refused to approve them very broadly on the grounds that the calculations were based on a Class A site whereas they should have been based on a Class B site. The parties joined issue and the respondents issued an Originating Summons asking for the following four declarations:-

(a) the portion of the above mentioned properties, not presently built upon, fronting the existing buildings (hereinafter referred to as "the unbuilt portion") is an area dedicated to the Public for the purposes of passage within the meaning of Regulation 23(2)(b) of the Building (Planning) Regulations made under Cap. 123,

(b) the unbuilt portion should be included in the site area for the purposes of calculating the site coverage and plot ratio of a single building to be erected on the above mentioned properties, under the Building (Planning) Regulations,

(c) the above mentioned properties forming one site for a single building is a Class A site within the meaning of Regulation 2 of the Building (Planning) Regulations,

(d) the street shadow calculations for a single building to be erected on the above mentioned properties should be made under Building (Planning) Regulation 16, as for a Class A site and with regard to only one street, namely Zetland Street, on which the above mentioned properties taken as a single site front.

The matter was heard before Liu J. who granted all the declarations sought and the Attorney General now appeals. Mr. Barlow for the Attorney General at the outset abandoned his appeal against declarations (a) and (b) leaving only (c) and (d). Before turning to his grounds it is now necessary to go into the details and specifics of the controversy. I have said the buildings on terrace are set back from the northern boundary of the terrace leaving an

unbuilt area in depth of well over 4.5 m. for the length of the frontage of the terrace. Mr. Widdicombe concedes that this area has for a long time been dedicated to the use of the public for foot passage between Wyndham and Zetland Streets. He further concedes that that area is a street within the definition of the Building Regulations with the reservations that the respondents are only bound as to the dedication of the top soil. The ground under and the air space above are theirs to deal with as they please as owners subject only to the law and the Crown lease.

Regulation 2 of the Building (Planning) Regulation provides inter alia:-

> "Class A site" means a site, not being a Class B site or class C site, that abuts on one street not less than 4.5 m wide or on more than one such street;
>
> "Class B site" means a corner site that abuts on 2 streets neither of which is less than 4.5 m wide;
>
> "Class C site" means a corner site that abuts on 3 streets none of which is less than 4.5 m wide.

Mr. Barlow says the site is a Class B site because it is a corner site abutting on two streets both over 4.5 m. wide namely Zetland Street and the unbuilt on portion of the terrace. Mr. Widdicombe retorts that the unbuilt on portion of the terrace. Mr. Widdicombe retorts that the unbuilt on portion is part of the site and on the north it abuts onto Mason Lane which is less than 4.5 m. and blocked in any event. The site abuts on to only one street not less than 4.5 m. i.e. Zetland Street. The question is then on a true construction of the regulations what is the meaning of the word "site" not only as used in Regulation 2 but in other relevant regulations.

The purpose of the regulations as I understand them is to control intending property developers in the extent they may develop their sites. Broadly, inter alia, they control maxima for a) height of an intended building and depending on height, b) site coverage and c) the gross floor area and the methods for measuring each of them. The word "site" is used in each of the relevant regulations.

Mr. Barlow in support of his appeal advanced a new argument which was not used in the

Court below. He says the word "site" means only that portion of the leaseholder's land on which he may lawfully build. He says there are three concepts. First, there is the leaseholder's plot which is called "the Lot", second is the "site" and the third that portion of "the Lot" on which the leaseholder may not lawfully build. Support for this contention he says is to be found in Regulation 22 the only regulation which uses the word "Lot". This is known as the bonus regulation for it permits excess of maxima site coverage and plot ratio upon urban units though Mr. Barlow calls this the regulation which goes to title. It provides first, "Where .... a building on a Class A, B or C site is set back from a boundary of the lot on which it is erected, being a boundary that abuts on a street and with the consent of the Government, the part of the lot that is thereby not built upon is dedicated to the public for the purposes" then follows the formula in respect of the bonuses for site coverage and plot ratio. Second, "Where part of a lot, being a part that abuts on a street, is acquired by the Crown either by agreement or by resumption .... for the purpose of street widening, the Building Authority may permit - (a) the site coverage for a building erected on that lot being a Class A, B or C site ...." then follows another set of formula for the bonuses.

I find his arguments of three concepts difficult to accept. Regulation 22 is closely tied up with the classification of site as defined in Regulation 2 which I have set out and those definitions were amended to read as they now stand only in 1979. If Mr. Barlow were right then taking as an example a Class A site and substituting "Class A site" by its definition Regulation 22(1) would read:

> "Where a building, on a site that abuts on a street not less than 4.5 m. wide or on more than one such street not being a Class B or Class C site, is set back from the boundary of the lot on which it is erected being a boundary that abuts on a street and the part of the lot that is thereby not built upon is dedicated to the public for the purposes of passage ....."

Here we have the site and the boundary of the lot both abutting on to the same street. With respects to Mr. Barlow the boundary of the lot and that of the site must mean the same boundary.

That "Site" means the whole and not just the

part which can be built on is supported by Regulation 23(2) which reads :

> "23.(2) In determining for the purposes of regulation 20, 21 or 22 the area of the site on which a building is erected -
>
> (a) no account shall be taken of any part of any street or service lane; and
>
> (b) there shall be included any area dedicated to the public for the purposes of passage."

This regulation is supplementary to regulations 19, 20,21 and 22.

For the purpose of this argument it needs only be applied to Regulations 20 and 21. Regulation 20 provides the formula for ascertaining the maximum percentage of the area of the site which may be covered by the building called the site coverage based on height, class and user. Regulation 21 provides the formula for ascertaining the maximum plot ratio based on the same factors and plot ratio of a building is obtained by dividing the gross floor area of the building by the area of the site on which the building is erected. Thus to determine the site coverage and the plot ratio it is necessary to ascertain the area of the site on which the building is erected. Regulation 23(2) enjoins the Building Authority in such ascertainment (a) not to take into account any street or service lane and (b) to include any area dedicated to the public for the purposes of passage.

The language of Regulation 23(2) is clear. It is implicit under (a) that the enjoinder "not to take into account" applies to any street or service lane within "the area of the site on which a building is erected" and express under (b) by the words "there shall be included any area".

I respectfully agree with declarations (a) and (b) made by the learned judge. Mr. Barlow having abandoned his appeal against these 2 declarations cannot now be heard to say that the dedicated unbuilt area is not within "the area of the site on which a building is erected". I can see no reason why another meaning should be given to the word "site" used to define the three Classes namely A, B, C in Regulation 2. A site cannot abut on to a street within the boundaries of the same site and I also respectfully agree with declaration made by the trial judge that the

site is a Class A. It abuts only on to one street not less than 4.5 m. wide namely Zetland Street.

It seems to me that the regulations which control the measurements of buildings are based primarily on whether the site abuts on to one or more streets not less than 4.5 m and if not then Regulation 19 applies and the height, site coverage and plot ratio are to be determined by the Building Authority.

I now turn to declaration (d) which is really the pith of the controversy. It is the construction of Regulation 16 which provides the formula for ascertaining the maximum height of buildings which my Lord the Vice-President has described in another matter as an exercise in the abstract.

This regulation does not speak in terms of Class A, B or C site. It reads :-

"16. (1) Where a building abuts, fronts or projects over a street, the height of such building shall be determined by reference to the street shadow area thereof.

(2) Subject to paragraph (3), the street shadow area of a building shall not exceed the area obtained by applying the formula -

$$\frac{F \times W}{2}$$

in which -

F is the length of the frontage of the building; and W is the width of the street upon or over which the building abuts, fronts or projects.

(3) Where a building abuts, fronts or projects over 2 streets forming a corner, the maximum street shadow areas of the building permitted under paragraph (2) may be increased -

(a) by adding wholly in respect of one side of the building, or partly one side and partly the other, an area obtained by

applying the formula -

$$\frac{W1 \times W2}{4}$$

in which -

W1 and W2 are the widths of the 2 streets, respectively, forming the corner; or

(b) where the two streets are not of equal width, by adding wholly in respect of the side of the building abutting, fronting or projecting over the narrower of the 2 streets, an area obtained by applying the formula -

$$7 (WW - WN)$$

in which -

WW and WN are the widths of the wider and the narrower, respectively, of the 2 streets forming the corner.

(4) For the purposes of this regulation -

"corner" means an intersection of 2 streets where the angle of intersection of lines drawn along the centre of such streets is less than 140° measured on the side nearer to the building;

"frontage" in relation to a building, means that boundary of a site upon which the building is erected which abuts or fronts a street and includes any service lane or other opening within such boundary;

"street" means a street or service lane at least 4.5 m wide;

"street shadow area" in relation to a building, means an area on the surface of a street contained by -

(a) a line formed by the projection from every part of the side of the building abutting, fronting or projecting over such street of planes at an angle of 76° from the horizontal from the highest point on such building or on any projection therefrom

of a permanent nature, from which such planes could be drawn uninterrupted by any other part of that building;

(b) a line formed by the frontage of the building; and

(c) lines drawn from each extremity of the frontage of the building at right angles to the centre line of the street".

Mr. Barlow submits that the intended building would abut, front or project over two streets forming a corner namely the dedicated portion and Zetland Street. He said it does not matter if the site then comes within the definition of a Class B site. Regulation 16 has nothing to do with site classification which is only relevant to working out plot ratios and site coverages. It is argued that the plain language of the regulation says where a building abuts, fronts or projects over a street and not where the site abuts, fronts or projects over a street and the intended building so abuts over two streets. There is of course much force in this literal construction but is that the true construction? The first formula under Regulation 16(2) is $\frac{F \times W}{2}$ where F is said to be the length of the frontage of the building, which means the frontage of the site for Regulation 16(3) defines "frontage" in relation to a building as meaning that boundary of a site upon which the building is erected which abuts or fronts a street and includes any service lane or other opening within such boundary. That formula can only be applied where the site abuts on to one or more streets. In this case the existing buildings are set back and the intended building will by necessity of the dedication also have to be set back. I cannot, however, accept Mr. Barlow's argument that the "site" is thereby set back pro-tanto. The respondents still own the soil up to the boundary abutting on to Mason Lane. They have to maintain the top soil on the terrace not built on and dedicated to thepublic for foot passage. They can build under it and they own the air space over it. It appears to me the Building Authority erred in classifying this part of the terrace as a Class B site and this can be seen in paragraph 13 of the affirmation of Mr. Cheng Wei-dart, a Chief Building Surveyor. He affirmed:

"... I believe that the site is a Class B

site pursuant to Regulation 2 as cited in that it is a corner site abutting on two streets neither of which is less than 4.5 metres wide and consequentially shadow area calculations pursuant to Regulation 16 are necessary in respect of both On Hing Terrace and Zetland Street. I believe that On Hing Terrace (described as the unbuilt portion) cannot or should not be included as part of the site for the calculation of site coverage and plot ratio."

The trial judge has disabused his belief contained in the last sentence and the appeal against this finding has been abandoned. I have agreed with the judge that the site in issue is a Class A site. I can see no justification for departing from one of the rules of construction to give the same meaning to the same words occurring in different parts of an Act of Parliament. "Site" in Regulation 16 has the same meaning as the word as used in Regulations 2, 19, 20, 21, 22, 23. It is the use of the word "street" in the first sentence of Regulation 16(1) which has caused the controversy. Having regard to the whole of Regulation 16, the context requires that that word be confined to mean a street not less than 4.5 m wide on to which a site abuts and not otherwise.

Accordingly, I say the trial judge was right in his declaration (d) save for the words "as for a Class A site" and would dismiss the appeal with costs.

(P.F.X. Leonard) (D. Cons) (A. Zimmern)
Vice-President Justice of Appeal Justice of Appeal

Barlow and N.L. Strawbridge (Legal Department) for Appellant.

D. Widdicombe Q.C., O. Cheung Q.C.,Audrey Eu (Philip K.H. Wong & Co.) for Respondents.

No. 10

Order of Court of Appeal granting final leave to Appeal to Her Majesty in Council
8th June 1982

IN THE COURT OF APPEAL

CIVIL APPEAL NO. 91 OF 1981

(On appeal from High Court Miscellaneous Proceedings No. 233 of 1981)

BETWEEN THE ATTORNEY GENERAL — Appellant (Defendant)

and

CHENG YICK CHI

ABERDEEN DEVELOPMENT CORPORATION LIMITED

LU SIU WAN

FIVE UP INVESTMENT COMPANY LIMITED

MAK SIU CHUN — Respondents (Plaintiffs)

LR. STAMPED
9 JUN 1982

BEFORE THE HONOURABLE MR. JUSTICE CONS,
THE HONOURABLE MR. JUSTICE ZIMMERN AND
THE HONOURABLE MR. JUSTICE BARKER,
JUSTICES OF APPEAL

O R D E R

UPON READING the Notice of Motion herein dated the 19th day of May, 1982 on behalf of the above-named Appellant for final leave to appeal to Her Majesty in her Privy Council from the judgment of the Court of Appeal dated the 23rd day of December, 1981.

AND UPON READING the affidavit of Barrie George John Barlow filed herein on the 19th day of May, 1982 and all the exhibits therein referred to

AND UPON HEARING Counsel for the Appellant and Counsel for the Respondents

IT IS ORDERED that the Appellant do have final leave to appeal to Her Majesty in her Privy Council from the judgment of the Court of Appeal

In the Court of Appeal

No. 10
Order of Court of Appeal granting final leave to Appeal to Her Majesty in Council 8th June 1982 (cont'd)

dated the 23rd day of December, 1981. Costs in the appeal.

Dated the 8th day of June, 1982.

(N.J. Barnett)
Registrar.

No. 32 of 1982

IN THE PRIVY COUNCIL

ON APPEAL

FROM THE COURT OF APPEAL OF HONG KONG

BETWEEN:

ATTORNEY GENERAL — Appellant (Defendant)

- and -

CHENG YICK CHI
ABERDEEN DEVELOPMENT CORP. LTD.
LU SIU WAN
FIVE UP INVESTMENT CO. LTD.
MAK SIU CHUN — Respondents (Plaintiffs)

RECORD OF PROCEEDINGS

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