**SCMP Article**

**Property rights trump heritage conservation**

It is hard to believe that up until 10 or 15 years ago, Hong Kong’s built heritage attracted relatively little attention outside small circles of historians and enthusiasts. But, in recent years, public awareness of our historic buildings has been rising. Younger people, in particular, are taking an interest in conservation.

As chairman of the Antiquities Advisory Board for four years, up to 2013, I saw for myself how challenging it is for the government to make policy in this area. Officials find it very difficult to balance public expectations with prudent use of government money – and with private owners’ rights.

Around a year ago, the board made a number of recommendations to the government on how Hong Kong can move forward on conservation. The suggestions were practical and realistic, and I am pleased to see that the government has broadly accepted them. However, they probably disappoint some activists who want to see a more proactive heritage policy.

One of the recommendations is the establishment of a dedicated fund for education, publicity, research and consultation on built heritage conservation. This will pay for more systematic engagement with the community and site owners on specific projects and at a general district level. It will also raise awareness among site owners about the incentives and assistance the government can offer them.

This leads to another recommendation, which is to expand the government’s efforts to encourage and facilitate the maintenance and suitable reuse of preserved buildings. This includes measures to give owners more flexibility when adapting and revitalising structures in ways that conserve sites of historic value.

As part of this, the advisory board suggested that the government should not make too many demands when owners accept assistance in maintaining or repairing historic buildings. Specifically, officials should not require public access to a privately owned site in return for help – the preservation of the building is the main thing. Most people with an interest in heritage conservation would go along with these ideas. However, some disagree with the advisory board’s recommendation against using public resources to purchase or resume privately owned sites.

This is the most controversial heritage issue in Hong Kong. The best known example is probably Ho Tung Gardens. The owner wanted to sell the prime site on the Peak for redevelopment. Conservationists urged the government to buy it, but officials could not justify the use of public money in this way. The site fetched over HK$5 billion.

This is one of those issues where different groups have very different views, and it is probably impossible to find a compromise. Heritage enthusiasts would be happy to see the government spend billions to buy historic sites and save them from redevelopment. But a lot of people do not agree. Many feel it would be unacceptable to use large amounts of public money when the funds could be used to meet other, probably more urgent, social needs.

Some activists would like to see a system of compulsory purchase or resumption so the government could take over such sites without spending huge sums. This raises serious questions. Property rights are guaranteed in the Basic Law. On top of that, many parts of the community would resist the idea that the state can use such coercive approaches and essentially confiscate private property.

Other jurisdictions might do things differently and offer only basic compensation if property owners lose redevelopment rights. The problem in Hong Kong is that the potential proceeds from redevelopment are – as we all know – massive. This goes back to the whole issue of land supply and policy on land use, which is a major subject in itself.

The bottom line is that private property rights override the concept of public interest in heritage conservation in Hong Kong. And the cost to the taxpayer of compensating owners for loss of redevelopment rights can be astronomical and unacceptable to much of the public. For the foreseeable future, this does not seem likely to change.