

Land premium instalment option made available for private columbaria

The Chief Executive in Council has approved that an option of paying land premiums in respect of unsold niches by instalments be made available to private columbaria seeking a licence subject to the fulfilment of a number of requirements and terms.

Announcing this today (July 11), a government spokesman said, "The Government has the sole and absolute discretion to decide whether to allow the payment by instalments option depending on the circumstances and merits of a case.

"It is in the overall interest of the community to facilitate the development of private columbaria that have complied with all application requirements for a licence under our regulatory regime to cater for the growing demand for niches."

This initiative aims to help private columbaria overcome difficulties in raising finance from financial institutions. According to feedback received after the enactment of the Private Columbaria Ordinance, raising loans from financial institutions has been increasingly difficult. It is related to the uncertainty associated with obtaining a licence. As the licensing regime is new, it takes time for a financial institution to build up proficiency in assessing whether a private columbarium is likely or unlikely to obtain a licence.

"In other words, a private columbarium operator faces a catch-22 situation. On one hand, he or she needs to pay the land premium in order to obtain a licence. On the other hand, without a licence, he or she fails to obtain a loan for paying the land premium," the spokesman said.

Under the payment by instalments option, the land premium is assessed up front at the time of the land grant/transaction. The interest rate to be charged by the Government will be the rate of investment return on fiscal reserves announced in the latest Budget, subject to a cap at the prevailing best lending rate plus 2 per cent (P+2%). This interest rate is cost-neutral to the Government from the investment perspective as the return on fiscal reserves may be seen as the opportunity cost for money owed to the Government. The maximum number of instalments will be capped at the number of years under the remaining term of the land lease or 10 years, whichever is the less.

As part of safeguard measures, the Lands Department will put in place a control mechanism in the modified lease stipulating the maximum number of niches that could be sold or let out, with each instalment permitting the same number of niches. In any case, the aggregate number of niches that could be sold or let out is not allowed to exceed the total number of niches in

respect of which the full land premium has been paid.

In addition, the Private Columbaria Licensing Board has confirmed that it will formulate a suitable control mechanism under the licensing regime after seeking legal advice.

To protect the Government against default risks, there is restriction against the operator selling or letting out niches under the licence concerned beyond the niches under the lease where the applicable premium instalments have been paid or beyond the validity period of the licence. On grounds of breaching the lease conditions, the Government may also re-enter the columbarium land. Default in payment constitutes a breach of contractual obligation and the operator remains liable to pay all of the outstanding amount to the Government. The Food and Environmental Hygiene Department may also take enforcement actions against illegal operation of private columbaria under the Private Columbaria Ordinance. On conviction on indictment, the sanction could be as high as a fine of \$5 million and imprisonment for seven years.

"We must stress that operators of private columbaria will not automatically get a licence because of the instalment option. The Licensing Board will still consider each application in strict accordance with the requirements for applying for a licence as set out in the Ordinance," the spokesman said.

"Obtaining a licence requires satisfying more than 10 sets of legislative, government and other application requirements, including town planning, land use, building and fire safety, rights to use the premises, environmental protection, electricity and lift and escalator safety, crowd and traffic management, plans covering ash interment layout, ash interment capacity and ash interment quantity, as well as the financial plan for assuring sustainable operation. Applications failing to meet such stringent requirements may be refused by the Licensing Board."

A Legislative Council brief on the detailed arrangements can be downloaded from the Food and Health Bureau's website at www.fhb.gov.hk/en/press_and_publications/otherinfo/160700_columbarium/index.html.