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TUN FU RITUAL AND FUNG SHUI OBJECTION IN THE NEW TERRITORIES

Study of a Fung Shui Court Case of an Indigenous Inhabitant versus the Government

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ABSTRACT

Arising from the proposed construction of a new radar station of the Hong Kong Observatory (HKO) on a knoll at Brothers Point, Tuen Mun, Fung Shui objection was raised by villagers of neighbouring Tai Lam Chung Tsuen. Despite the Government’s offer to revise the design of the radar station to minimise its visual impact to the villagers, and to provide Tun Fu *ex-gratia* allowance to address their Fung Shui concern, a villager submitted in 2012 an application for leave to apply for judicial review, hoping to force the HKO to yield to their Fung Shui objection, stopping the construction works and building the station elsewhere. The court dismissed the application despite an appeal. At the end, a Tun Fu ceremony sponsored by the Government was conducted in 2013 to address the Fung Shui concerns and the civil works proceeded without further disruption.

This court case is probably the first Fung Shui objection litigation involving the Government. The author of this paper was the incumbent Director of the HKO at the time. The author presents first-hand information related to the court case and provides an historical account of how the Tun Fu ritual, which is relatively unfamiliar to most people, has come about. To put things into perspective, this paper will also review the issue of Fung Shui objections in the New Territories which has influenced its development for over a century.

KEYWORDS

Tun Fu ritual, Fung Shui, New Territories, land use, indigenous inhabitants, lawful traditional rights and interests

新界躉符儀式和風水異議 — 一個原居民挑戰政府的法庭個案研究

岑智明

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摘要

香港天文台在新界屯門大欖角的一個小山丘上擬建新雷達站時，附近大欖涌村村民基於風水理由提出反對。雖然政府答允修改雷達站的設計，以減低村民視覺上的影響，並給予躉符特惠津貼以回應他們對風水的關注，一位村民仍於 2012 年提出司法覆核許可申請，希望逼使香港天文台就他們的風水異議作出讓步，停止建築工程，另覓位置興建雷達站。法庭駁回申請上訴後維持判決。最終，政府於 2013 年資助進行了一場躉符儀式，以回應村民對風水的關注，土木工程亦再沒有被擾亂。

這宗法庭案件可能是香港政府首次面對的風水官司。本文作者為時任香港天文台台長。他能夠展示法庭案件的第一手資料，以及提供大部分人從未聽聞的躉符儀式之歷史脈絡。文章也就影響新界發展超過一個世紀的風水異議問題作出回顧，以提供客觀的認識。

關鍵詞

躉符儀式、風水、新界、土地運用、原居民、合法傳統權益

The Hong Kong Observatory (HKO) installed a Terminal Doppler Weather Radar (TDWR) at Tai Lam Chung Marine Police Base in 1996 to detect hazardous windshear and provide alerts to ensure flight safety. It came into operation upon the opening of the Hong Kong International Airport (HKIA) in July 1998. As the usable lifetime of the TDWR was expected to end in 2013, to prevent disruption in the provision of safety-critical windshear alerts to aircraft, a new TDWR had to be in place as early as possible.

After conducting a site search during 2006–2007, HKO found a knoll north of the Tuen Mun Road near Brothers Point (the ‘Site’) to be the only technically viable site for installing the new TDWR. The Site, with an area of 3,800 m², lies on Government Land. Within one kilometre of the Site are Tai Lam Chung Tsuen (including Wu Uk and Wong Uk) and Luen On San Tsuen which are villages with indigenous inhabitants.

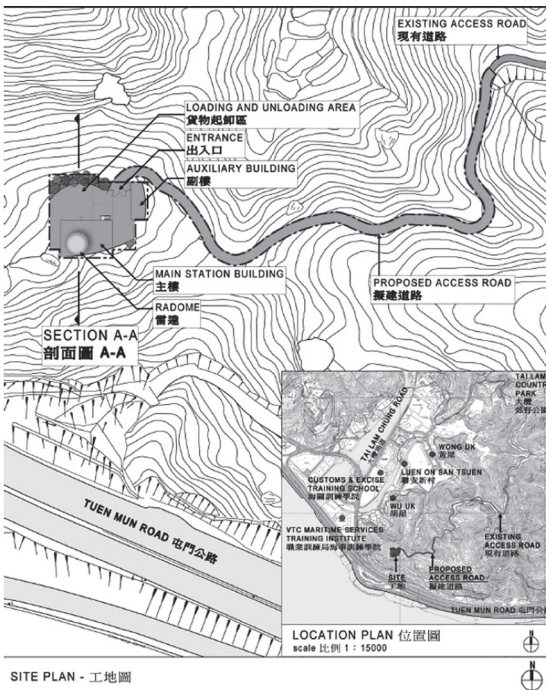
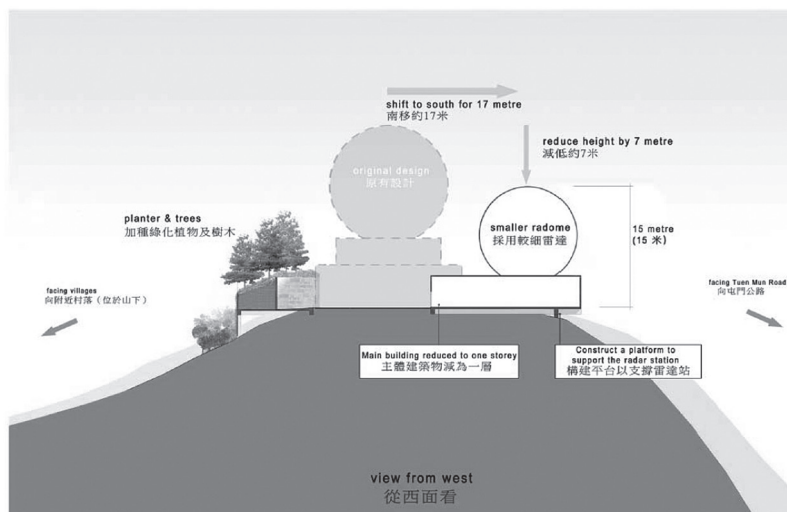


Figure 1: Site plan for the new TDWR station at Brothers Point with locations of nearby villages. Source: the Legislative Council (www.legco.gov.hk).

HKO applied to the Town Planning Board (TPB) on 12 December 2008 for permission¹ to construct the new TDWR station at the Site. Prior to the application, the nearby villagers were consulted but no objection was received. After the application, thirteen opposing comments were received from the villagers, which included the argument that the construction of the new TDWR station on the Site would damage the Fung Shui (literally meaning ‘wind’ and ‘water’, or Chinese geomancy; see Appendix 1 for a glossary of Chinese terms) of the surrounding area. Potential health hazards of the microwave radiation to be emitted from the new TDWR was another concern. After considering all factors, including the Fung Shui concerns of the villagers, TPB gave permission on 23 January 2009 and advised HKO to liaise with the local villagers with a view to addressing their concerns on the Fung Shui issue and explaining to them the protective measures to be taken against health hazards.

During March 2009 to August 2012, the Government arranged site visits and met and corresponded many times with the village representatives, Tuen Mun Rural Committee (TMRC) and Tuen Mun District Council (TMDC) to: (a) explain that the Site was the only technically viable site for the new TDWR station;² (b) explain the protective measures to be taken against health hazards of microwave emissions from the new TDWR; (c) offer a revised construction proposal to minimise the visual impact of the new TDWR station on the local villagers (Figure 2); (d) agree to commence the civil works on an auspicious day; and (e) agree to consider paying a fee, if requested, for the villagers to perform Tun Fu ritual protective ceremonies to bring peace and harmony before the commencement of civil works. During this period, Hon. Lau Wong-fat, Chairman of TMDC and Chairman of TMRC (until January 2011), and Junius Ho Kwan-yiu, Chairman of TMRC (since January 2011) were actively involved in the liaison process. There was also an incident of villagers obstructing a site investigation conducted by contractors on 1 September 2010.

However, despite the above-mentioned communication and liaison efforts, Wu Yuk Wah Ben, an indigenous inhabitant of Tai Lam Chung Tsuen, submitted on 27 August 2012 an application for leave to apply for judicial review³ in the High Court of the HKSAR (HCAL114/2012) for relief sought, amongst others, that: (1) an order for *Certiorari*⁴ to bring up and quash the decision of the Director of the Hong Kong Observatory (hereafter ‘the Director’) on 13 June 2012⁵ not to entertain the Tai Lam Chung villagers’ concerns about Fung Shui after the Director’s application to develop the TDWR at a knoll north of Tuen Mun Road near Brothers



比較示意圖
COMPARISON DIAGRAM

DETAIL DESIGN 詳細設計
CONSTRUCTION OF A STATION FOR
THE NEW TERMINAL DOPPLER WEATHER RADAR
建造新機場多普勒天氣雷達站

Figure 2: Schematic diagram showing the measures to minimise the visual impact of the new TDWR station on the local villagers: (a) moving the radar station by 17m away from the villages; (b) reducing the height of the radar station by 7 m by compressing the building to one storey and by using a smaller radome; and (c) planting 8–9 m tall trees facing the direction of nearby villages. Source: the Legislative Council (www.legco.gov.hk).

Point has been approved; or (2) a declaration that the Decision was unlawful because it violated Article 40 of the Basic Law which guarantees that the lawful traditional rights and interests of the indigenous inhabitants of the New Territories shall be protected by the HKSAR. The Notice also mentioned that if leave for judicial review was granted by the court, the applicant would further apply for an injunction to stop the construction works at the Site.

On 5 September 2012, Hon. M.H. Lam, Justice of Appeal (JA) in Court ordered that the application for leave to apply for judicial review be refused. On 19 September 2012 Wu Yuk Wah Ben filed a notice of appeal in the Court of Appeal of the HKSAR (CACV208/2012). On 9 January 2013, Hon. Susan Kwan JA, Joseph Fok JA and Aarif Barma JA in Court dismissed the appeal. This case was subsequently reported by the Hong Kong Law Reports & Digest

(HKLRD).⁶ It was also widely reported by the media, including the official China News Service in Mainland China.⁷

After the judgement by the Court of Appeal, the village representatives of Tai Lam Chung applied to the Lands Department (Lands D) to grant an *ex-gratia* allowance (EGA) for conducting Tun Fu rituals. As the amount exceeded Lands D's jurisdiction, the claim needed to be considered by the Financial Services and Treasury Bureau. After a series of negotiations, the village representatives in consultation with their fellow villagers finally agreed to accept \$180,000 as the Tun Fu EGA, which amounted to about 0.1% of the project cost for the station.⁸ The Tun Fu rituals were finally conducted on 1 August 2013. It is interesting to note that, despite the judicial process, due to the urgent need for completing the installation of the new TDWR, construction works of the new TDWR station had already started on 28 September 2012, i.e. 10 months before the Tun Fu rituals. This auspicious day for works commencement was selected with the assistance of some villagers and rituals were also performed by the works contractor on that day. There was no obstruction to the works commencement. The new TDWR station was successfully commissioned on 7 November 2014.⁹

SCOPE OF THIS STUDY

This study will first present the history of Tun Fu ritual based on a review of the literature and Government archives and other available information, including interviews with Tun Fu practitioners and a field study of a recent Tun Fu ceremony in the New Territories. The objectives are to find out when and how this practice first started and whether it is unique to Hong Kong. The court case *Wu Yuk Wah Ben v. The Director of the Hong Kong Observatory* is then analysed with a view to understand the arguments on both sides regarding the Fung Shui issues. In particular, these arguments touched on the question of whether Fung Shui belief is a recognised right or interest of indigenous inhabitants of the New Territories protected by the Basic Law.

From the court case, it would appear that the villagers had expectation that the Government would address their Fung Shui concerns beyond the provision of the Tun Fu EGA, *viz.* to relocate the site of the TDWR away from the village. To better understand this, a review of the significant incidents of Fung Shui objections in the New Territories since 1899 has also been conducted to provide a historical context. Following this review, the study will reflect on the evolution of these phenomena with time, and their impact on land use and developments in the New Territories.

HISTORY OF TUN FU RITUAL

In Chinese, the name ‘Tun Fu’¹⁰ (蕙符) consists of two words—the word ‘Tun’ (蕙) in turn comprises two characters, with ‘Man’ (萬 —meaning ten thousand) on top and ‘Chuk’ (足 —meaning leg) at the bottom, and thus putting them together literally means ten thousand legs, implying a very firm foundation or establishment. The second word ‘Fu’ (符) means talisman or charm. According to Hugh Baker,¹¹ Tun Fu is closely related to Fung Shui. Physically, Tun Fu is a pot filled with sand, usually with five magic charms,¹² one for each of the Five Directions, written on bamboo sticks stuck in the sand (Figure 3). During a Tun Fu ritual, usually conducted by a Nam Mo Lo,¹³ a number of Tun Fu pots are prepared and placed in

selected locations, such as the ancestral hall and other strategic locations of the village (or villages). The purpose of the ceremony is to repair the village’s Fung Shui, alleviate misfortune and protect the villagers from Shaat Hei (evil influences) and the wrath of spirits agitated by the civil works nearby.¹⁴ Tun Fu has been included as one of the sub-items (sub-item 3.50.6)¹⁵ of ‘Taoist Ritual Tradition of the Zhengyi (Orthodox Unity) School’¹⁶ (item 3.50) in the First Intangible Culture Heritage Inventory of Hong Kong announced by the Government in 2014.¹⁷



Figure 3: Photograph of a Tun Fu pot showing five magic charms, each written on a bamboo stick stuck into the sand in a large incense pot. Reproduced by permission from Hugh Baker, Ancestral Images (Hong Kong: Hong Kong University Press, 2011).

The earliest Tun Fu ceremony in Hong Kong paid for by the Government was documented by C.C. Lai, a staff member of the New Territories Administration Headquarters, in his notes

dated 13 January 1960,¹⁸ with a concise description of the ceremony conducted by a Nam Mo Lo. Arising from the removal of two villages of Tai Lam and Kwan Uk Tei in 1956 to give space for the Tai Lam Chung reservoir, the villagers demanded \$2,000 for Tun Fu and \$500 was granted. Tai Lam Chung Reservoir was the first reservoir built in Hong Kong after the Second World War (WWII) and was completed in 1957.¹⁹ The notes also documented another claim, rather than when a catchwater was being built in 1958 at Ho Pui Village, the villagers demanded \$1,488.80 for Tun Fu and \$1,200 was eventually paid. It is interesting to note that this figure then became a standard rate for Tun Fu for a village. Subsequently, So Kwun Wat and other villages in Pat Heung connected with the catchwater works were each paid \$1,200 in the same year. This apparently is also the earliest official recognition of the legitimacy of a village applying for Tun Fu compensation when it considered that Fung Shui was adversely affected by public works. Lai's notes however did not make any reference to Fung Shui, but he did mention that Tun Fu is a religious ceremony for the Hakka²⁰ to ward off evil spirits and to assure comfort to the gods worshipped either at their removal to some other shrine or at the inauguration of a new temple. Thus the Government recognition of Tun Fu was initially based on Chinese religious belief, not Fung Shui.

James Hayes, a Hong Kong historian who joined the Government as Cadet Officer in 1956²¹, documented a Tun Fu ceremony which took place at Tong Fuk,²² Lantau Island in 1958,²³ just two years after the Tun Fu ceremony documented by Lai. It was based on his meeting with the village representatives and elders of Tong Fuk when the construction of Shek Pik Reservoir commenced. An access road was to be built to the west of Shek Pik where the villagers believed there to be a Fung Shui place. The villagers of Tong Fuk requested Hayes, who was then the District Officer, South, to pay for a Tun Fu ceremony arranged by the villagers to appease all the gods and spirits who may conceivably be offended by the proposed works at the Fung Shui place.

Based on the oral history provided by the Tong Fuk village elders to Hayes, there were two precedent cases. A Tun Fu ceremony took place 35 years before, i.e. circa 1923, following a 'mysterious epidemic' and unexpected deaths in the village. The villagers believed that these mishaps could be traced to a villager cutting stone from the Hung-sheng Temple on the nearby beach where the villagers prayed. In addition, another Tun Fu ceremony took place 20 years before, i.e. circa 1938, in the neighbouring village of Shui Hau, where deaths were believed to be related to the erection of a cowshed in front of a house, which was subsequently advised by a geomancer to be a Fung Shui place.

Hayes also provided detailed accounts of the Tun Fu ceremonies conducted at Tong Fuk in 1958 and at Pak Wai, Sai Kung in 1960. They are believed to be the earliest descriptions of the proceedings of Tun Fu ceremonies in Hong Kong, the former being recorded by Hayes based on oral descriptions by village elders of Tong Fuk, while the latter being recorded first-hand by G.C.W. Grout, a colleague of Hayes. As this study does not intend to investigate into the details of the ceremony, interested readers may wish to consult detailed accounts of Tun Fu ceremonies by Judith Strauch at Fung Yuen Village, Tai Po (1981)²⁴ and Dan Waters at Sheung Tsuen, Pat Heung (1999).²⁵ There are however a few points regarding the ceremony which are worth mentioning here. First of all, while Lai's first note on Tun Fu ceremonies did not make any reference to Fung Shui, Hayes traced them directly to Fung Shui issues. Hayes also referred to the one who carried out the ceremonies at Tong Fuk as 'Fung Shui Lo' and the one at Pak Wai, Sai Kung as geomancer or 'Fung Shui Sin San'. The number of Tun Fu pots needed in each ceremony and the exact locations to place the pots were to be determined by the geomancer.²⁶ The number of days for conducting the ceremony also varied, for example, from one day at Pak Wai, Sheung Tsuen, and Fung Yuen to six days at Tong Fuk. The Tun Fu pots were to be left for the full duration of the construction works, with joss sticks burnt during the period, especially on special days.²⁷ At the end of the works, the geomancer would return to the village, and each family of the village would prepare roast pork and chicken to thank the gods for turning evil away. The geomancer would visit the pots in turn, dismiss the gods and burn the charms.²⁸ Hayes and Waters also mentioned the need for Nuen Fu²⁹ ceremonies in case the duration of the civil works was too long such that the initial Tun Fu charms became ineffective and therefore such 'revival' ceremonies would be needed, say after two years, to renew (or to 'warm') the charms, as per the advice of the geomancer and the village elders.³⁰

One notable difference observed from the above documented ceremonies is the number of charms written on bamboo sticks stuck in each Tun Fu pot. The usual number is five, representing the Five Directions (East, South, Centre, West and North)³¹ with each charm calling for the presence of the Tu Gong, or Earth God, to subdue the actions of ferocious deities³² (Figure 4). It is however noted that Hayes reported that two pots each with three charms written on bamboo were used at Pak Wai and Sai Kung Market. Another Tun Fu ceremony at Nga Tsin Wai in 2012³³ also used pots with three charms written on bamboo, but for this occasion, four pots were used instead of two.

Waters reported yet another practice at Sheung Tsuen: five Tun Fu pots were used, with one talisman representing one of the Five Directions in each pot. The author therefore consulted Chan Kwan, a Nam Mo Shi Fu currently practicing Tun Fu ceremonies, about these rather different formats of Tun Fu pots. He advised that the differences might be explained by the different Taoist schools of practice.³⁴ It is also noted that, instead of representing the Five Directions, the charms in the three-charm version of Tun Fu pots referred to the 'upper sphere', 'middle sphere' and 'lower sphere' (Figure 5)³⁵ but further studies in Taoist practices will be needed to ascertain their exact meaning.³⁶



Figure 4: Blow-up of Figure 3, showing the charms written on bamboo.



Figure 5: Tun Fu pots used at Nga Tsin Wai in 2012. Video recording of Tun Fu ceremony conducted at Nga Tsin Wai on 27 December 2012: <https://youtube.com/watch?v=jF9fNROnF-M>

In the case of the new TDWR station at Brothers Point, the Tun Fu ceremony conducted on 1 August 2013 used Tun Fu pots with five charms written on bamboo (Figure 6). Nearly 30 Tun Fu pots were deployed (Figure 6 upper right). A breakdown of the costs provided by the village representatives however reveals that the majority of the expenditure was payment for the geomancer³⁷ (some 87%), while the fees for the team of five Nam Mo Fa Shi Fu only accounted for 6% of the total expenditure.³⁸ As advised by Chan Kwan,³⁹ the usual practice nowadays is for the geomancer to select the lucky date and time and the locations of the deity spots for placement of the Tun Fu pots, while the role of the Nam Mo Shi Fu is to carry out the Tun Fu ceremony based on the requirements of the villagers and advice by the geomancer. Perhaps the consideration of Fung Shui in arranging the Tun Fu ceremonies has become more prominent with time, since back in 1959 Hayes estimated that the fees for the Fung Shui Lo only accounted for 60%⁴⁰ of the total expenditure.

To appreciate the trend of Tun Fu ceremonies over the years, a summary of Tun Fu ceremonies/EGA payments from 1923 to 2022 is compiled based on available publications, Government archives, media reports and information from personal contacts of the author (Appendix 2). Apart from the two pre-WWII ceremonies arranged by the villagers themselves, the rest

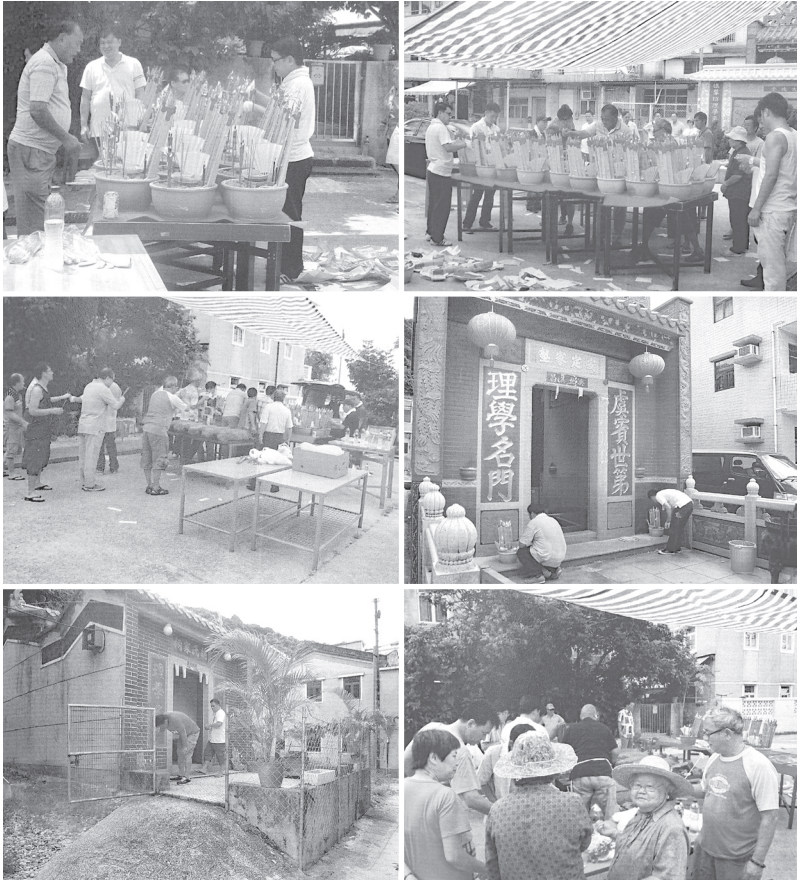


Figure 6: The Tun Fu ceremony conducted at Tai Lam Chung on 1 August 2013—upper left and right: Nam Mo Lo preparing the Tun Fu pots; middle left: villagers placing joss sticks on the Tun Fu pots; middle right and lower left: Tun Fu pots being placed at selected locations, including ancestral halls, of the village; lower right: villagers sharing roast pigs after the ceremony. Source: District Lands Officer, Tuen Mun (Ref.: (78) in DLOTM 230/3/420 Pt. B).

were mostly Government-paid ceremonies arising from civil works in various stages of development of the New Territories, notably the construction of reservoirs, new towns, roads, highways and railways, as well as drainage and water supply facilities. There are obvious gaps in the summary, for example,

little or nothing could be found pertaining to new town development in Kwun Tong, Sha Tin, Sheung Shui, Fan Ling, or Yuen Long,⁴¹ before the 1990s, or relating to the Airport Core Programme development in the 1990s.⁴² Therefore the summary should not be considered as a comprehensive list of all the Tun Fu ceremonies held in Hong Kong, but perhaps only represents a minor part of the whole picture.

The first documented payment of a Tun Fu EGA by the Government was the payment in 1956 of \$500 to the two villages Tai Lam and Kwan Uk Tei for the construction of the Tai Lam Chung Reservoir. Over the years, the total amount of Tun Fu EGA payments has escalated by several orders of magnitude (Figure 7), for example, from a few ten thousands per year in the 1960s and early 1970s to a few millions per year in early 2000s. The Tun Fu EGA payment per event has increased even more, with the known highest payment of \$1.138 million (approximately \$3 million in 2022 dollar value) at Ha Tsuen in 1990, while the first ‘standard rate’ determined by the Government was just \$1,200 per village back in 1958. Inflation cannot fully explain this escalation factor.⁴³

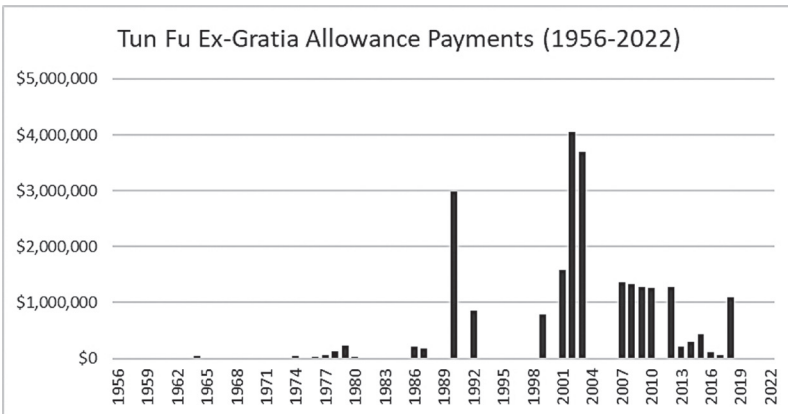


Figure 7: Annual Tun Fu EGA paid by the Government from 1956 to 2022.⁴⁴ The dollar figures since 1982 have been corrected for inflation to 2022 dollar value based on data available at: <https://www.worlddata.info/asia/hong-kong/inflation-rates.php>. Graph Shun Chi-ming.

As regards the origin of Tun Fu ceremonies, no documented evidence of their existence outside Hong Kong could be found so far. Waters mentioned that he was not able to find any written information nor oral accounts of Tun Fu ceremonies conducted outside Hong Kong, although he gathered they did occur in places like Taiwan. There have also been some claims in the media and online resources that the Tun Fu ceremony is a vernacular religion of Guangdong⁴⁵ or South China, but again no references have been given.⁴⁶ As the Tun Fu ceremony has been included as a sub-item of 'Taoist Ritual Tradition of the Zhengyi (Orthodox Unity) School'⁴⁷ (item 3.50) in the First Intangible Cultural Heritage Inventory of Hong Kong, its origin may be traced through the Zhengyi School. According to the description of item 3.50, the Taoist Ritual Tradition of the Zhengyi School in Hong Kong was in the same lineage as that of the Pearl River Delta during the Qing dynasty; and the Taoist Ritual Tradition of the Zhengyi School in the New Territories has mainly come from the Zhengyi of Dongguan and Xin'an region. In view of this, it appears quite possible that the Tun Fu ceremony practiced in the New Territories has its origin in Guangdong. Upon enquiry,⁴⁸ Chan Kwan, who is a Nam Mo Shi Fu from the Zhengyi School, the 7th generation descendant of his Nam Mo family, advised the author that he learnt the practical knowledge of the Taoist ritual from his father Chan Kou who was a native of Sha'jing, Bao'an which was part of the Xin'an region in the Qing dynasty. His father Chan Kou told him that he did practice Tun Fu ceremonies in Bao'an before 1949 for local villagers. However he has no recollection about his father conducting such ceremonies for the government in Bao'an at the time, nor the Bao'an government sponsoring such activities.

On 2 May 2022, the author also attended a Tun Fu ceremony at Wai Tau Tseun, Tai Po (Figure 8) and had the chance to interview the Nam Mo Shi Fu Lam Sai (Figure 8 lower right). A video recording of the ritual was also made.⁴⁹ Lam Sai advised that he was the 6th generation descendant of his Nam Mo family who originated from Chi'wei, Shenzhen. His father Lam Choi had practiced Tun Fu ceremonies in Chi'wei,⁵⁰ thus corroborating the oral history given by Chan Kwan. In the past years, Lam Sai has also been invited to perform Taoist rituals in Shenzhen but not a Tun Fu ceremony. Lam further advised that in the Wai Tau (Punti) tradition that he practices, another name of Tun Fu is 'Lok Chap', literally meaning 'dropping the bamboo sticks' and it serves the purpose of an invisible wall to guard against the evil influences.



Figure 8: Tun Fu ceremony performed in front of the Tai Wong Yeh Shrine at Wai Tau Tsuen on 2 May 2022 due to road widening works to be carried out nearby; village head Cheung Kwok Yiu offering joss sticks (upper left), villagers participating in the ceremony (upper right), Nam Mo Shi Fu conducting rituals (lower left) and the author photographed with Nam Mo Shi Fu Lam Sai after the ceremony (lower right). Photos Shun Chi-ming.

FUNG SHUI OBJECTION: THE COURT CASE OF THE NEW TDWR STATION

The court case of *Wu Yuk Wah Ben v. The Director of the Hong Kong Observatory* brought up a significant point for debate: is Fung Shui one of the lawful traditional rights and interests of the indigenous inhabitants of the New Territories protected by the Basic Law? The Applicant tried to argue that this was the case.

The Applicant's submission started by referring to *Secretary for Justice & Others v. Chan Wah & Others* that, having recognised that there is no comprehensive definition of the rights and interests within Article 40 of the Basic Law,⁵¹ the Court of Final Appeal, *in obiter dicta*, mentioned that such rights include various property rights and interests.⁵² The submission went on to note in the book *Law of the Hong Kong Constitution*,⁵³ Professor Johannes

Chan opined that these rights and interests are mainly concerned with the ownership and use of land (paragraph 29.014). Professor Chan went on to say, at paragraph 29.015:

The Government has long respected the traditional customs of allowing indigenous inhabitants and their family members to be buried near the village hillside. If it is necessary to clear the ancestral graves, an *ex gratia* allowance will be paid. The removal of ancestral graves is always a controversial issue, as the location is usually chosen for Fung Shui reason and it is believed that any attempt to remove an ancestral grave would have had an adverse impact on the descendants. Hence, there were incidents in the past that a highway had to be re-routed in order to avoid the removal of ancestral graves...

The Applicant then asserted that one of those rights was the right to have Government authorities respect traditional customs, including Fung Shui beliefs, and that such right was recognised by the Government, by pointing out that since the 1960s, the Government had been paying *ex gratia* compensation in relation to the construction works of Government projects where the works may affect the Fung Shui of the villages concerned. Therefore the Applicant argued that the Fung Shui requirements of the villagers were such that the TDWR should not be located in its intended position, and ‘reasonable’ accommodation of the Fung Shui concerns of the local community would mean building the TDWR at another site a little distance from the location proposed, similar to re-routing the highway as referred to by Professor Chan.

On the contrary, the submission on behalf of the Director disputed that the Applicant had a lawful traditional right or interest, which is protected under Article 40 of the Basic Law, not to have the Fung Shui of the village adversely affected by the activities of other landowners on the latter’s own land.⁵⁴ Based on paragraph 29.004 of Chan and Lim⁵⁵, in order to qualify for protection under Article 40, it is necessary to establish four elements, and among them, the rights and interests are traditional in the sense that they existed in or could be traced back to 1898. The submission challenged that the Applicant failed to prove by way of proper evidence that in 1898 one of the traditional rights or interests of an indigenous inhabitant was not to have his Fung Shui affected by other persons even by things to be done on the latter’s own land. It further explained that, while acknowledging that they might not have been intended to be exhaustive, when the Consultative Committee of the Basic Law⁵⁶ and the Heung Yee Kuk⁵⁷ attempted to list the traditional rights and interests of the indigenous inhabitants, no such right regarding Fung Shui was mentioned at all.

The submission on behalf of the Director also disputed the Applicant's assertion that it followed from paragraph 29.015 of Chan and Lim⁵⁸ that Fung Shui belief was one of the traditional rights recognised by the Government. The submission held the view that this paragraph is concerned with the indigenous inhabitants' burial rights which are clearly recognised as traditional rights, and the case in paragraph 29.015 concerns specifically the removal of an ancestral grave, not Fung Shui *per se*. The submission also made a remark about the nature of Tun Fu compensation, which, being *ex gratia*, clearly shows that it does not relate to any lawful traditional rights or interests. The fact that the Government 'respects' something does not turn it into a 'right' in the hands of the counterpart.

The application for leave was refused by Hon. Lam JA due to its being seriously out of time. Hon. Lam JA added however that he was in agreement with the analysis of the submissions on behalf of the Director and there was simply no reasonably arguable grounds for challenge under Article 40 of the Basic Law.⁵⁹ In other words, the assertion that under the Basic Law an indigenous inhabitant in the New Territories possesses a lawful traditional right or interest not to have his Fung Shui affected is considered by the High Court not reasonably arguable.

The subsequent appeal by Wu Yuk Wah Ben was dismissed by Hon. Susan Kwan JA, Joseph Fok JA and Aarif Barma JA in the Court of Appeal of the HKSAR. The judgement of Lam JA was upheld. The Court of Appeal also held that the two Fung Shui reports submitted on 7 and 13 June 2012 did not constitute any new material that the Director was obliged to consider, having regard to the fact that they simply asserted the impossibility of ameliorating the adverse Fung Shui impact of building the TDWR on the Site, when it was clear that the choice of location was not open for discussion.⁶⁰ Here it could be interpreted that, even if the application for leave was not seriously out of time, the Fung Shui reports could not be accepted by the Court to be new material to overrule the Director's decision of choosing the Site to build the new TDWR station.

FUNG SHUI OBJECTION: A LONG-STANDING ISSUE IN THE NEW TERRITORIES

If we go back to the history of the New Territories and look at several significant events, we would be able to provide some context for better understanding the customs and environment leading to the court case of the new TDWR station. First and foremost, Fung Shui belief was a deep-rooted tradition in the New Territories, to the extent that the foundation of a village in Fan Ling

could be traced to the selection of a propitious location by a geomancer,⁶¹ or an established village at Shek Pik had to be relocated by the villagers due to Fung Shui concerns.⁶² As early as the eighteenth and nineteenth centuries, there were already records of Fung Shui disputes between nearby villages, for example between Ha Tsuen and Tin Sam in the early eighteenth century,⁶³ and between Siu Lek Yuen and Ngau Pei Sha around the 1860s–1870s; the latter was even brought before the Xin'an Magistrate for resolution.⁶⁴ And then in 1899, Fung Shui became one of the concerns of the indigenous inhabitants of the New Territories which triggered the six-day war on 14–19 April 1899. In March 1899, F.H. May, the then Captain Superintendent of the Hong Kong Police Force,⁶⁵ visited Ping Shan to look for a site for a police station and decided to build it on top of the Fung Shui hill behind the village, directly behind the two main ancestral halls of the Tang clan, and on the direct Fung Shui line of the halls.⁶⁶ According to Patrick Hase, this insensitivity to Fung Shui concerns and poor judgement was a major inducement to the villagers to rise up in arms against the British.⁶⁷ At Tai Po on 3 April 1899, when May met with village elders about the erection of a police station⁶⁸ on Flagstaff Hill, he faced strong objection asserting that the police station would damage the Fung Shui of the neighbourhood. This was despite the fact May had already relocated it to the present site after learning that it had been accepted as not a Fung Shui problem by the villagers of Pun Chung, the only village near the site. Finally, this meeting ended up in a riot with the police station burnt down by rioters on the same night.⁶⁹ Shortly after the six-day war, in planning a carriage road,⁷⁰ J.H. Stewart Lockhart, the then Colonial Secretary, received a petition on 1 May 1899 from village elders from Cheung Sha Wan and Pak Shu Leung claiming that the construction of the road, situated behind the houses of the villages and traversing the geomantic line along the hill at the back of the ancestral temple, would 'injuriously affect' their Fung Shui and would bring great calamity to the villages, rendering their houses and ancestral temple uninhabitable. They demanded that another site should be selected so as to protect the houses and graves of the villagers.⁷¹ In response, Lockhart informed the villagers that:

Whilst the British Government is always prepared not to interfere unnecessarily with the belief and customs of the people, it will not tolerate agitators making an improper use of the beliefs and superstitions of the people in order to create trouble and to obstruct the carrying out of necessary public works, which are being undertaken with a view to increase the prosperity of the territory and to promote the welfare of the people.⁷²

After reading Lockhart's report, Governor H.A. Blake replied to Lockhart with a different view: 'Can you not arrange with the geomancers they are at the bottom of this trouble. I think a judicious arrangement may be made with a small expenditure'. But Lockhart did not agree, and responded that 'I am afraid it would not be possible to arrange as you request. If the geomancers were paid, they would become more troublesome than they are already, as they would discover that the creating of trouble is a paying game'. This dialogue ended with Governor Blake's remark to Lockhart 'your action was quite right'.⁷³ Even though there is no further information about the final outcome of this dialogue, e.g. whether the villagers persisted with their petition or some compromise in the road design was made by the Government, or some other measures were taken (e.g. a 'Tun Fu ceremony') to address the Fung Shui concern, it is clear that such incidents have occurred time and again in the New Territories since then; and the Government has yielded to some extent to address Fung Shui concerns of indigenous villagers, following the spirit of Governor Blake's policy of not interfering with their 'good customs' as per his proclamation of 9 April 1899.⁷⁴ Indeed Maurice Freedman has summarised it extremely well after discussing the case at Cheung Sha Wan: 'ever since, the Administration has been faced with the dilemma of yielding to Fung Shui objections (every act of tolerance being a pledge to further acts) or resisting them (and running the risk of being accused of denying the original undertaking by the British Government to respect local beliefs and customs)'.⁷⁵

But when was such 'judicious arrangement' 'with a small expenditure' as suggested by Blake really started? Clues could be found in the following two Government reports. G.N. Orme, District Officer, in his Report on the New Territories, 1899–1912,⁷⁶ devoted three paragraphs under 'Life of the People—Customs, Habits and Religion' on Fung Shui.⁷⁷ In particular, he mentioned, for the first time, that compensation was made by the Government for the removal of ancestral graves due to Fung Shui concerns of the indigenous inhabitants. But Orme also suggested that such acts (removal of ancestral graves to give way to developments) soon became accepted by the people 'almost without a murmur', but the professors of Fung Shui were still 'playing on the fears and superstitions of the common people, and many hard-earned dollars are paid in order to avert calamities foretold by these cunning gentry'. One may wonder if the Tun Fu ceremony appeared because of this phenomenon described by Orme.

Another documented source related to Fung Shui compensation could be found in the correspondence from Governor William Peel to Secretary of

State for the Colonies Sidney Webb on 22 May 1931⁷⁸ regarding a Report of the Retrenchment Commission. This reviewed the staffing level of the various Government departments with a view to seeking reductions in staff and economy of Government administration. In reporting on the Secretariat for Chinese Affairs, the Commission made the comment that ‘Payment of compensation for “Fung Shui” should be discontinued’, implying that some kind of Fung Shui compensation payment was already in place at the time in Hong Kong. The Government however responded to this comment that ‘So far as Government is aware no monetary or other valuable consideration is given for “Fung Shui”’, therefore denying payment of such Fung Shui compensation. Noting that the Commission compiled its Report based on meetings with Government employees, private persons and recommendations and suggestions solicited from the public,⁷⁹ its statement about the existence of Fung Shui compensation is likely to be trustworthy, even though it is uncertain whether such compensation pertained to grave removal or Tun Fu ceremony, or both.

After WWII, as territory-wide developments took place, civil works associated with infrastructure and new towns in the New Territories (including New Kowloon) would naturally meet Fung Shui objections and indeed the first documented Tun Fu payment by the Government surfaced in 1956 (see above). Not too long after this, an interesting discussion within the Government took place between 16 May and 6 June 1959, when D.R. Holmes, District Commissioner of the New Territories, proposed to J.C. McDouall, Secretary for Chinese Affairs, to establish a Fung Shui Committee, comprising two prominent and respected New Territories elders, together with a Fung Shui practitioner of good standing. According to Holmes, such a need arose because his department was ‘quite regularly’ faced with representations made on the grounds of Fung Shui and there was no case law or doctrine built up in the past which might enable his department to know how to deal with such matters. Challenged by McDouall on the practicalities of his proposal, Holmes explained the difficulties he faced: ‘when any development is to be undertaken we go out of our way to ask all the villagers anywhere in the neighbourhood whether they can think of any objection to what is proposed. Experience has shown that this approach leads to endless argument and very often important development is held up through undue heed being paid to small vociferous minorities, or objections which are intrinsically unreasonable.’ Even though McDouall was unconvinced, as Holmes persisted in his request, McDouall took the matter to the Chinese Members of the Executive Council and obtained unanimous advice that such a proposal would be impracticable because ‘as a

general rule no Fung Shui practitioner, whether considered an expert or not, can ever produce any suggestion which would not be subject to the most violent counter criticism unless it happened to coincide with the wishes of the parties concerned'. As a result, the issue of a Fung Shui Committee was put to rest in a space of just three weeks, with McDouall advising that 'each case would have to be dealt with ad hoc and on its merits'. Clearly, even though this proposal may appear rather silly nowadays, this short deliberation served to clarify an important point—trying to find an expert authority to rule on Fung Shui issues will not work, as it is simply not an objective matter. The Fung Shui difficulties faced by the Government have remained the *status quo* since then.

Ten years later, a highly visible and significant case of Fung Shui objection erupted in 1969. Between June 1969 and November 1970, very strong Fung Shui objection was raised by Tai Po Tsai Village, Sai Kung, to the Government's plan for constructing a new Erskine Camp on a Fung Shui hill facing the village, covering some 14 hectares of land.⁸⁰ Although the Government had tried to accommodate the villagers' Fung Shui concern, for example, by agreeing to re-locate the Camp to another slope of the hill so that it would not be visible from the village, and to build additional access paths for grazing of cattle etc., when the Government proceeded to conduct ground investigation works on 9 April 1970, more than one hundred villagers gathered and stopped the works. A series of difficult negotiations between the Government and the village representatives followed, with the process escalating to the level of District Commissioner Donald Luddington⁸¹ on the Government side, and the Chairman of Heung Yee Kuk Chan Yat-san also attending certain meetings,⁸² while barristers were engaged on the villagers' side.⁸³ By the end of April 1970, it seemed that agreement was almost reached, with an eight-point proposal of the villagers made public, such as forbidding the levelling of the Fung Shui hill, making the barracks invisible from the village, and its boundary to be more than 100 feet from any graves, requiring a Tun Fu ceremony to be conducted before commencement of works, building of a reservoir for irrigation use by the villagers, demanding that no tanks and other military vehicles drive past the village at nighttime unless strictly necessary, etc.⁸⁴ It is interesting to note that the villagers offered to pay for the Tun Fu ceremony if the Government's budget did not meet their requirements;⁸⁵ and at a certain stage of the negotiation, villagers even proposed offering the Government a compensation of \$10,000 or more if the Government relocated the construction away from the village and in so doing incurred additional costs for the Government. Obviously, the villagers tried

to make it clear that their Fung Shui objection was genuine and not being used to seek monetary benefits from the Government. The case seemed to be settled as the ground investigation works commenced on 11 May 1970 after a Tun Fu ceremony.⁸⁶ Nevertheless, the Government finally announced on 31 October 1970 that the planned construction of the barracks was suspended after a review made by the British Government on its military requirements in the Far East.⁸⁷ While it is not certain what was the ultimate reason for the Government's withdrawal of its plan,⁸⁸ this case was exceptional and indeed a landmark in the history of Fung Shui objection in the New Territories since the incidents of 1899. Nevertheless, even though senior Government officials and barristers were involved in the negotiation, this case was not taken to the court as was the new TDWR station case.

Another Fung Shui incident that is worth mentioning here is the reference case discussed by *Wuk Yuk Wah Ben v. The Director of the Hong Kong Observatory*, where both sides referred to Chan and Lim⁸⁹ quoting that there were incidents in the past when a highway had to be re-routed in order to avoid the removal of ancestral graves. Even though the submission on behalf of the Director was quite right in that this incident pertained to removal of an ancestral grave, which is a recognised interest or right of indigenous inhabitants of the New Territories under the Basic Law rather than Fung Shui per se, it may still provide some insights into the accommodation level of the Government on such Fung Shui-related issues. Based on advice by Patrick Hase,⁹⁰ the grave concerned has been found along the western side of Tolo Highway between Tai Po and Fanling near Kau Lung Hang Village (Figure 9). The grave belongs to the third generation descendant Liu Yu Pik of the Lius of Sheung Shui which may be dated to the Ming dynasty.⁹¹ Instead of relocating the grave, it was kept in the middle of a small island of trees between the Tolo Highway (which lies immediately to its east) and Tai Wo Service Road West (which lies immediately to its west). According to Hase, both the alignment of the Tolo Highway, built in the early 1980s and opened in 1985,⁹² and that of the original Tai Po Road built in the early 1900s, were adjusted due to the grave. Judging from the maps in Figure 9 (lower right), Tai Wo Service Road West does bend westwards by several metres and then back to avoid the grave. Old Tai Po Road also bent eastwards in the portion north of the grave, but it is not certain whether this bending was Fung Shui-related. Unfortunately, no written records could be found on the relevant deliberations regarding the adjustments of the road alignment to accommodate the grave. In any case, given the relatively small displacements of the road alignments, any additional

costs to the Government would appear to have been marginal. Nevertheless, it is clearly a case in which the Government had respected the rights and interests of indigenous inhabitants and accommodated the ancestral grave by adjusting road alignments, albeit minor ones.

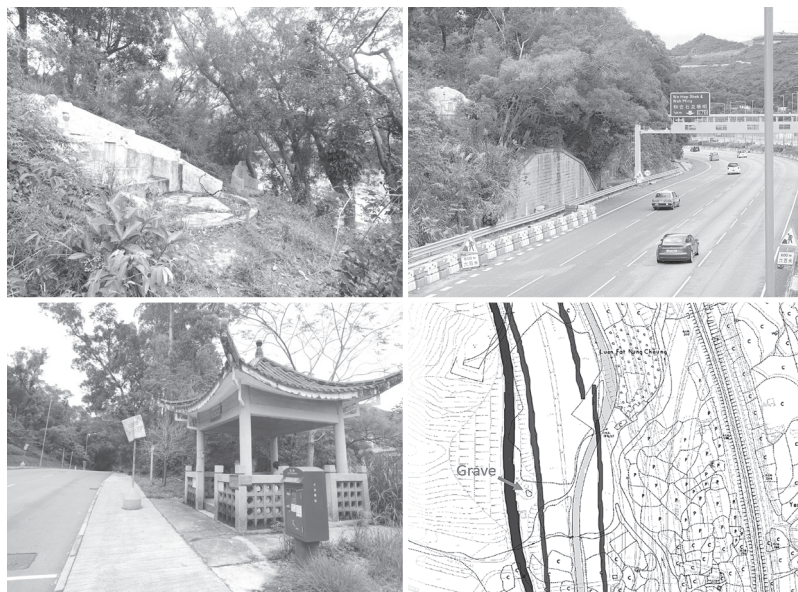


Figure 9: Grave of Liu Yu Pik of Sheung Shui (upper left), with Tolo Highway just passing to its immediate east (upper right) and Tai Wo Service Road West to its immediate west (lower left—the grave is located at the back of the pavilion), and location of the old Tai Po Road (wide grey winding line) on map of 1961 and relative to Tolo Highway (thin dark lines) and Tai Wo Service Road (thick dark line) on map of 2021–2022. Photos: (lower left, upper left, upper right) - Shun Chi-ming; (lower right) - Yip Tsan-pong.

The issue of disruption of the Government's capital works projects in the New Territories due to Fung Shui objections was also brought to the attention of the Director of Audit in 1994.⁹³ The audit review looked at two specific cases in which Fung Shui objections led to significant disruptions to the works, resulting in substantial claims and high costs to the Government. The first case involved the reclamation of 36 hectares of land in the Castle Peak Bay during 1986–91 using fill material from a borrow area⁹⁴ on government land at Tan

Kwai Tsuen, Tuen Mun. The works contract, amounting to \$112 million, was managed by the Territory Development Department (TDD). Two Fung Shui objections were raised by nearby villagers. The first one was raised by villagers of Chung Uk Tsuen southwest of Tan Kwai Tsuen who stopped the works for seventeen days. It was settled by providing a Tun Fu EGA of about \$63,000. The second objection was raised by villagers of Shek Po Tsuen northwest of Tan Kwai Tsuen. Protests by the villagers stopped the works by another eighteen days. It was settled by providing a Tun Fu EGA of \$52,000. The disruption to the works also resulted in claims of some \$4 million by the contractor. The second case involved construction of a pumping station and associated water mains at Sham Tseng and Tsing Lung Tau during 1991–93. The contract was managed by the Water Supplies Department (WSD) with an estimated cost of \$18 million. Fung Shui objection raised by villagers of Sham Tseng Tsuen stopped the works for some five months and was settled by the payment of a Tun Fu EGA of \$400,000. The claims by the contractor due to the works disruption were not available at the time the audit report was written. The Director of Audit commented: ‘It is the Government’s *de facto* policy to try to accommodate Fung Shui objections. However, this should not be done against the broader public interest, such as resulting in excessive additional costs.’ For the TDD contract, the additional costs of the Tun Fu EGA and claims by the contractor amounted to \$4.115 million, or about 3.7% of the project cost, which is not insignificant. The Tun Fu EGA for the WSD contract already amounted to about 2% of the project cost while the claims by the contractor were unknown.

Apart from providing case details for analysing the impact of Fung Shui objections to the Government’s capital works projects in the New Territories, the above-mentioned Audit Report also revealed, for the first time, the *de facto* Government policy on Fung Shui claims (Appendix 3). While the principle that the Government respects the traditional Chinese religions of the residents, including the belief of Fung Shui, was maintained, the policy made it crystal clear that the Government does not subscribe to it. This position is essentially the same as that submitted by the Director in *Wu Yuk Wah Ben v. The Director of the Hong Kong Observatory*. The level of accommodation or tolerance by the Government is also clearly reflected in the policy—Government officers have to satisfy themselves that the traditional beliefs claimed by the applicants are genuinely held and broadly consistent with claims previously made. More importantly, the principle in dealing with such claims is that, so long as the objection is sincere, efforts will be made to accommodate the objectors,

modifying the works area where so doing is not against the broader public interest. If it is impossible to make an accommodation, then the Government will normally meet the reasonable costs incurred by the objectors in arranging a religious ceremony, called Tun Fu, to ward off the bad effects of Fung Shui disturbance, on an *ex-gratia* basis. It is apparent that, after decades of operational experience, even though handling of Fung Shui objections had remained a balancing act, the factors to be considered had become better articulated.

It is curious to note, after the said Audit Report was released to the public, a question was raised by Legislator Albert Chan Wai-yip on whether independent Fung Shui advice was sought to ascertain the validity of villagers' Tun Fu claims.⁹⁵ It is essentially the same thinking that led Holmes to put forward his proposal about setting up a Fung Shui Committee back in 1959. In response, Robert Pope, Director of Lands, said that his staff had accumulated experience, some up to 30 years, in dealing with such claims and some of them were Fung Shui experts of a varying degree! Probably Pope had not read the exchanges between Holmes and McDouall. This slight issue aside, Pope defended that the Tun Fu EGA was under proper control with spending ceiling, viz. District Lands Officers had the delegated authority to grant only up to \$20,000 and the Director of Lands \$50,000. Any claim above this had to have the approval of the Secretary for the Treasury. Such control measures are still in place today.⁹⁶

DISCUSSIONS

The case of the new TDWR station shows that, even though the Government had already proposed a revised construction scheme to minimise the visual impact of the station to the local villagers⁹⁷ and offered to provide the Tun Fu EGA, the villagers still went ahead to attempt the path of judicial review to force the Government to relocate the station on the ground of Fung Shui. Similar to the case of Tai Po Tsai in 1969–70 in which the villagers made it clear that their Fung Shui objection was genuine and not for seeking monetary benefits, we should not doubt that the Tai Lam Chung villagers' belief in Fung Shui was genuine and their Fung Shui objections sincere, as they must have committed a significant amount of money to support the legal charges arising from the court case. But what could have caused such a strong and determined response from the villagers? Did they really expect that the Government would address their Fung Shui concerns to the extent that they desired?

As pointed out by Maurice Freedman, Fung Shui is not only a subjective matter, but rather more a psychological issue.⁹⁸ Such psychological issues

could be further intensified in the village environment, especially when those who are held to be damaging their Fung Shui are outsiders—strangers or the Government—such that the whole community could become united in defending their turf against the intruders. Freedman also held the view that Fung Shui was actually a tool for competition within the lineage community—a demonstration of power and status.⁹⁹ It is therefore quite possible that, in order to show their capabilities and commitments to the village, the village and/or district leaders would be willing to come forward to gather and strengthen the villagers' sentiments to fight for their case. Perhaps this was part of the self-reinforcing mechanism in operation, but such an hypothesis would require in-depth research to understand what actually happened in the village before the court case.

For the question of whether the villagers should really have the expectation that the Government would address their Fung Shui concerns to what they desired, one should recognise that, even though since April 1899 the British Government had all along reassured that the local customs and beliefs in the New Territories would be respected, Orme's Report on the New Territories (1899–1912) suggested that, even though compensation had been made by the Government for ancestral grave removal due to construction of railways, roads and houses over the hills, such Fung Shui-damaging acts soon became a normalised deed accepted by the people. As the Government, for some reasons, also denied payment of Fung Shui compensation in response to the Retrenchment Commission Report in 1931, it would appear that before WWII such compensation practices might not be widespread and probably could not be taken for granted.

After WWII, as we see from the section above on the history, a Tun Fu EGA started to become a Government practice to compensate for Fung Shui damages during construction of infrastructure like reservoirs, water pipelines, and roads in the late 1950s and 1960s.¹⁰⁰ A standard rate of \$1,200 was even established in 1958 for the Tun Fu EGA. From Appendix 2 and Figure 7, it can be seen that the Tun Fu EGA expenditures generally remained a few thousand dollars per ceremony in the 1960s and 1970s. As more civil works took place in the 1980s, and partly owing to inflation, expenditures increased. But an interesting phenomenon started to appear in the 1990s with some Tun Fu ceremonies costing more than a million dollars (equivalent to roughly three million dollars as of 2022, taking into account inflation) per event. This phenomenon persisted into the twenty-first century, perhaps due to the magnitude of civil works (e.g. construction of the Express Rail Link),

but maybe also as a reflection of the historical and political influences of the villages concerned, and an increased desire of the villagers or their leaders to exert such influences amidst the increasing costs of the civil works. This latter point will need further research to establish.

From the earlier two sections discussing Fung Shui objections, it is clear that the impact of these objections could go well beyond the payment of a Tun Fu EGA and could disrupt progress of civil works, leading to project delays and additional monetary losses, such as claims from contractors. Obviously, at least for certain cases, the point of public interest highlighted in the 1994 Audit Report could be called into question. Most importantly, the Fung Shui concerns raised by villagers cover areas well beyond their village boundaries,¹⁰¹ thus affecting the use of any neighbouring piece of land, private or public, as long as the construction on that piece of land is within sight of the village concerned and/or considered to be affecting their ancestral graves. The total impact of this Fung Shui issue was perhaps not fully recognised when the Block Crown Lease was first introduced. Such claims of ‘customary right’ of Fung Shui beyond the defined village land areas have since put unwritten and ill-defined limitations on the use of land neighbouring villages of indigenous inhabitants—such limitations could be additional project costs, longer project completion time, or even the need of design changes.

When I was given the task in 1993 of selecting the site for installing the first TDWR for the new airport at Chek Lap Kok, I was already aware that the selected site, even on Government land, should not fall within the burial areas of the villages to avoid project disruption. This was understandable, even though I was also aware that there were cases where graves could be moved due to capital works of the Government. Finally, for the first TDWR, the site on the knoll at Brothers Point (i.e. the site of the new TDWR station in the present case) was dropped, even though it was technically the best site at the time, due to the extra time needed to build a road extension (Figure 1). This meant a longer project completion time which did not meet the airport opening requirement. For the new TDWR, however, the natural choice of site was the knoll at Brothers Point, and even more so after considering more than twenty other potential sites (including four counter-proposed by the villagers)—each having their own technical, availability, scheduling and other problems. However, that the Fung Shui objection by the villagers escalated to the court level had indeed caught the HKO off guard, resulting in extended negotiations with the villagers and with relevant political bodies, frequent changes in the work plan, etc. At the end, there was a delay of about 13 months

in the commissioning of the new TDWR.¹⁰² Additional expenditure of some \$9 million and extra manpower had to be spent to commission an X-band weather radar as a stop-gap measure to avoid disruption of the windshear alerting service in case the new TDWR was not commissioned in time to replace the deteriorating TDWR whose end of lifetime was expected in 2013. The payment of \$180,000 as a Tun Fu EGA was dwarfed by comparison.

From the perspective of public interest, especially the assurance of flight safety for Hong Kong International Airport and maintaining of the reputation of Hong Kong as an international aviation hub, one could rightly query whether the influence of Fung Shui belief, even though part of our history and traditional customs, should not be restrained so that such critical development works in the public interest will not be hindered. *Wu Yuk Wah Ben v. The Director of the Hong Kong Observatory* has provided a solid legal basis, for the first time, on the (lack of) legitimacy in viewing Fung Shui belief as a lawful traditional right or interest protected by the Basic Law. It will be interesting to keep this in view in case similar litigation related to Fung Shui objections in the New Territories crops up in the future.

Now turning to the Tun Fu rituals, from the history we may conclude that, based on oral evidence from two independent Nam Mo Shi Fus, they have their roots in Bao'an, Guangdong or beyond, even though the provision of Tun Fu EGAs by the Government to sponsor such ceremonies requested by villagers is most likely unique to Hong Kong. Apart from the oral evidence, following Patrick Hase's advice, the author managed to find some similar charms for the Five Directions (Appendix 4) in a manuscript of charms handwritten by Yung Sze-chiu (1874–1944) of Hoi Ha.¹⁰³ Even though there are some subtle differences, these charms in the manuscript appear comparable with the charms recorded by Hugh Baker in Figures 3 and 4. In the same manuscript, application procedures of charms for commencement of civil works are also found (Appendix 5). In particular, these procedures mention specifically the act of placing five charms into a pot, which resembles the five-charm version of Tun Fu. Many more varieties of charms are also mentioned in the procedures, but perhaps they could be different options for different situations. According to studies of Yung Sze-chiu,¹⁰⁴ he possessed a strong belief in Fung Shui and even became an expert in Fung Shui and fortune-telling himself. He invited geomancers from outside to give advice on Fung Shui and even spent some two decades to relocate ancestral graves of the Yungs to seek prosperity for his clan. As the manuscript of charms handwritten by Yung was dated 1904,¹⁰⁵ just six years after the leasing of New Territories to

the British, it is quite possible that the manuscript of charms together with the application procedures had existed prior to 1898 and subsequently brought to the attention of Yung. Further research will however be needed to ascertain the linkages of such early manuscripts of charms with those we see today in Tun Fu ceremonies.

Finally, given that the last known million-dollar Tun Fu ceremony was already held 10 years ago,¹⁰⁶ would this traditional ritual still be around in the New Territories in the decades to come? Dan Waters did ask this question back in 1999.¹⁰⁷ He concluded that, despite inevitable changes brought by urbanisation, many parts of the New Territories still had a pleasant and peaceful village environment. Therefore, he believed that the custom was likely to be around, albeit in smaller numbers, for some time to come. Apparently, his prediction remains valid today, considering that Tun Fu ceremonies have been held every year in the past ten years (Appendix 2). He also argued that, even though 'it being 90 per cent money and 10 per cent belief in Fung Shui' according to some past District Officers, the Fung Shui belief factor cannot be underestimated. His view is shared by Charles Emmons, who did some research in Hong Kong on this subject in 1980 and wrote about it in 1992.¹⁰⁸ Emmons concluded that Fung Shui belief had managed to survive despite the urban, partly westernised character of modern Hong Kong, and there was no recent tendency for it to decline. This is probably still true today, not just for rural New Territories and the general population, but also among elites in the commercial sector and in the Government, as the author found out during a chat with a few historians on this subject recently. Perhaps some further studies into this subject will be both timely and helpful as Hong Kong enters the next 25 years after the handover.

CONCLUSION

Having been deeply involved in implementation of the TDWR at Tai Lam Chung and handling the *Wu Yuk Wah Ben v. The Director of the Hong Kong Observatory* court case, the author was intrigued by the Fung Shui objection raised by the local villagers, the Fung Shui court case, as well as the Tun Fu ritual which was closely related. As these subjects have an influence on the use of land even outside the boundary of villages of indigenous inhabitants in the New Territories, the author has attempted to undertake a study to look at their history and evolution.

The author finds that there have only been a few publications or papers on the subject of Tun Fu, even less on the more general subject of Fung

Shui objections, and the *Wu Yuk Wah Ben v. The Director of the Hong Kong Observatory* court case is probably the first Fung Shui objection court case involving the Government. A very important outcome of the court case is that Fung Shui belief is not accepted as a right or interest of indigenous inhabitants of the New Territories protected by Article 40 of the Basic Law. This could become a precedent case for dealing with future Fung Shui objections in the New Territories.

The strong and determined response of the villagers in bringing the Fung Shui objection to the court seems unusual, leading the author to look for clues in the history of Fung Shui objections in the New Territories. It turns out that such disputes were already present in 1899 and were one of the triggers for the armed uprising against the British leading to the Six-Day War. Since Governor Blake adopted his policy of respecting local traditions and customs in order to bring peace and harmony in the New Territories, such Fung Shui objection incidents have occurred from time to time in the past hundred years. The Tun Fu ceremony and the associated *ex-gratia* compensation made by the Government became a pragmatic solution to smooth out such resistance to public works and developments in the New Territories, but at the same time have created an expectation that villagers will demand compensation whenever outsiders, Government and developers alike, are seen to damage their Fung Shui. There were cases where the Government had to re-route roads around an ancestral grave, or to change its plan due to a strong Fung Shui objection.

The first documented payment of a Tun Fu EGA occurred in 1956, but there are hints that such Fung Shui-related compensation could have occurred much earlier. An analysis of the Tun Fu EGA payments since 1956 revealed an increasing trend as developments of infrastructure and new towns intensified. There have been occasional payments exceeding a million dollars per ceremony since the 1990s. Such large sums cannot be fully explained by inflation alone and may reflect the increasing influence of villages and the increasing capital costs of the civil works that triggered them. Fung Shui objections have led to additional expenditures (of the order of several percent of the contract value), significant delays (many months or even a year) and design changes for Government's projects. Such claims of 'customary right' of Fung Shui have put limitations on the use of Government land and that of neighbouring villages of indigenous inhabitants in the New Territories.

It is interesting to note that the Government had considered setting up a Fung Shui Committee to deal with Fung Shui issues and claims, but soon recognised that any such 'expert' opinion would be immediately challenged by

opposing views of other 'experts'. Since then, the Government has evaluated Fung Shui claims based on factors including the genuineness of the claim, sincerity of the objection, reasonableness of the cost, and public interest.

As regards the Tun Fu ritual itself, from oral evidence collected from practicing Nam Mo Shi Fus and a manuscript of charms dated 1904 handwritten by Yung Sze-chiu of Hoi Ha, it is quite certain that the ritual has its origin outside Hong Kong, with linkages to Bao'an, Guangdong, and some similar forms of the ritual could have already been present in the nineteenth century. Further studies will be needed to ascertain if linkages to other places in Guangdong, South China or even Taiwan could be established.

Even though the Tun Fu ritual has been recognised as a sub-item in the First Intangible Culture Heritage Inventory of Hong Kong, there are several varieties in its form (i.e. five-charm, three-charm and one-charm versions) and in its ritual procedures that still need to be better understood. In view of ongoing urbanisation of the New Territories, the author also examines the question of whether such traditional customs will diminish with time. The Tun Fu ritual will probably remain as long as Fung Shui belief is still present in the community. It will also be interesting to keep in view if more Tun Fu ceremonies would be triggered by mega projects such as the future Northern Metropolis developments in the years to come.

ACKNOWLEDGEMENT

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APPENDIX 1: GLOSSARY

Bao'an	寶安	Brothers Point	大欖角
Chan Kwan	陳鈞	Chan Kou	陳九
Cheung Sha Wan (Cheungshawan)	長沙灣	Chi'wei	赤尾
Chuk	足	Chuk Yuen	竹園 (打鼓嶺)
Chung Uk Tsuen	鍾屋村	Dongguan	東莞
Fan Ling	粉嶺	Fung Shui (Feng Shui)	風水
Fung Shui Lo (Fung Shui Sin Sang)	風水佬、風水先生	Fung Yuen	鳳園
Ha Heng	下坑	Ha Tsuen	廈村

Hang Hau Tseun	坑口村	Ho Chung	蠔涌
Ho Pui	河背	Hoi Ha	海下
Hung-sheng	洪聖	Kau Lung Hang	九龍坑
Keung Shan	羌山	Kwan Uk Tei	關屋地
Kwai Chung	葵涌	Lam Choi	林財
Lam Sai	林世	Lin Fa Tei	蓮花地
Liu Man Shek Tong	廖萬石堂	Liu Yu Pik	廖如璧
Lok Chap	落箭	Luen On San Tsuen	聯安新村
Lung Yeuk Tau	龍躍頭	Ma Yau Tong	馬游塘
Man	萬	Mongkoktsui	芒角咀
Nam Mo Lo (Nam Mo Sin Sang / Nam Mo Fa Shi / Nam Mo Shi Fu)	喃嘸佬、喃嘸先生、喃嘸法師、喃嘸師傅	Nga Tsin Wai	衙前圍
Ngau Pei Sha	牛皮沙	Nuen Foo	暖符
Pak Shu Leung	白樹朗 ¹⁰⁹	Pak Wai	北圍 (西貢)
Pat Heung	八鄉	Ping Shan	屏山
Pun Chung	泮涌	Punti	本地
Sai Kung	西貢	San Tin	新田
Sha'jing	沙井	Shaak Hei	煞氣
Sham Tseng Tsuen	深井村	Shek Pik	石壁
Shek Po Tsuen	石埗村	Sheung Shui	上水
Sheung Tsuen	上村	Shu Fuk	舒服
Shui Hau	水口	Siu Lek Yuen	小瀝源
So Kwun Wat	掃管笏	Sun Kung Hei	神公戲
Ta Kwu Ling	打鼓嶺	Tai Hang	泰亨 (大埔)
Tai Lam	大欖	Tai Lam Chung Tsuen	大欖涌村
Tai Mi Tuk	大美督	Taiwai	大圍
Tai Po	大埔	Tai Po Tsai	大埔仔
Tai Wo	大窩	Tai Wong Yeh Shrine	大皇爺神壇
Tan Kwai Tsuen	丹桂村	Tin Sam	田心
Tseung Kwan O	將軍澳	Tsing Lung Tau	青龍頭
Tsing Yi	青衣	Tsuen Wan	荃灣
Tu Gong	土公	Tuen Mun	屯門
Tun Fu (Tan Foo, Tan Fu, Dun Foo)	薨符	Tung Chung	東涌
Tong Fuk	塘福	Wai Tau	圍頭
Wai Tau Tseun	圍頭村	Wong Uk	黃屋
Wu Uk	胡屋	Xin'an	新安
Yuen Long	元朗	Yung Sze-chiu	翁仕朝

APPENDIX 2: DOCUMENTED TUN FU CEREMONIES / EX-GRATIA ALLOWANCE PAYMENTS IN HONG KONG (1923 – 2022)

Year	Village	Reason for ceremony	Cost (HKD) ¹¹⁰
1923	Tong Fuk ¹¹¹	Mysterious epidemic ¹¹² / several unexpected deaths of villagers	More than \$1,000 ¹¹³
1938	Shui Hau ¹¹⁴	Unexpected deaths of villagers	Unknown ¹¹⁵
1956	Tai Lam and Kwan Uk Tei ¹¹⁶	Construction of Tai Lam Chung Reservoir	\$500
1958	Ho Pui Village, Yuen Long ¹¹⁷	Construction of catchwater	\$1,200
	So Kwun Wat and other villages in Pat Heung ¹¹⁸	Construction of catchwater	\$1,200 each
	Tong Fuk ¹¹⁹	Construction of access road for Shek Pik Reservoir	Likely between \$600-\$1,585 ¹²⁰
1960	Keung Shan ¹²¹	Road construction	Unknown
	Pak Wai ¹²² and Sai Kung Market ¹²³	Road widening works	Unknown
	Lin Fa Tei and other villages ¹²⁴	Construction of water pipeline connecting Shenzhen to Tai Lam Chung Reservoir	Unknown
1961	Tai Mi Tuk, Tai Po ¹²⁵	Construction of access road to Plover Clove Reservoir	Unknown
1966	6 villages at Plover Cove ¹²⁶	Construction of Plover Clove Reservoir	Unknown
1964	12 villages in Tung Chung, Lantau Island ¹²⁷	Construction of Tung Chung Road	Around \$3,000 each
1969–70	Villages in Tsuen Wan, Kwai Chung and Tsing Yi ¹²⁸	Development of new towns	\$8,300
1972–73	Villages in Tsuen Wan, Kwai Chung and Tsing Yi ¹²⁹	Development of new towns	\$15,500
1973–74	Villages in Tsuen Wan, Kwai Chung and Tsing Yi ¹³⁰	Development of new towns	\$9,939
1974–75	Villages in Tsuen Wan, Kwai Chung and Tsing Yi ¹³¹	Development of new towns	\$42,350

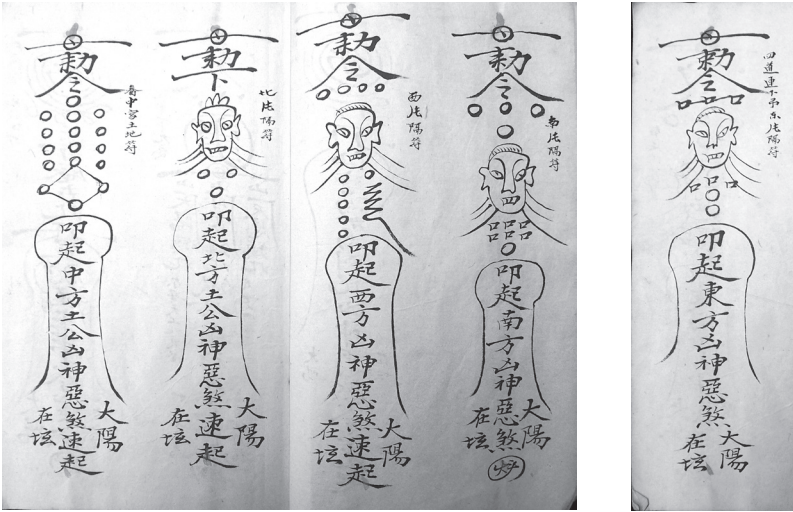
1975-76	Villages in Tsuen Wan, Kwai Chung and Tsing Yi ¹³²	Development of new towns	\$10,920
1976-77	Villages in Tsuen Wan, Kwai Chung and Tsing Yi ¹³³	Development of new towns	\$23,200
1977-78	Villages in Tsuen Wan, Kwai Chung and Tsing Yi ¹³⁴	Development of new towns	\$52,780
1977	Ha Heng Village, Tai Po ¹³⁵	Construction of Ha Heng Reservoir for Tai Po Industrial Estate	\$4,620
	Fung Yuen Village, Tai Po ¹³⁶	Construction of Ha Heng Reservoir for Tai Po Industrial Estate	\$4,620
1978-79	Villages in Tsuen Wan, Kwai Chung and Tsing Yi ¹³⁷	Development of new towns and Mass Transit Railway ¹³⁸	\$127,348
1979-80	Villages in Tsuen Wan, Kwai Chung and Tsing Yi ¹³⁹	Development of new towns and Mass Transit Railway	\$225,175
1980-81	Villages in Tsuen Wan, Kwai Chung and Tsing Yi ¹⁴⁰	Development of new towns	\$31,360
1981	Fung Yuen Village, Tai Po ¹⁴¹	Removal of Fung Shui hill for land reclamation	Unknown
1986	Ma Yau Tong, Tseung Kwan O ¹⁴²	Construction of Tseung Kwan O Tunnel	Unknown
	Chung Uk Tseun, Tuen Mun ¹⁴³	Construction of an access road to a borrow area near Tan Kwai Tsuen for providing fill for Tuen Mun reclamation	\$63,000
1987	Shek Po Tsuen, Yuen Long ¹⁴⁴	Works in the borrow area near Tan Kwai Tsuen for providing fill for Tuen Mun reclamation	\$52,000
1990	Ha Tsuen ¹⁴⁵	Construction of San Wai sewage treatment works and tunnel for drainage system	\$1,138,000
1991	Sheung Tsuen, Pat Heung ¹⁴⁶	Construction of private columbaria	Unknown ¹⁴⁷
1992	Sham Tseng Tseun, Tseun Wan ¹⁴⁸	Construction of a water pumping station and associated watermains	\$400,000
1999	Sheung Tsuen, Pat Heung ¹⁴⁹	Construction of West Rail	\$600,000

	Tai Wo, Pat Heung ¹⁵⁰	Unknown	Unknown
2001–02	Various villages ¹⁵¹	Unknown	\$1,120,000
2002–03	Various villages ¹⁵²	Unknown	\$2,810,000
2003–04	Various villages ¹⁵³	Unknown	\$1,412,000 ¹⁵⁴
2003	Ha Tseun ¹⁵⁵	Construction of Hong Kong – Shenzhen Western Corridor	\$1,080,000
Jan 2007– Sep 2011	73 claims from various villages ¹⁵⁶	Various reasons	\$4,600,000
2012	San Tin ¹⁵⁷	Construction of Express Rail Link	Likely above \$1,000,000 ¹⁵⁸
	Nga Tsin Wai ¹⁵⁹	Archaeological excavation	Unknown
2013	Tai Hang, Tai Po ¹⁶⁰	Drainage works	Unknown
	Tai Lam Chung	Construction of new TDWR station at Brothers Point	\$180,000 ¹⁶¹
2014	Chuk Yuen Village, Ta Kwu Ling ¹⁶²	Construction of Liantang/Heung Yuen Wai Boundary Control Point	\$250,000 ¹⁶³
2015–16	5 villages in North district; 12 villages in Tai Po district ¹⁶⁴	Various reasons	\$379,400
2016–17	2 villages in Tuen Mun; 3 villages in Tai Po district ¹⁶⁵	Various reasons	\$100,000
2017–18	3 villages in Tai Po district ¹⁶⁶	Various reasons	\$60,000
2018–19	6 villages in Yuen Long district ¹⁶⁷	Various reasons	\$1,030,000
2020	Ho Chung Village, Sai Kung ¹⁶⁸	Road widening	Unknown
2021	Hang Hau Tseun, Tseung Kwan O ¹⁶⁹	Drainage works	Unknown ¹⁷⁰
2022	Wai Tau Tseun, Tai Po ¹⁷¹	Road widening works	Around \$10,000

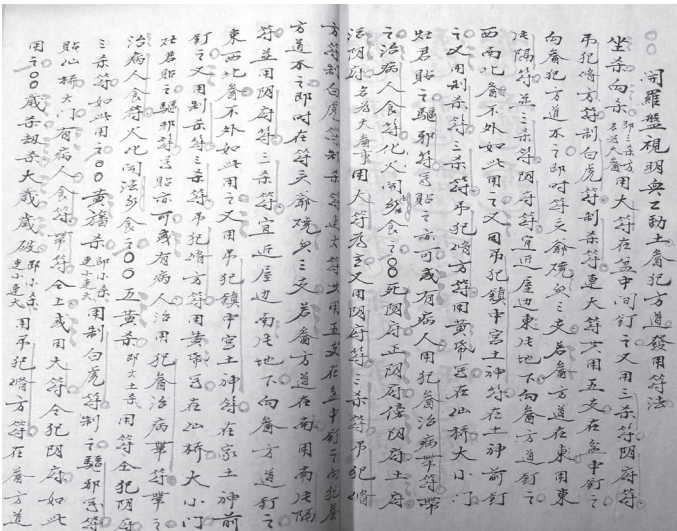
APPENDIX 3: DE FACTO GOVERNMENT POLICY ON FUNG SHUI CLAIMS BASED ON A MEMORANDUM WRITTEN IN APRIL 1987 BY A DISTRICT OFFICER OF THE CITY AND NEW TERRITORIES ADMINISTRATION¹⁷²

1. In the New Territories, the Government respects the traditional Chinese religions of the residents.
2. While the Government respects the belief of Fung Shui, it does not subscribe to it. The Government claims no knowledge of the details or practices of Fung Shui. Thus, when any claim is put forward of disturbance to Fung Shui, staff of the District Lands Offices and District Offices seek only to satisfy themselves that the traditional beliefs claimed by the applicants are genuinely held, and broadly consistent with claims previously made.
3. The Government is not in a position, before works on a project start, to foretell what Fung Shui disturbance might be caused. However, it is the general practice to consult authoritative traditional institutions such as village offices and rural committees in an attempt to forestall claims.
4. In the case of graves, it is the practice, before any works start, to place a notice on each grave inviting descendants to contact the District Lands Office for consultation. This is only done, however, in the case of graves so near to works sites that it seems reasonable to expect that complaints might be made.
5. Notice of works is published in the government gazette as required under various ordinances, and detailed site plans are available at District Offices for public inspection.
6. Where the District Office and District Lands Office agree that a Fung Shui objection is sincere, efforts will be made to accommodate the objectors, modifying the works area where so doing is not against the broader public interest, such as resulting in excessive additional cost, causing breach of contractual agreements or causing unreasonable disturbance to other parties. If it is impossible to make an accommodation, then the Government will normally meet the reasonable costs incurred by the objectors in arranging a religious ceremony, called *Tun Fu*, to ward off the bad effects of Fung Shui disturbance, on an *ex-gratia* basis.

APPENDIX 4: CHARMS FOR THE FIVE DIRECTIONS¹⁷³



APPENDIX 5: APPLICATION PROCEDURES OF CHARMS FOR CIVIL WORKS¹⁷⁴



NOTES

- 1 According to the Notes of the Outline Zoning Plan (OZP), radar is a Column 2 use under the 'Green Belt (GB)' zone, which requires planning permission from the Town Planning Board. OZP is a kind of statutory plan prepared by the Town Planning Board under the Town Planning Ordinance.
- 2 A total of 21 potential sites in Tuen Mun, Chek Lap Kok and Lantau Island were considered by the site search during 2006–2007. Four additional potential sites in the Brothers Point area were counter-proposed by the villagers. Only the identified Site was considered technically viable.
- 3 Judiciary, 2009, 'Guide to General Civil Proceedings in High Court and District Courts' (https://rcul.judiciary.hk/rc/download.jsp?FN=documents/eng/Leaflet_09_Eng.pdf). Application for judicial review is by way of a two-stage procedure. The first step is to obtain from the court permission (which is often referred to as 'leave') to bring an application for judicial review. If the court refuses to grant leave, no application for judicial review can be brought.
- 4 Judiciary, 2009. *Certiorari* is an order to quash or set aside a decision already made by the respondent.
- 5 The date of 13 June 2012 mentioned here refers to the receipt by the Director of a letter from Messrs. K.C. Ho & Fong in which two Fung Shui reports were submitted by village representatives—the first one was presented at a meeting between village representatives of Tai Lam Chung Tsuen, representatives of HKO, other government departments, TMDC and TMRC on 7 June 2012, and another one, known as the Supplemental Fung Shui Report, was enclosed in the said letter. In short, these Fung Shui reports claimed that any civil works at the Site would damage the pulse of the Green Dragon, and therefore detrimental to the prosperity of the village and the health of the villagers.
- 6 *Hong Kong Law Reports & Digest* [2013] 2 HKLRD 1068.
- 7 Media report (in Chinese) entitled 《香港天文台的'風水官司'》 (<http://hm.people.com.cn/n/2012/0909/c230533-18958785.html>).
- 8 The approved project estimate for construction of the new TDWR station was \$175.7 million. See LegCo Finance Committee paper at: <https://www.legco.gov.hk/yr11-12/english/fc/fc/papers/f11-63e.pdf>
- 9 See HKO news about the commissioning of the new TDWR station at: https://www.hko.gov.hk/en/hkonews/SideLights_BPTDWR.htm
- 10 Also spelt as Tan Foo, Tan Fu or Dun Foo. See Appendix 1 for the glossary.
- 11 Hugh Baker, *Ancestral Images: A Hong Kong Collection*, Royal Asiatic Society Hong Kong Studies Series, (Hong Kong: Hong Kong University Press, 2011).
- 12 There are also other versions of Tun Fu pot with one or three magic charms. See below.
- 13 Also known as Nam Mo Sin Shang, Nam Mo Fa Shi or Nam Mo Shi Fu. See glossary in Appendix 1.
- 14 Dan Waters, 'Safeguarding One's Fortunes: the Importance of Tun Fu', *Journal of the Hong Kong Branch of the Royal Asiatic Society*, (hereafter *JHKBRAS*), 39 (1999–2000) pp. 83–114.

- 15 The term 'Talisman Establishment' is used in the title of the sub-item.
- 16 This title of the item, now given in https://www.lcsd.gov.hk/CE/Museum/ICHO/en_US/web/icho/representative_list_zhengyi.html, was originally known as 'Orthodox Unity School Taoist Tradition (New Territories)'.
- 17 Home Affairs Bureau, 2014, 'Promulgation of the First Intangible Cultural Heritage Inventory of Hong Kong' submitted to the Legislative Council Panel on Home Affairs (<https://www.legco.gov.hk/yr13-14/english/panels/ha/papers/ha0617cb2-1719-4-e.pdf>).
- 18 Hong Kong Record Series (HKRS) 119-1-92-2 ('Notes on the Ritual Functions of a Nam Mo Lo (or Nam Mo Sin Shang) and on the Ceremony of Tun Fu').
- 19 Water Supplies Department – Tai Lam Chung Reservoir (<https://www.wsd.gov.hk/en/customer-services/other-customer-services/fishing-in-reservoirs/brief-introduction-of-reservoirs/tai-lam-chung-reservoir/index.html>).
- 20 The judgement that Tun Fu was a ceremony for the Hakka was probably due to the fact that the villages in the area, e.g. Tai Lam Chung, were predominantly Hakka villages. See Appendix 5 of the Lockhart Report on the New Territory, 8 October 1898. As we will see, Tun Fu ceremony was also performed in Punti villages.
- 21 Lee Ngok, 1992, Citation on James Hayes delivered at the 144th Congregation of the University of Hong Kong (<https://www4.hku.hk/honggrads/citations/i-s-o-m-a-ph-d-j-p-james-william-hayes>). See also the obituary of James Hayes by Robert Neid, *Journal of the Royal Asiatic Society Hong Kong Branch*, 63 (2023) pp. 345–54.
- 22 Tong Fuk was also a Hakka village. See Appendix 5 of the Lockhart Report on the New Territory, 8 October 1898.
- 23 HKRS945-1-7 ('Fung Shui Ceremonies', which is part of HKRS945-1 General Correspondence Files (Confidential)). James Hayes, 'A Ceremony to Propitiate the Gods at Tong Fuk, Lantau, 1958', *JHKBRAS*, 5 (1965) pp. 122-24. James Hayes, *The Rural Communities of Hong Kong: Studies and Themes*, (Hong Kong: Oxford University Press, 1983).
- 24 Judith Strauch, 'A Tun Fu Ceremony in Tai Po District, 1981: Ritual as a Demarcator of Community', *JHKBRAS* 20 (1980) pp. 147–53.
- 25 Dan Waters, 'Safeguarding One's Fortunes: the Importance of Tun Fu', *JHKBRAS*, 39 (1999–2000) pp. 83–114.
- 26 This point was also mentioned by Strauch and Waters.
- 27 Dan Waters, 'Safeguarding One's Fortunes', p. 89.
- 28 James Hayes, *The Rural Communities of Hong Kong*, p. 167.
- 29 'Nuen' literally means 'warming'.
- 30 James Hayes, *The Rural Communities of Hong Kong*, p. 172. Dan Waters, 'Safeguarding One's Fortunes', p. 89.
- 31 Refer to Hugh Baker, *Ancestral Images*, p. 105 and records of Tun Fu ceremonies at San Tin (2012) (Liu Tik Sang, private communication), Lin Ma Hang (2015) (<http://www.linmahang.net/blog/?tag= 龔符>) and Ho Chung Village, Sai Kung (2020) (https://www.hkcd.com/news/Topic_content.php?id=1228049).
- 32 For example, the charm for the South in Figure 4 writes '南方土公張子貴在此收伏凶神惡煞不得動作'.

- 33 See So Man Hing (蘇萬興), 衙前圍 — 消失中的市區最後圍村, (Hong Kong: Chung Hwa Book Co., 2013) p. 52 and <https://joint2net.wordpress.com/2013/04/11/衙前圍村薙符儀式/>.
- 34 Chan Kwan advised through electronic communication on 25 Apr 2022 that: ‘所謂各師各法, 各派傳統有所不同吧’.
- 35 In Chinese, they refer respectively to 上界, 中界, 下界.
- 36 In Taoism, the three spheres may refer to the different spaces where different deities reside. For example, see a relevant art piece kept by the Taiwan National Museum of History: https://www.nmh.gov.tw/study_117_103644.html, even though it refers to 天界, 地界, 人界.
- 37 According to a press release by the Secretary for Development on 15 December 2010 (https://www.devb.gov.hk/en/sdev/press/index_id_6349.html), typical itemised costs for Tun Fu EGA do include Fung Shui master's fee, in addition to Tun Fu master's fee, purchase of joss-papers and sticks, food to be offered in the ceremony etc.
- 38 According to further receipts provided by the village representatives (not included here).
- 39 Based on telephone interview by the author on 20 April 2022.
- 40 \$360 out of the total expenditure of \$600.
- 41 For example, from private communication with a retired senior government officer, it is estimated that Tun Fu ceremonies costing more than \$10 million were paid by the Government in the 1980s for the development of Yuen Long Highway, Tin Shui Wai new town, Long Ping Estate, etc.
- 42 So far, only the following note can be found in Dan Waters, ‘Safeguarding One's Fortunes’: ‘Ma Wan villagers held a Tun Fu ceremony when they felt “threatened” when the Tsing Ma Bridge, leading to the new Chek Lap Kok Airport, was being constructed’ but no further details (e.g. date and costs) were provided.
- 43 For example, a bowl of Wanton noodle costed about \$0.3 (see *Wah Kiu Yat Po* on 13 October 1959) while it would cost around \$30 today, suggesting an inflation factor of 100. Therefore a Tun Fu ceremony costing \$1,200 in 1958 would be equivalent to roughly \$120,000 today.
- 44 As only a lump sum of \$4.6 million for January 2007 to September 2011 could be found from Government papers, the annual expenditure for each of the five years 2007–2011 was estimated by equal proportions and adjusted for inflation.
- 45 Article entitled ‘猛料阿 Sir 講古 — 風水「薙符」’ (<https://hd.stheadline.com/news/columns/414/20160819/484830/>).
- 46 Wikipedia: <https://zh.wikipedia.org/wiki/薙符>
- 47 Now also known as ‘Taoist Ritual Tradition of the Zhengyi School’ (see https://www.lcsd.gov.hk/CE/Museum/ICHO/en_US/web/icho/representative_list_zhengyi.html).
- 48 Based on telephone interview of Chan Kwan by the author on 20 April 2022.
- 49 Courtesy of Lam Kwok Fai the video is accessible at: https://drive.google.com/file/d/1CF_p0jp1jAQqkLguOMT0yevSr8pdeow_/view?usp=sharing
- 50 An account of Nam Mo practitioners in the New Territories in 蔡志祥、韋錦新、呂永昇 (2011) 《儀式與科儀：香港新界的正一清醮》 also documented that Lam Choi originated from Chi'wei.

- 51 See para. 61 of Judgement by Court of Final Appeal in *Secretary for Justice & Others v. Chan Wah & Others* (https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=33624).
- 52 Ibid. The Court of Final Appeal went on to quote some examples, ‘such as exemption from Government rent and rates in respect of certain properties held by indigenous villagers and benefits relating to land granted to male indigenous inhabitants under what is known as the small house policy’, which are not related to Fung Shui.
- 53 Johannes Chan S.C. (Hon) and C.L. Lim, *Law of the Hong Kong Constitution, First Edition*, (Hong Kong: Sweet and Maxwell, 2011).
- 54 Ibid. The Court of Final Appeal went on to quote some examples, “such as exemption from Government rent and rates in respect of certain properties held by indigenous villagers and benefits relating to land granted to male indigenous inhabitants under what is known as the small house policy”, which are not related to Fung Shui.
- 55 Johannes Chan S.C. (Hon) and C.L. Lim, *ibid*.
- 56 The Draft Basic Law of the HKSAR of the PRC (for Solicitation of Opinions) Consultation Report, Vol 4, ‘Special Report on the Indigenous Inhabitants of the New Territories’, pp. 77–79.
- 57 Letter from Heung Yee Kuk dated 25 July 1986.
- 58 Johannes Chan S.C. (Hon) and C.L. Lim, *Law of the Hong Kong Constitution*.
- 59 Paragraph 9 of Judgement for HCAL 114/2012 (https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=83432).
- 60 Paragraph 9 of Judgement for CACV 208/2012 (https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=86597).
- 61 David Faure, *The Structure of Chinese Rural Society: Lineage and Village in the Eastern New Territories, Hong Kong*, (Hong Kong: Oxford University Press, 1986). On p. 31, Faure recorded that ‘The P’aangs of Fan Ling, for instance, were given the location of their village by a geomancer who had been discourteously treated by the Lung Yeuk Tau Tangs’.
- 62 James Hayes, *The Rural Communities of Hong Kong*. On pp. 147–48 Hayes mentioned: ‘In 1936, a severe epidemic occurred which is said to have killed many people. This finally goaded the villagers into taking drastic action against what they considered to be the cause of their misfortunes; namely the bad feng-shui. They removed themselves from the site where, in all probability, their ancestors had lived since the seventeenth century or even before, and build for themselves new but poorer quality houses on the edge of the paddy fields, some few hundred yards below the old village’.
- 63 Patrick H. Hase, *Settlement, Life, and Politics: Understanding the Traditional New Territories*, Royal Asiatic Society Hong Kong Studies Series, (Hong Kong: City University of Hong Kong Press, 2020). The Fung Shui dispute is mentioned on pp. 172–73 and Patrick Hase advised the author on 6 May 2022 that the time of the dispute was around early 18th century, close to the date of foundation of Tin Sam.

- 64 Ibid, pp. 272–75.
- 65 The post of the Commissioner of Police today.
- 66 Patrick H. Hase, *The Six-Day War of 1899: Hong Kong in the Age of Imperialism*, Royal Asiatic Society Hong Kong Studies Series, (Hong Kong: Hong Kong University Press, 2008).
- 67 Ibid, pp. 55–56.
- 68 CO 129/290, 1899, Report by F.H. May dated 4 April 1899, Despatches: Jan–Apr 1899. May referred to the police station as ‘matshed’ in his report.
- 69 Ibid; Patrick H. Hase, *The Six-Day War*, pp. 55, 61–62.
- 70 R.D. Ormsby, 5 January 1900, Memorandum on work done by the Public Works Department in the New Territory during the year 1899. Paragraph 8 of the Memorandum stated ‘The main road into the territory starting from Mongkoktsui and crossing through the gap on the hills 450’ high behind Cheungshawan and then down the Shatin Valley to Taiwai was commenced in May’. In view of this description, the concerned carriage road should be Tai Po Road.
- 71 CO 129/291, 1899, Translation of a Petition Presented to J.H.S. Lockhart by the Inhabitants of Cheung Sha Wan dated 1 May 1899. Despatches: 1 May–15 Jun 1899.
- 72 CO 129/291, 1899, Report from J.H.S. Lockhart to Governor H.A. Blake dated 7 May 1899. Despatches: 1 May–15 Jun 1899.
- 73 CO 129/291, 1899, Minutes exchanged between Governor H.A. Blake and J.H.S. Lockhart dated 8, 14 and 16 May 1899. Despatches: 1 May–15 Jun 1899.
- 74 H.A. Blake, 9 April 1899, ‘Translation of the Chinese Proclamation issued by His Excellency Sir Henry A. Blake, GCMG, Governor and Commander-in-Chief of the Colony of Hongkong and its Dependencies and Vice-Admiral of the same’.
- 75 Maurice Freedman, ‘A Report on Social Research in the New Territories of Hong Kong, 1963’, *JHKBRAS*, 16 (1976), pp. 232–33.
- 76 G.N. Orme, 9 June 1912, ‘Report on the New Territories, 1899–1912’ (<https://sunzi.lib.hku.hk/hkgro/view/s1912/2111.pdf>).
- 77 Ibid, paragraphs 97–99.
- 78 CO 129/534/3 (‘Report of Retrenchment Commission’, 4 May 1931–19 February 1932). Also available at: <https://sunzi.lib.hku.hk/hkgro/view/s1932/2390.pdf>
- 79 See covering letter dated 4 May 1931 from the Retrenchment Commission to Governor William Peel (<https://sunzi.lib.hku.hk/hkgro/view/s1932/2390.pdf>)
- 80 Lo, Hsien-hau, *Public Administration and Public Opinion in the New Territories*, Thesis presented for the degree of M. Phil. at the University of Hong Kong, 1975.
- 81 *Wah Kiu Yat Po*, 11 April 1970.
- 82 *Wah Kiu Yat Po*, 13 April 1970.
- 83 Reported by *Wah Kiu Yat Po*, 21 April 1970, barrister Martin Lee from Deacons represented the villagers from 20 April.
- 84 *Wah Kiu Yat Po*, 24 April 1970.
- 85 Reported by *Wah Kiu Yat Po*, 24 April 1970, the villagers estimated that \$2,600 was needed for the Tun Fu ceremony whereas the Government only offered to

pay \$360, which is apparently on the low side in view of the prevailing Tun Fu EGA payments around the time (see Appendix 2).

86 *Wah Kiu Yat Po*, 12 May 1970.

87 *Kung Sheung Evening News*, 1 November 1970.

88 For example, the villagers' demand that no tanks and other military vehicles should drive pass the village at nighttime *unless strictly necessary* would likely to be unacceptable to the British military, and indeed to any military force.

89 Johannes Chan S.C. (Hon) and C.L. Lim, *Law of the Hong Kong Constitution*.

90 Emails exchanged between Patrick Hase and the author, 19 April–1 May 2022.

91 Website of Liu Man Shek Tong Ancestral Hall (<https://www.lmstong.hk/>).

92 *South China Morning Post* article dated 26 September 2019 on 'How New Territories network of highways changed the face of Hong Kong, and paved the way for new towns' success' (<https://www.scmp.com/magazines/post-magazine/short-reads/article/3030415/how-new-territories-network-highways-changed>).

93 Director of Audit, 1994, Report of the Director of Audit on the Accounts of the Hong Kong Government for the year ended 31 March 1994 and the results of value for money audits, Director of Audit's Report No. 23, October 1994.

94 'Borrow area' means the area from which material is excavated to be used as fill material in another area.

95 Article entitled 'Rules lacking on payouts over fung shui objections', *South China Morning Post*, 23 November 1994.

96 As of December 2011, when funding was sought from the Legislative Council for construction of the new TDWR station, the delegated authority for the Director of Lands had been tightened up to \$30,000, beyond which approval by the Secretary for Financial Services and the Treasury would be needed (see: <https://www.legco.gov.hk/yr11-12/english/fc/pwsc/papers/p11-34e.pdf>).

97 See Note 3 and Figure 2.

98 Maurice Freedman, 'A Report on Social Research in the New Territories of Hong Kong, 1963', pp. 191–261. On the matter of Fung Shui, he wrote: 'we may say that Fung Shui is the craft of adapting the abodes of men (graves and buildings) to the landscape. But while it may be perfectly true that geomancy has produced in the Chinese a sharpened aesthetic appreciation of their natural surroundings and led to a superb technique of landscaping, it is not in fact the physical landscape which is directly in question in Fung Shui... Man is involved in his surroundings; in some places he feels at ease and at peace (shu fuk, he is content), the properties of the setting having an immediate effect on him and his fortunes. And it is for this reason that English-speaking Chinese will often say that Fung Shui is "psychological".'

99 Freedman, Maurice, 1958, *Lineage Organization in Southeastern China*, Monographs on Social Anthropology No. 18, (London: The Athlone Press, 1958). On p. 77, Freedman wrote: 'Those with power and status tried to retain them by building their houses and siting their graves according to geomantic prescriptions. They attempted to underline their social position by assigning themselves special places and roles in the performance of large-scale ancestor worship. By studying the social implications of geomantic burial and the

- stratification underlying ancestor worship in lineage and sub-lineage halls we can see how ritual life throws the differentiation of the lineage community into relief.’
- 100 As the present study focuses on the Tun Fu ceremony and its related compensation, it does not address whether or not compensation related to the removal of ancestral graves, Kam Tap etc., started to become a common practice at the same time.
 - 101 For example, in the first case reviewed by the Director of Audit, the distance between Shek Po Tsuen and the borrow area at Tan Kwai Tsuen was about 2 kilometres. Similarly, in the case of Fung Shui dispute between Ha Tsuen and Tin Sam (see Note 73), the two villages were separated by about 2–3 kilometres.
 - 102 Comparing the completion dates in the respective funding papers for the equipment (FCR(2008-09)69 dated 20 February 2009) and station (PWSC(2011-12)34 dated 14 December 2011) submitted to Legislative Council, we can see that there was a delay of completion from October 2013 to late 2014. The new TDWR was finally commissioned on 7 November 2014.
 - 103 Hong Kong Village Life Collection, May 1984, Hong Kong Literature Room, 8/F of Hong Kong Central Library (<https://www.hkpl.gov.hk/en/reference/special/hkvlc.html>).
 - 104 李光雄, 1996, 近代村儒社會職能的變化 – 翁仕朝 (1874–1944) 個案研究, 香港中文大學歷史學系哲學博士論文, 180 頁. Patrick Hase, ‘Village Scholars in the Traditional New Territories and Their Book Collections’, JHKBRAS, 63 (2023), pp. 179-225.
 - 105 It may be unusual for the manuscript of charms to be dated, as Nam Mo Shi Fu Lam Sai has advised that such manuscripts are usually not dated.
 - 106 Held in 2012 at San Tin (see Appendix 2).
 - 107 Dan Waters, ‘Safeguarding One’s Fortunes’, p. 97.
 - 108 Emmons, Charles F., 1992, ‘Hong Kong’s Feng Shui: Popular Magic in a Modern Urban Setting’, *Journal of Popular Culture*, 26(1), (Summer 1992) pp. 39-50.
 - 109 劉智鵬, 2010, 《展拓界址: 英治新界早期歷史探索》(駱克先生香港殖民地展拓界址報告書 1898 年 10 月 8 日), p. 227.
 - 110 Paid by the Government unless otherwise stated.
 - 111 James Hayes, *The Rural Communities of Hong Kong*.
 - 112 HKRS945-1-7 (‘Fung Shui Ceremonies’).
 - 113 Ibid. Tun Fu ceremony arranged and paid by villagers.
 - 114 James Hayes, *The Rural Communities of Hong Kong*.
 - 115 Tun Fu ceremony arranged and paid by villagers.
 - 116 HKRS119-1-92-2 (Notes on the Ritual Functions of a Nam Mo Lo (or Nam Mo Sin Shang) and on the Ceremony of Tun Fu).
 - 117 Ibid.
 - 118 Ibid.
 - 119 James Hayes, *The Rural Communities of Hong Kong*.
 - 120 HKRS945-1-7 (‘Fung Shui Ceremonies’), which is part of HKRS945-1 General Correspondence Files (Confidential)).
 - 121 James Hayes, *The Rural Communities of Hong Kong*.
 - 122 HKRS119-1-92-16 (‘Details of Tun Fu Ceremony Performed at Pak Wai Village,

- Sunday, 17th January 1960').
- 123 James Hayes, *The Rural Communities of Hong Kong*. James Hayes, 'Ceremonies of Propitiation Carried out in Connection with Road Works in the New Territories in 1960', *JHKBRAS*, 11 (1971) pp. 204-209.
- 124 Lo, Hsien-hau, *Public Administration and Public Opinion in the New Territories*.
- 125 Ibid.
- 126 *Wah Kui Yat Po*, 26 November 1966.
- 127 *Wah Kui Yat Po*, 18 January 1964.
- 128 HKMS178-1-41 ('Papers on Protective Rituals (Tun Fu and Nuen Fu ceremonies) in Tsuen Wan District during development and village removals 1978 – 1982').
- 129 Ibid.
- 130 Ibid. Including Ting Kok, Tsuen Wan, see Lo, Hsien-hau, *Public Administration and Public Opinion in the New Territories*, p. 243.
- 131 Ibid.
- 132 Ibid.
- 133 Ibid.
- 134 Ibid. Including Chung Mei, Lo Uk and 4 other villages in Tsing Yi. See James Hayes, *The Rural Communities of Hong Kong*, pp. 173–77.
- 135 HKRS1075-2-190 (Ha Heng Fresh Water Reservoir: Tun Fu Compensation).
- 136 Ibid.
- 137 HKMS178-1-41 ('Papers on Protective Rituals (Tun Fu and Nuen Fu ceremonies) in Tsuen Wan District during development and village removals 1978 – 1982').
- 138 Construction of Mass Transit Railway Extension to Tsuen Wan, affecting Mu Min Ha and Sam Tung Uk. See James Hayes, *The Rural Communities of Hong Kong*, pp. 170-73.
- 139 Ibid.
- 140 Ibid.
- 141 Judith Strauch, 'A Tun Fu Ceremony in Tai Po District', pp. 147-53.
- 142 *Wah Kui Yat Po*, 1 October 1986.
- 143 Director of Audit, 1994, 'Report of the Director of Audit on the Accounts of the Hong Kong Government for the year ended 31 March 1994 and the results of value for money audits', Director of Audit's Report No. 23, October 1994.
- 144 Ibid.
- 145 *Wah Kui Yat Po*, 13 March 1990.
- 146 *Wah Kui Yat Po*, 20 April 1991.
- 147 Tun Fu ceremony paid by private contractor.
- 148 Director of Audit, 1994, 'Report of the Director of Audit on the Accounts of the Hong Kong Government for the year ended 31 March 1994 and the results of value for money audits', Director of Audit's Report No. 23, October 1994.
- 149 Dan Waters, 'Safeguarding One's Fortunes', pp. 83-114.
- 150 Ibid.
- 151 <https://www.devb.gov.hk/filemanager/article/en/upload/4501/>

- legco20031112q6.pdf
- 152 Ibid.
- 153 Ibid.
- 154 Up to 30 September 2003, and therefore it is unlikely that this amount covered the Tun Fu ceremony at Ha Tsuen which took place in November 2003.
- 155 <http://paper.wenweipo.com/2003/11/11/HK0311110153.htm>, <http://paper.wenweipo.com/2003/08/11/HK0308110130.htm>
- 156 <https://www.legco.gov.hk/yr11-12/english/fc/pwsc/papers/p11-34e.pdf>, Enclosure 6.
- 157 <http://mbon.s214.sureserver.com/San%20Tin%20Tun%20Fu%20event.htm>
- 158 Liu Tik Sang, 2022, private communication. Payment for the Tun Fu ceremony, which included opera performances offered to deities; also known as Sun Kung Hei, may have come from other sources in addition to the Government. According to Government's letter dated 15 April 2016 to the Finance Committee of the Legislative Council (<https://www.legco.gov.hk/yr15-16/english/fc/fc/papers/fc20160318fc-188-1-e.pdf>), \$12.05 million and \$7.35 million were included respectively in the estimates for the Liantang/Heung Yuen Wai Boundary Control Point and the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link to meet *ex-gratia* allowances for miscellaneous indigenous villager matters, e.g. 'Tun Fu' ceremonies and removal of graves and urns (Kam Taps).
- 159 So Man Hing (蘇萬興), 衙前圍 — 消失中的市區最後圍村, Hong Kong: Chung Hwa Book Co., Hong Kong, 2013).
- 160 <http://paper.takungpao.com/resfile/2013-01-23/B21/B21.pdf>
- 161 (59) in DLOTM 230/3/420 Pt. B dated 15 July 2013.
- 162 <https://www.scmp.com/news/hong-kong/article/1630864/hk10-million-public-funds-spent-fung-shui-over-pastdecade>
- 163 According to Government's letter dated 15 April 2016 to the Finance Committee of the Legislative Council (<https://www.legco.gov.hk/yr15-16/english/fc/fc/papers/fc20160318fc-188-1-e.pdf>), \$12.05 million and \$7.35 million were included respectively in the estimates for the Liantang/Heung Yuen Wai Boundary Control Point and the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link to meet *ex-gratia* allowances for miscellaneous indigenous villager matters, e.g. 'Tun Fu' ceremonies and removal of graves and urns (Kam Taps).
- 164 https://www.landsd.gov.hk/doc/en/legco/sfc_question_2020/sfcq_2020-21.pdf. Including Lin Ma Hang Village (<http://www.linmahang.net/blog/?tag= 麓符>).
- 165 https://www.landsd.gov.hk/doc/en/legco/sfc_question_2020/sfcq_2020-21.pdf
- 166 Ibid.
- 167 Ibid.
- 168 https://www.hkcd.com/newsTopic_content.php?id=1228049
- 169 Liu Tik Sang, 2022, private communication.
- 170 Tun Fu ceremony paid by Government contractor.
- 171 Tun Fu ceremony observed by the author on 2 May 2022.

- 172 Director of Audit, 1994, 'Report of the Director of Audit on the Accounts of the Hong Kong Government for the year ended 31 March 1994 and the results of value for money audits', Director of Audit's Report No. 23, October 1994.
- 173 Yung Sze-chiu, 1904,《符書顯應》(手抄本), BIB ID 001724251, Hong Kong Village Life Collection, Hong Kong Literature Room, 8/F of Hong Kong Central Library.
- 174 Ibid.

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