

19/83

IN THE PRIVY COUNCIL

Appeal No. 32 of 1982

O N A P P E A L

FROM THE COURT OF APPEAL OF HONG KONG

B E T W E E N:

ATTORNEY GENERAL

Appellant
(Defendant)

and

CHENG YICK CHI

ABERDEEN DEVELOPMENT CORP. LTD.

10 LU SIU WAN

FIVE UP INVESTMENT CO. LTD.

MAK SIU CHUN

Respondents
(Appellants)

CASE FOR THE RESPONDENTS

Record

20	1. This is an appeal from the majority judgment of the Court of Appeal of Hong Kong (Leonard V.P., Cons, and Zimmern J.J.A.; Cons J.A. dissenting) dated 23rd December 1981, dismissing with costs the Appellant's appeal from a judgment of Liu J, dated 4th July 1981 and affirming the said judgment of Liu J whereby the Respondents were granted certain declarations subject to the deletion of certain words from one of the declarations.	P. 119 P. 107 P. 129 line 8 P. 144 line 29
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THE FACTS

30	2. The Respondents are respectively the registered owners of Section D, Section K, the Remaining Portion, Section B and Section A of Inland Lot No. 617 ("the said properties") and of the five adjoining houses now standing thereon known as Nos. 5, 6, 7, 8 and 9 On Hing Terrace Hong Kong.	P. 5 P. 197
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3.	The said properties are bounded in	P. 11
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front by Mason's Lane, on one side next to No. 9 On Hing Terrace by Zetland Street, on the side next to No. 5 On Hing Terrace by another part of Inland Lot No. 617 upon which stands another building known as On Hing House at Nos. 1-4 On Hing Terrace, and at the rear by a scavenging lane.

4. The Respondents' houses, the building known as On Hing House and the building next to that known as IVY House at Nos. 18-2 Wyndham Street are all set back from the boundaries of the respective properties upon which they are standing, so that there lies in front of these houses and buildings, and within the boundary of the properties, a portion unbuilt upon, forming a raised terrace, known as On Hing Terrace, with access on foot thereto by steps at both ends, from Zetland Street (next to No. 9 On Hing Terrace) and Wyndham Street (next to IVY House). There is a balustrade along its north eastern edge, and below that is Mason's Lane. 10 20

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line 15

5. The said properties form part of Inland Lot No. 617. In 1918, the whole of Inland Lot No. 617 was mortgaged to the Banque de L'Indochine et de Suez to fund the construction of various buildings thereon. After these buildings had been completed, the Banque de L'Indochine et de Suez sub-divided Inland Lot No. 617 and re-assigned the sub-divisions. Rights of way over On Hing Terrace were reserved in the reassignments in favour of the owner, owners or occupiers for the time being of other sub-divisions of Inland Lot No. 617, his or their servants, workmen and others. 30

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line 39
P. 111
line 26
P. 121
line 6
P. 130
line 43

6. It is common ground that for upwards of 60 years, the public have had free access on foot over On Hing Terrace that On Hing Terrace has duly been dedicated to the public for the purposes of passage. 40

7. Both On Hing Terrace and Zetland Street are more than 4.5 metres wide whereas Mason's Lane and the scavenging lane are less than 4.5 metres wide.

8. The Respondents wish to redevelop the said properties by demolishing the existing buildings and erecting a single-multi-storeyed 50

commercial building, i.e. "non-domestic building" within the meaning of Regulation 2 of the Building (Planning) Regulation.

9. Accordingly, on 4th July 1979 their Architect submitted plans to the Building Authority for approval under the Building Ordinance. The plans were submitted on the basis that :

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(a) The site area for the purposes of calculating the site coverage and the plot ratio, under Regs. 20 - 21 of the Building (Planning Regs) includes the unbuilt on portion of the said properties.

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line 46

(b) the said site was accordingly a Class A site which only fronts one street, namely Zetland Street.

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(c) the street shadow calculations required by Reg. 16 of the said Regulations should be made with regard to only one street, namely Zetland Street.

10. By letter dated 22nd August 1979 the Building Authority refused approval of the said plans on the grounds inter alia that

(a) the unbuilt portion should not be included in the calculations for site coverage and plot ratio

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(b) the said site was a Class B site, i.e. fronting two streets, Zetland Street and On Hing Terrace

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(c) the street shadow calculations were incorrect as this was a Class B site and street shadow calculations had to be shown with reference both to On Hing Terrace and Zetland Street.

11. On 25th September 1979 the Respondents re-submitted their plans with amendments to meet other points raised by the Building Authority, but otherwise on the same basis as before. On 23rd November 1979 the Building Authority again refused approval on the grounds referred to above.

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THE RELEVANT STATUTORY PROVISIONS

12. The Buildings Ordinance (CAP. 123)

Record

Section 2(1) of the Building Ordinance provides:-
2(1) In this Ordinance, unless the context otherwise requires - "street" includes the whole or any part of any square, court or alley, highway, lane, road, road-bridge, footpath, or passage whether a thoroughfare or not. "private street" means a street on land held under lease, licence or otherwise from The Crown or on land over which the Crown has granted a right of way.

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13. The Building (Planning) Regulations
The Building (Planning) Regulations were made pursuant to powers given by Section 38 of the Building Ordinance. Regulation 2(1) provides :-

2(1) In these regulations, unless the context otherwise requires, words and expressions have the meaning attributed to them by the Building Ordinance and -
"Class A site" means a site, not being a Class B site or a Class C site, that abuts on one street not less than 4.5 m wide or on more than one such street.

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"Class B site" means a corner site that abuts on 2 streets neither of which is less than 4.5 m wide.

"Class C site" means a corner site that abuts on 3 streets none of which is less than 4.5 m wide.

"Domestic building" means a building constructed or intended to be used for habitation.

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"Non-domestic building" means a building that is not a domestic building.

"Permitted plot ratio" means the maximum plot ratio permitted under paragraph (1) or (2) as the case may be, of regulation 21.

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

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

Regulation 16 provides:-

16(1) Where a building abuts, fronts or projects over a street, the height of

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such building shall be determined by reference to the street shadow area thereof

16(2) Subject to paragraph (3), the street shadow area of a building shall not exceed the area obtained by applying the formula

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

10 in which -

F is the length of the frontage of the building; and

W is the width of the street upon or over which the building abuts, fronts or projects

16(3) Where a building abuts, fronts or projects over 2 streets forming a corner, the maximum street shadow areas of the building permitted under paragraph
20 (2) may be increased -

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

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

in which -

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

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

$$7 (WW - WN)$$

in which -

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

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16(4) For the purposes of this regulation -

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

"frontage" in relation to a building, means that boundary of a site upon which the building is erected which abuts or fronts a street and includes any service lane or other opening within such boundary; 10

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

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

- (a) a line formed by the projection from every part of the side of the building abutting, fronting or projecting over such street of planes at an angle of 76 from the horizontal from the highest point on such building or on any projection therefrom of a permanent nature, from which such planes could be drawn uninterrupted by any other part of that building; 20
- (b) a line formed by the frontage of the building; and 30
- (c) lines drawn from each extremity of the frontage of the building at right angles to the centre line of the street.

Regulation 19 provides :-

- 19. Where a site abuts on a street less than 4.5 m wide or does not abut on a street, the height of a building on that site or of that building, the site coverage for the building and any part thereof and the plot ratio for the building shall be determined by the Building Authority. 40

Regulation 19A provides :-

- 19A. (1) Where a building has a frontage of not more than 8.5 m, the depth of the building shall not exceed 3 times the length of its frontage.
- (2) For the purposes of this regulation, "frontage" has the same meaning as that specified in regulation 16(4).

10 Regulation 20 provides :-

20. (1) Subject to regulations 19A and 22 and depending on the height of the building -
- (a) the site coverage for a domestic building, or for the domestic part of a composite building, on a Class A site shall not exceed that percentage of the area of the site specified in the second column of the First Schedule;
- (b) the site coverage for a domestic building, or for the domestic part of a composite building, on a Class B site shall not exceed that percentage of the area of the site specified in the third column of the First Schedule; and
- 20 (c) the site coverage for a domestic building, or for the domestic part of a composite building, on a Class C site shall not exceed that percentage of the area of the site specified in the fourth column of the First Schedule.
- 30 20. (2) Subject to regulations 19A and 22 and paragraph (3) and depending on the height of the building -
- 40 (a) the site coverage for a non-domestic building, or for the non-domestic part of a composite building, on a Class A site shall not exceed that percentage of the area of the site specified in the eighth

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- column of the First Schedule;
- (b) the site coverage for a non-domestic building, or for the non-domestic part of a composite building, on a Class B site shall not exceed that percentage of the area of the site specified in the ninth column of the First Schedule; and 10
 - (c) the site coverage for a non-domestic building, or for the non-domestic part of a composite building, on a Class C site shall not exceed that percentage of the area of the site specified in the tenth column of the First Schedule.
20. (3) Subject to the provisions of paragraph (4), the site coverage for a non-domestic building, or for the non-domestic part of a composite building, on a Class A, B or C site may, whatever the height of the building, exceed the permitted percentage site coverage to a height not exceeding 15 m above ground level. 30
20. (4) For the avoidance of doubt, it is hereby declared that, whereby pursuant to paragraph (3) the permitted percentage site coverage is exceeded -
- (a) above the level to which the permitted percentage site coverage is exceeded, the site coverage for the building or any part thereof shall not, subject to regulations 19A and 22, exceed the site coverage permitted under paragraphs (1) or (2), as the case may be; and 40
 - (b) the plot ratio for the whole building shall not, subject to regulations 19A and 22, exceed

the permitted plot ratio.

20. (5) In this regulation the expression "permitted percentage site coverage" means the maximum site coverage permitted under paragraph (2).

Regulation 21 provides :-

- 10 21. (1) Subject to regulations 19A and 22 and depending on the height of the building -
- (a) the plot ratio for a domestic building on a Class A site shall not exceed the plot ratio specified in the fifth column of the First Schedule;
 - 20 (b) the plot ratio for a domestic building on a Class B site shall not exceed the plot ratio specified in the sixth column of the First Schedule;
 - (c) the plot ratio for a domestic building on a Class C site shall not exceed the plot ratio specified in the seventh column of the First Schedule;
 - 30 (d) the plot ratio for a non-domestic building on a Class A site shall not exceed the plot ratio specified in the eleventh column of the First Schedule;
 - (e) the plot ratio for a non-domestic building on a Class B site shall not exceed the plot ratio specified in the twelfth column of the First Schedule; and
 - 40 (f) the plot ratio for a non-domestic building on a Class C site shall not exceed the plot ratio specified in the thirteenth column of the First Schedule;
21. (2) Subject to regulations 19A and 22, the plot ratio for the domestic part of a composite

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building shall not exceed the product of the difference between the permitted plot ratio for the building if it were a non-domestic building and the actual plot ratio of the non-domestic part of the building and the permitted plot ratio for the building if it were a domestic building divided by the permitted plot ratio for the building if it were a non-domestic building. 10

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

The First Schedule tabulates the permitted percentage for the site coverages and plot ratios dependent upon the classification into site A, B, or C of a domestic or non-domestic building.

Regulation 22 provides :-

22. (1) Where, between ground level and a height of not less than 5 m or, where the Building Authority is satisfied that there will be no obstruction to vehicular traffic using the street, 3.3 m above ground level, a building on a Class A, B or C site is set back from a boundary of the lot on which it is erected, being a boundary that abuts on a street, and with the consent of the Government, the part of the lot that is thereby not built upon is dedicated to the public for the purposes of passage - 30
- (a) the site coverage for the building or for any one part of the building may exceed the permitted percentage site coverage, so, however, that the site coverage therefor 40 50

10 does not exceed that
percentage of the area of the
site equal of the sum of the
permitted percentage site
coverage for the building or
for that part of the building,
as the case may be, and the
figure obtained by dividing
the product of 1500 and the
area of the lot so dedicated
to the public by the product
of the area of the site and
the height of the building;
and

20 (b) the plot ratio for the
building or, if the building
is a composite building, for
the domestic part of the
building may exceed the
permitted plot ratio, so,
however, that the plot ratio
therefor is not greater than
the permitted plot ratio for
the building or for that part
of the building, as the case
may be, by more than 20 per
centum or does not exceed the
sum of the permitted plot
ratio for the building or for
30 that part of the building, as
the case may be and the figure
obtained by dividing the
product for 5 and the area of
the lot so dedicated to the
public by the area of the site
on which the building is
erected, whichever is the less.

40 22. (2) Where part of a lot being a
part that abuts on a street is
acquired by the Crown, either
by agreement or by resumption
under the Crown Lands
Resumption Ordinance, for the
purpose of street widening,
the Building Authority may
permit -

50 (a) the site covering for a
building erected on that lot,
being a class A, B or C site,
or for any one part of the
building to exceed the

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- permitted percentage site coverage, so, however, that the site coverage therefor does not exceed that percentage of the area of the site equal to the sum of the permitted percentage site coverage for the building, or for that part of the building, as the case may be, and the figure obtained by dividing the product of 1500 and the area of the part of the lot so acquired by the Crown by the product of the area of the site and the height of the building; and 10
- (b) the permitted plot ratio for the building or, if the building is a composite building for the domestic part of the building to exceed the permitted plot ratio, so, however, that the plot ratio therefor is not greater than the permitted plot ratio for the building or for that part of the building as the case may be by more than 20 per centum or does not exceed the sum of the permitted plot ratio for the building or for that part of the building, as the case may be, and the figure obtained by dividing the product of 5 and the area of the part of the lot so acquired by the Crown by the area of the site on which the building is erected, whichever is the less. 20 30 40
22. (3) For the avoidance of doubt, it is hereby declared that -
- (a) where under paragraph (1) or (2) the permitted percentage site coverage is exceeded in relation to a part of a building, the site coverage for any other part of the building shall not exceed the permitted percentage site coverage; 50

(b) nothing in this regulation shall be taken or construed as derogating from the provisions of regulation 25 as to the amount of open space to be provided about a domestic building.

10 22. (4) In this regulation, the expression "permitted percentage site coverage" means the maximum site coverage permitted under paragraph (1) or (2) as the case may be, of regulation 20.

Regulation 23(2) provides :-

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

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

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

THE PROCEEDINGS

14. By Originating Summons dated 17th February 1981, the Respondents sought the following declarations against the Appellant :

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

P. 2
line 30

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

Building (Planning) Regulations.

- (c) the above mentioned properties forming one site for a single building is a Class A site within the meaning of Regulation 2 of the Building (Planning) Regulations.
- (d) the street shadow calculations for

Only one street, namely Zetland Street, on which the above mentioned properties taken as a single site front.

Declarations (a) and (b)

14A The Trial Judge found that the un~~bu~~ilt portion was an area dedicated to the public for the purposes of passage within the meaning of regulation 23(2) (b) and that consequently it must be included in the site area for the purposes of calculating the site coverage and plot ratio. p.111

14B The Appellant filed a Notice of Appeal p.116 to the Court of Appeal of Hong Kong contending inter alia that the trial judge erred in making Declarations (a) and (b) but subsequently abandoned such contentions by Notice to the Respondents' solicitors in a letter dated 6th November 1981 and before the appeal was heard by the Court of Appeal of Hong Kong. p.118

14C Declarations (a) and (b) are not under appeal.

Declaration (c)

14D The main contention is the definition of the word "site" in Regulation 2 of the Building (Planning) Regulations, and in particular as to its meaning in the phrases "Class A Site", "Class B Site" and "Class C Site". "Site" is not defined in the Building Ordinance or the Building (Planning) Regulations.

P. 126
P. 140
line 38

17. The majority of the Court of Appeal of Hong Kong also found that as declarations (a) and (b) were accepted by the Appellant as correct and that the un~~bu~~ilt portion had to be included in the area of the site for the purposes of regulations 20 and 21, it was inconsistent and

illogical to substitute another meaning for the word "site" for the purpose of the classification of sites, particularly when the classification of sites is only necessary or relevant for the purposes of regulations 20, 21 and 22.

18. The Appellant further contended that there are three concepts :

- 10 (a) "the lot" or "the leased area", that is (in this case) the total area of the said properties including the unbuilt portion.
- (b) "the site", the area available for building, that is (in this case) the area of the said properties less the unbuilt portion.
- (c) "the building", the area actually built upon.

19. The Appellant relied on regulation 22 where two different expressions "the area of the lot" and "the area of the site" were used. The Appellant contended that this showed a distinction between concepts (a) and (b) above.

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20. The Respondents reply to this argument was that the use of the different expressions in Regulation 22 is necessary in case part of the lot is resumed by the Crown as in regulation 22(2). Once a part of the lot is resumed, it becomes necessary to distinguish the original lot from the site retained. This distinction is not necessary for regulation 22(1) when part of the lot is dedicated to the public, for the area of the lot is still the same as the site on which the building is to be erected. The different expressions were probably employed in regulation 22(1) for the sake of uniformity with regulation 22(2). This explanation is consistent with a passage at pages 27 and 28 of "Valuation of Development Land in Hong Kong" by Mr. P.J. Roberts, F.R.I.C.S. which is set out in Schedule 1 hereto and which the Respondents adopt.

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21. Leonard V.P. found that in regulation 22(a) the use of the word "being" in the expression "the site coverage for a building erected on that lot being a Class A, B or C site", appeared to equate the Class A, B or C site with that lot and therefore indicated that the draftsman regarded "site" and "lot" as synonymous.

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22. The Respondents contended, and Zimmern J.A. found that even if the Appellant is correct in his contention that "site" means "the area available for building", the said properties are (in this case) the site, since a site extends to all that lies beneath it and above it. Zimmern J.A. further found that the Respondents could build below the area of the unbuilt portions and that they owned the air space above it.

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p. 132
line 28

23. It is submitted that Cons J.A. in his dissenting judgment, erred in finding that in this case, the site and the leased area is not one and the same.

DECLARATION (d)

24. The main issue is whether street shadow calculations under Regulation 16 have to be made on "the unbuilt portion".

25. The Appellant contended that as "the unbuilt portion" (On Hing Terrace) is a street and the building would abut thereon, street shadow calculations must be made with referrence thereto.

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26. The Respondents contended that the definition of a street is subject to the context of each regulation and in the context of regulation 16 no street shadow is intended to be shown within the area of the site. The street shadow area means an area on the surface of the street, contained by the lines drawn in accordance with the lines as defined in paragraphs (a), (b) and (c) to the definition of "street shadow area". Line (a) is a line formed by the projection from every part of the Building fronting the street at an angle of 76° from the horizontal from the highest point on such building. Line (b) is a line formed by the frontage of the building, and since frontage in relation to a building is defined in Regulation 16 as that boundary of a site upon which the building is erected, line (b) means the line formed by the boundary of the site. Lines (c) are two lines drawn from the extremity of the frontage of the building, which again means the boundary of the site, at right angles to the centre line of the street.

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27. If the Appellant is correct in his contention that street shadow area has to be shown on On Hing Terrace, lines (c) which project

10 inwards into the site, each running from Masons Lane at right angles to the centre of On Hing Terrace, and line (b) would be drawn on the verge of Masons Lane where it meets with On Hing Terrace. However when line (a) is drawn in accordance with the definition, the result would be absurd, for the higher the building, the smaller will be the area obtained by applying the formula, because the area must be calculated not with regard to the frontage of the actual building but with regard to the boundary of the site. Cons J.A. who dissented agreed that this would be an absurd result. Leonard V.P. found that there was casus omissus in the Regulations. It is the Respondents' case that, in the context of Regulation 16, no street shadow area need be shown within the boundary of the leased area. P. 135 line 34 P. 129 line 12

20 28. As the street shadow area calculations are not dependant on the classification of the site, the Respondents accept the decision of the majority of the Court of Appeal that declaration (d) should be granted omitting therefrom the words "as for a Class A site". P. 128 line 18 P. 144 line 29

29. The Respondents therefore submit that this appeal should be dismissed with costs for the following among other

R E A S O N S

- 30 (a) BECAUSE the site in this case is the area of the said properties including the unbuilt portion and as such abuts on only one street more than 4.5 metres, namely Zetland Street;
- 40 (b) BECAUSE the decision of the trial judge and the majority of the Court of Appeal of Hong Kong that the said properties forming one site for a single building is a Class A site was correct;
- (c) BECAUSE in the context of regulation 16 of the Building (Planning) Regulations, street shadow is not intended to be shown within the leased area that is on the unbuilt portion;
- (d) BECAUSE the decision of the trial

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judge and the regulation 16 is not intended to apply to any area within the site was correct.

DAVID WIDDICOMBE Q.C.

OSWALD CHEUNG Q.C.

AUDREY EU

SCHEDULE 1

Extract from "Valuation for Development Land in Hong Kong" by P.J. Roberts F.R.I.C.S.

"Planning Regulation 22. This permits additional plot ratio and site coverage where part of a site has to be surrendered, or is resumed, for street widening purposes, or where land ground floor level is retained by the owner but dedicated to the public use. There are formula that determine the extra site coverage and plot ratio. Where land is surrendered, the site coverage shown in the table may be increased by :

$$\frac{500 \times \text{area of land acquired}}{\text{area of site left} \times \text{height of building}}$$

The plot ratio may be increased by:

a. 20% or

b.
$$\frac{5 \times \text{area of land acquired}}{\text{area of site left}}$$

whichever is the less.

Thus, if there is a site of 1000 square feet, of which 200 square feet is to be surrendered for street widening, and it is intended to build a six-storey building, 60 feet high, with a shop covering the whole ground floor, the plot ratio and site coverage for the upper floors would be calculated thus:

i. normal site coverage (from table) 60%

additional site coverage (Planning Regulation 22) 20.8%

$$= \frac{5000 \times 200}{800 \times 60}$$

Total 80.8%

ii. normal plot ratio

$$= 5.8 - 1 \times \frac{3.6}{5.8} \quad 2.979$$

additional plot ratio (Planning Regulation 22)

The lesser of a. 20% = 0.5959
 or b. $\frac{500 \times 200}{800} = 1.25$ 0.5959

It happens only rarely that land is required to be dedicated for public use, but when it is, the bonus allowed is very valuable. The formula used are:

Site coverage may be increased by:

$$\frac{5000 \times \text{area dedicated to the public}}{\text{area of site} \times \text{height of building}}$$

Plot ratio may be increased by the lesser of a. 20% or b. $\frac{5 \times \text{area dedicated}}{\text{area of site}}$

If a Class C site in the Central district has an area of 30,000 square feet the maximum size of an office block that would normally be permitted would be:

Plot ratio of 15 and site coverage of 65%
 This would permit 23 storeys covering 19,500 square feet each,

or 30 storeys covering 15,000 square feet each,

or 40 storeys covering 11,250 square feet each.

Should it be agreed, however, that 18,000 square feet of the site should be dedicated to the public as an open space, the plot ratio would be increased by a bonus calculated as follows:

Normal plot ratio	15	15	
Bonus (Planning Regulation 22) is the lesser of a. 20%	= 3		
or b. $\frac{5 \times 18000}{30000}$	= 3	3	Total 18

This bonus would facilitate forth-eight storeys covering 11,250 square feet. This is far below the normal permitted site coverage of 65 per cent, or 19,500 square feet, so the bonus site coverage is not necessary. Thus, the dedication enables the developer to erect a further eight storeys containing in aggregate an additional 90,000 square feet of office space - 20 per cent more than would normally be permitted."

