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Hysan wins in height bid around Causeway Bay

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Property developer Hysan has gained an edge on the Town Planning Board over planning restrictions on its properties in Causeway Bay.

That came with Hong Kong's highest court ruling that the board must consider the developer's property rights when imposing restrictions.

Hysan had challenged height restrictions imposed on its 10 properties in two draft outline zoning plans for Wan Chai and Causeway Bay gazetted by the board in 2010.

Hysan Place, Lee Gardens, Lee Gardens Two, Sunning Plaza, Sunning Court and Leighton Centre were among properties listed in the draft, which Hysan believed would affect their redevelopment potential.

The Court of Appeal had in 2014 ordered the board to reconsider the constraints it wanted to impose, including restrictions on building and podium heights and the creation of non-built areas and setbacks, which the board said were necessary to ensure good air ventilation and adequate width for pedestrian walkways in crowded areas.

But Hysan was unsuccessful in asking the court to declare the plan void using the argument that the restrictions infringed on



Lee Gardens is one of several Hysan properties in the two draft outline zoning plans. SINGTAO

its property rights under two articles in the Basic Law.

Handing down its final judgment yesterday, the Court of Final Appeal ruled that the board does need to consider the articles when imposing restrictions.

It was stressed that when it was introduc-

ing building limits the board should strike a reasonable balance between societal benefits and the constitutionally protected rights of an individual.

But it was noted the board's decisions on imposing planning restrictions would not be susceptible to constitutional review unless the measures were "exceptionally unreasonable."

Hysan said the ruling clarified the extent of property rights under the Basic Law, while a member of the board said it would be hard to reach a precise balance as most of the limits already represent a public consensus.

Hong Kong Institute of Surveyors' member Lau Chun-kong believes the ruling will encourage developers of sizable projects in the district to push back building restrictions that could affect values.

"The board would be required to consider these sorts of financial impacts more carefully in the future," Lau said. "It is a win for the protection of the private individual rights or, if you extend it, the development community."

Vincent Cheung Kiu-cho, chief of valuation and advisory services at Colliers, said land prices in Causeway Bay may be pushed up by the decision as there is a potential for greater gross floor areas.

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