Urban Regime and POSPD Development in Hong Kong

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THESIS
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<td>BOO</td>
<td>Build-Own-Operate</td>
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<td>CDA</td>
<td>Comprehensive Development Area</td>
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<td>MLP</td>
<td>Master Layout Plan</td>
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<td>Marine Police Operational Area</td>
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<td>Outside Seating Accommodation</td>
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<td>OZP</td>
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<td>PIR</td>
<td>Price-to-Income Ratio</td>
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<td>Privately Owned Public Space</td>
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<td>POSPD</td>
<td>Public Open Space in Private Development</td>
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<td>Public Transport Terminus</td>
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<td>Urban Renewal Authority</td>
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SUMMARY

In this thesis, the relationship between the urban regime and POSPD development in Hong Kong is the main subject. In the first part, the structure of the urban regime in Hong Kong is categorized into four types: core government, quasi-governmental organization, private sector and new class. Each member falling in such types is explored in terms of the power it owns, the resource it owns and the influence it has upon policy-making. As the linkage of the common interest of the members within the urban regime, the land leasehold system and its administrative authorities are elaborated and analyzed.

In the second part, the overall POSPD development in Hong Kong is researched in terms of development history, typology, production mechanism and related ordinances and regulations. Based on the statistical analysis, the characteristics of POSPD development can be seen. To be more particular, four cases of POSPD development are selected for more detailed investigation. From the analysis of the four cases, the influence of the current urban regime upon POSPD policy-making and the tension between the interest groups inside and outside the regime can be illustrated clearly.
SUMMARY (continued)

In the third part, how different members within the urban regime are connected in terms of common interests in the process of POSPD development and why POSPD development matters for them are further explored. And I come to the conclusion that POSPD policy learnt from New York City has been transferred from public-interest-oriented to profit-oriented. In addition, interestingly, I find that there is an emerging grassroots anti-growth coalition mainly led by the post-80s generations who are becoming more and more active in the development of POSPD in recent years. The reasons why the anti-growth coalition emerged are explained economically and socially and the trend of urban regime transition is elaborated. Last, some suggestions at different levels are brought forward.
I. INTRODUCTION

1.1 Significance of the Study

Since the late 1970s, with the rise of Neoliberalism and the fall of Keynesianism in the Western world, urban governance in developed countries experienced a significant transition from the old government-driven development model to the new public-private partnership urban growth coalition (Jessop, 2002; Logan et al., 2007). Under the Neoliberal proposition of privatization, public funding has been greatly curtailed due to large-scale tax cut and the role of private sector has become increasingly significant in urban development and redevelopment processes. Thus, the provision of many public goods previously by governments has been transferred to private sector through incentive zoning (Lassar, 1989). Against this backdrop, incentive zoning becomes a popular alternative for local governments in terms of the production of urban public space.

The resultant POPS is significant because it not only captures the ideal of urban design (Mies’ modernistic paradigm) in the mid-twentieth century which has far-reaching influences on the urban landscape in the world after World War II, but also epitomizes the global privatization process in the era of Neoliberalism since the late 1970s. In Jonathan Barnett’s words, it has “an excessively important role in the design of the city” (Lassar, 1989: 130). In my opinion, the change of public space production in the last several decades reflects the transition of urban regime at broad level at the era of Neoliberalism. According to Henry
Lefèbvre’s theory of space production, space as “a social product” can serve as a tool to research society (Lefèbvre, 1991: 27). Therefore, together with the transition of urban regime, the production relationship of urban public space inevitably changes accordingly. Conversely, the tracing of incentive zoning and its outcome POPS could be a breakthrough point to better understand the characteristics of urban regime. In other words, the characteristics of the new urban growth machine could be found imprinted in POPS itself or vice versa.

1.2 Historical Review of POPS Development

As the most significant experimental area in the world, New York City cannot be skipped over when making the historical review of incentive zoning in the world. To some extent, its experience can be regarded as an epitome of the broader picture.

In the late 1890s and the early 1900s, the invention and improvement of new construction techniques, such as elevators and steel frames, made it possible for developers to construct buildings with whatever height and bulk they wanted, which triggered the intense competition into the sky. In such sky-is-the-limit rush, height records were ceaselessly broken and skyscrapers became taller and larger. Eventually, the completion of the Equitable Life Assurance Building in 1915, a building occupying the entire lot and rising up to 542-foot height straight from the street, made New York City determine to limit building height. Thus, the first comprehensive zoning resolution in the world was approved by the City’s Board of Estimate and Apportionment on July 25 1916, whose purpose was to create openness to
provide “light and air” at street level (Kayden et al, 2000: 7-8). According to the new zoning, a building could rise vertically from the street line up to its maximum permitted height and then set back and rise some more, and so forth. Under the control, “wedding cake” or “ziggurat” became the dominant building typology represented by the Empire State Building and the Paramount Building (Kayden et al, 2000; Whyte, 1988b).

For the following decades, New York City’s 1916 Zoning Resolution was proved to control urban development efficiently. However, till the late 1950s, there were already about 2,500 exceptions existing in the code and the zoning code had permitted too much density based on the legal limits. Thus, the general overhaul of the zoning code became imperative. On December 15 1961, a new zoning resolution was adopted substituting for the former zoning resolution by the Board of Estimate. In the new 1961 Zoning Resolution, in order to control density, what the planners did was to adopt a new concept named “floor area ratio (FAR)”, a ratio of total floor area divided by total land lot area. Because skyscrapers would get more uneconomic as they became higher and slimmer, FAR imposed a ceiling of building height and bulk. In addition, impressed by the Seagram Building and its elegant plaza completed in 1957, the new type of “tower-in-a plaza” paradigm became the typology of what was to be encouraged in the new zoning code. To stimulate, a FAR bonus system was introduced in which the developers who provided a comparable plaza like Seagram Building’s would receive a FAR bonus for every square foot of the plaza space. As for such a new type of space, the City gave it a new name “privately owned public space (POPS)”. The rationale behind what the planners did was to use FAR to downzone first and then “upzone
with strings” (Lassar, 1989: 9). In the process, private developers got sweetener, the public obtained public spaces, and local government saved public investment. Hailed on all sides, incentive zoning achieved so much success in the following decade that many other cities followed suit with similar bonus program. According to Jerold Kayden’s research (1978), between 1961 and 1973, almost every developer took advantage of the bonus, which created approximately 1.1 million square feet of POPS, more than in all of the other cities across the nation combined.

Between 1961 and 1974, the bonus system was as-of-right, in which builders just needed to follow the guidelines prescribed in the code in order to get their plans approved and receive the bonus. However, due to the loose requirements and no monitoring mechanism, many of such “as-of-right” plazas were poorly designed and developers got much more benefit than local government. By calculation, every dollar invested in POPS could generate 48 dollars profit for developers (Kayden, 1978). Thus, William H. Whyte and his team were hired as open space doctors to research POPS. Based on their report, the City enacted a zoning amendment on May 21 1975, which tightened up design standards and inaugurated a negotiation & special review process. The 1975 Zoning Revision in New York City had been in use except for some persistent fine-tunings since then. In 2000, New York City evaluated its bonus system for better performance (Kayden et al., 2000). At present, although learnt by many cities in terms of incentive zoning, New York City continues its pioneering role of incentive zoning practice via ceaseless innovations and improvements, which has seminal influence on the rest of the world.
1.3 My Contribution

New York City, as the most exemplary city which implemented bonus policy, has received substantial amount of researches in academia in the West, which developed the theory of incentive zoning for producing public space (Kayden, 1978; Whyte, 1988b; Kayden et al, 2000; Miller, 2007; Smithsimon, 2008; Németh, 2007; Németh et al., 2007; Németh, 2009; Németh et al., 2010). Some other American cities’ relevant experiences are also investigated, such as Chicago (City of Chicago, 2000), Minneapolis (Boddy, 1992) and Los Angeles (Davis, 1990; Davis, 1992; Németh et al., 2010).

However, from my perspective, there are still gaps that have not been explored in the current literatures. On the one hand, most of the current literatures on POPS focus either on micro-level issues like the design and management of public spaces itself, or on macro-level issues like Neoliberalism and global privatization phenomenon. Yet, few of them research the topic at meso-level, or more particularly at city level. Though some literatures mention the privatization issues of POPS and the limitation of incentive bonus policy, fundamental questions dealing with urban governance, like which interest groups influence policy making and implementation, are still not covered. On the other hand, the majority of the present literatures are based on the American context while the transition and variation of the incentive zoning across different contexts are seldom being investigated.

For the two reasons above, the contributions of my dissertation lie in two aspects. First, I plan to bridge the academic gap between micro-level and macro-level and explore how the
ideology of Neoliberalism was implemented onto the ground through transcending the current policy-level research framework and re-exploring the in-depth institutional reasons underneath the controversy of POPS through a lens of urban political economy. Second, beyond the American context, I will extend the research perspective to the Chinese context. Implemented in and influenced by the different context from the United States, the characteristics of the incentive zoning and the resultant POPS will be examined and the findings will enrich the existing theoretical body of incentive zoning.

1.4 Study Scope: POSPD in Hong Kong

Unlike the United States where private land ownership is permitted and protected by laws, all the land in Hong Kong is owned by the government, so-called "government land" and the land leasehold system has been implemented since the beginning of the British colony in 1841 till now. Thus, there is no private land in Hong Kong and the terminology of POPS is obviously not applicable to Hong Kong.

Instead of POPS, such similar development model in Hong Kong is named Dedicated Public Spaces deriving from the Deed of Dedication or Public Open Spaces in Private Developments (POSPD) deriving from the Public Open Space in Private Developments Design and Management Guidelines published by the Development Bureau in 2011 (Too, 2007; Development Bureau, 2011). In this study, I choose to use the official terminology of POSPD to differentiate from POPS. According to the definition of POSPD by the
Development Bureau, it is "an open space in private development under private management where the general public are entitled to access, use and enjoy such POSPD. POSPD may be located on private land within a private development and/or on government land adjoining a private development."

### 1.5 Methodology

#### 1.5.1 Logic Model

According to Yin’s definition (Yin, 2008: 149), “the logic model deliberately stipulates a complex chain of events over an extended period of time” and “the events are staged in repeated cause-effect-cause-effect patterns.” In other words, logic model depicts the causal relationship between different events or variables in a procedure. Using logic model technique successfully can simplify and visualize the essence through the complex appearance so as to better guide case study researchers.

Zooming in the incentive production of POPS (or POSPD in Hong Kong), there are three players in that arena, which are local governments, private developers and the general public. The triangular relationship reflects the three powers rooted in different resources (authority, capital and vote) gaming to form urban regime politics in regime theory based on two premises, democratic society and market economy (Zhang, 2001).
As introduced previously, the original purpose of POPS’ emergence was to counterbalance the negative impact of high density development on urban environment through providing “light and air” at street level. In other words, it is a kind of public good for public interests. Thus, ideally, local governments as the representatives of the public in democratic society should play a dual role of spokesman and supervisor in the production. It not only represents the general public to negotiate with private developers in terms of public space production, but also supervises the implementation of the bonus system. For private sectors as rational players who pursue self-interests maximum in market economy, they are driven by the incentives to pay the expense of land acquisition, construction and maintenance of POPS and get more development right in return. For the public, it consists of POPS individual users who pay the cost in the form of enduring more density and congestion caused by extra floor areas and get public spaces in return. What needs attentions here is that like any public goods, the issue of POPS covers both production and consumption processes. The following is the logic model in my study (Figure 1).

As shown in the diagram above, there are two sub-processes: production and consumption. In the production sub-process, under the administration of zoning ordinance, local governments give FAR bonus to private developers and sign related contacts with them if their plans correspond with relevant requirements. With the extra allowable development rights, private developers can build more floor areas which will bring more profits back. For exchange, not only do developers dedicate part of their land parcels for public use based on the commitments, they are also responsible for daily maintenance in the future. Local
governments supported by the public in the form of voting supervise the whole process in case of any potential negative effects caused by profit-oriented private owners. In the consumption sub-process, citizens receive more public spaces which improve urban built environment as well as provide places for recreation and social interaction. However, at the same time, they have to endure more dense development which is just the basis of the bonus system.

Figure 1. Logic model of the study

1.5.2 Research Questions

Based on the analysis of the logic model, I propose my research questions as HOW and WHY questions on the basis of the two sub-processes.
In the production sub-process, the fairness of the trade-off between public authority and private sector is essential to the success of the bonus policy. So, my HOW question is *how well is the trade-off between public and private in terms of equity*. In other words, the question could be interpreted as *whether or not the extra profit private sector received from incentive zoning goes beyond a reasonable range*. My hypothesis is on the basis of a previous research result of New York City (Kayden, 1978) that private developer receive much more than they deserve through POPS policy.

In the consumption sub-process, the impact of POSPD policy on civic society will be tested. My HOW question is *how well POSPD policy serves civic society*. This could also be understood in another way that *to what extent POSPD can meet the needs of the public like traditional public space does*. My hypothesis is also based on some academic critiques on POPS (Sennett, 1977; Banerjee, 2001; Davis, 1992; Sorkin, 1992; Kohn, 2004; Mitchell, 1995; Marcuse, 2002; Warren, 2002), especially Kayden’s statistical research of New York City (Kayden et al, 2000) that the majority of the POPS cannot meet the needs of the public.

The next step, based on the test results of my hypothesis, is to explore the in-depth reasons underneath, *why the hypotheses are true or false*. As described previously, one of my own contributions in the dissertation lies in importing a new perspective using regime theory as the explanatory tool. As shown in the literature review, although many scholars participated in the discourse and some of them brought forward their explanations, none of them explained from urban regime perspective. Apparently, they did not dig into the political
and institutional reasons at meso-level and my dissertation intends to fill this gap. My hypothesis is that the characteristic of urban regime will be projected onto the policy-making of POSPD production and, conversely, the change of POSPD policy-making will also reflect the transition of urban regime.

1.5.3 Research Design

Case study is a holistic method focusing on interpreting a phenomenon in its totality and developing a generalized knowledge of a class of complex situations based on particular cases (Weiss, 1966). It has four advantages for analyzing complex social phenomenon (Orum et al, 1991: 6): 1) “it enables the grounding of observations and concepts about social action and social structures in natural setting studied at close hand”; 2) “it provides information from a number of sources and over a period of time, thus permitting a more holistic study of complex social networks and of complexes of social action and social meanings”; 3) “it can furnish the dimensions of time and history to the study of social life, thereby enabling the investigator to examine continuity and change in life-world patterns”; 4) “it encourages and facilitates in practice, theoretical innovation and generalization.”

According to Yin (2008: 1), case study method is preferred when “‘how’ and ‘why’ questions are being posed, the investigator has little control over events, or the focus is on a contemporary phenomenon within a real-life context.” Such description fits quite well with my research questions as well as the situation I will confront. For this reason, I will use case
study as the main research method in my dissertation and the purpose of my research will eventually contribute to the theoretical enrichment and the revision of incentive zoning in terms of public space production beyond the particular case.

Research design is a “logical sequence that connects the empirical data to a study’s initial research questions and, ultimately, to its conclusion” (Yin, 2008: 26). The credibility of a case study depends significantly on the quality of research design. In my dissertation, I separate the research design into four stages: research preparation, data collection, data analysis, and composition.

a) Research Preparation

Research preparation stage includes defining research questions and hypotheses, selecting cases as research objects and defining units of analysis. My research questions and hypotheses have been defined previously, which are basically explanatory and benefits from the case study’s examination of POPS policy over time.

Case selection is essential for investigation to obtain a generalized, concrete and context-based knowledge. In my dissertation, I select an individual case as my research object, which is Hong Kong. Although there is a common misunderstanding that it is not sufficient statistically for a single case to generalize theory, its generalizability could be enhanced through carefully selecting the case “having strategic importance in relation to the general problem” (Flyvbjerg, 2001: 78). Compared with multi-case study, single-case study is more
appropriate in several circumstances. Single-case study can be utilized when the case is
critical in testing a theory, or when the case is unique (Stake, 1995; Yin, 2008).

Hong Kong is a critical and unique case for testing the incentive zoning theory in terms
of public space production. First, as mentioned previously, the majority of the current theory
is generalized from New York City’s experience. Hong Kong has a history of POSPD policy
implementation as continuous and long as New York City’s. Thus, Hong Kong has the
potential to be an eligible counterpart to test the theory. Second, Hong Kong’s POSPD
implementation has its own specificity not only from the Hong Kong context but also from
the unique transition of urban regime from the British Colonial governance to the autonomous
governance, so-called “Hong Kong people administering Hong Kong”, after the retrocession
to the central government in 1997. Such significant transition gives me a great opportunity to
test my hypothesis that “the characteristic of urban regime will be projected onto the
policy-making of POSPD production and the change of POSPD policy-making will also
reflect the transition of urban regime in return.”

According to Yin’s definition, my case study is an embedded single case study with
multiple units of analysis. Units of analysis are the major entities being analyzed in the study.
Defining them is “a major step in designing and conducting a single case” (Yin, 2008: 52).
They are related to the research questions. Based on my research questions, I have two units
of analysis. First are all the urban public spaces created via the incentive policy in Hong Kong,
including the relevant information like the situations of accessibility, conditions, relevant
zoning regulation, archival documents, financial reports and so forth. Second is the urban governance coalition, or urban regime, in Hong Kong, which established incentive zoning system. The relevant information includes the structure, the inside interests and considerations, the outside pressures it confronted, and the transition overtime.

b) Data Collection

Data collection strategy is consequential to the validity and reliability of a case study’s findings. Accurate data collection requires three principles: using multiple sources of evidence, creating a case study database, and maintaining a chain of evidence (Yin, 2008).

The most significant advantage of using multiple sources of evidence is “converging lines of inquiry” which makes the findings of a case study more convincing (Yin, 2008: 114). Based on Patton’s (2002) four basic strategies of triangulation, multiple sources of evidence pertain to data source triangulation. Multiple sources of evidence require multiple methods of data collection. In my dissertation, I propose to use two techniques: interview and archival research.

Interview is an efficient way to study the respondents’ perspectives (Rossman et al., 1998). There will be two types of interview in my research: in-depth interview and informal interview. The questions in the interview will be open-ended so that the respondents can provide lengthy narratives when needed. In-depth interview will be used for interviewing political, social, or business elites. Though challenging, interviewing elites will provide
unique insights because of their positions. The purpose of in-depth interview is to collect the opinions of the elites upon POSPD policy and implementation. The list of the interviewees in my study are listed as below (Table I).

<table>
<thead>
<tr>
<th>Name</th>
<th>Occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ling Kar-Kan</td>
<td>Deputy Director of the Planning Department</td>
</tr>
<tr>
<td>Lawrence Chau Yar-Cheung</td>
<td>Senior Town Planner of the Planning Department</td>
</tr>
</tbody>
</table>

Archival research includes a variety of documental data sources like zoning ordinances, administrative documents, research reports, meeting agendas, planning documents, architectural designs, newspaper reports, internet sources and so on. According to Yin (2008), archival research has three important functions, which are verifying the correct spelling of information of relevant persons, organization or evidences involved at the most basic level, developing a more in-depth understanding of the research topic through providing more specific details, and providing additional sources of relevant information for further investigation from reference lists. In my dissertation, archival research will help me clarify the details of zoning ordinance and administrative documents, the historical development, and significant events related to POSPD policy-making and implementation. Yin warned researchers of the risk of over-reliance on archival documents. Though informative, archival
documents should be regarded as written for a certain purpose rather than truth. Thus, when using archival research, I will consider the context and carefully develop a more accurate interpretation.

c) Data Analysis

Data Analysis refers to reviewing the evidence systematically, producing analytic conclusions, and ruling out alternative explanations or interpretations. Yin (2008) advanced five analytic techniques for data analysis: pattern matching, explanation building, time-series analysis, logic models, and cross-case synthesis. In my dissertation, I will mainly use two of the five: logic models and explanation building.

The technique of logic models has been discussed previously in the formation of the research questions. Explanation building will be the main tool in data analysis process. Explanation building analysis aims to explain a phenomenon through designating a set of causal links. At the beginning of a case study, initial hypotheses are made about the targeted phenomenon, which I have brought forward previously. Then, the findings from the research of the selected case are compared against the hypotheses and the initial hypotheses are tested and refined accordingly. Meanwhile, alternative explanations or interpretations are also examined and ruled out. The outcome of explanation building is primarily in narrative form. The risk of using explanation building technique is the potential tendency of drifting away from the original topic of interest with the process going (Yin, 2008). Thus, I will keep concentrating on the fundamental questions through progressive focusing.
To be more specific, I propose to use different analysis strategies for different research questions. Because HOW questions are descriptive questions, I select the qualitative methods to answer them. In answering “how well is the trade-off between public and private in terms of equity”, because it is very hard to quantify the public benefit of POPS from public side in terms of providing “light and air” accurately (Whyte, 1988a), I plan to evaluate the fairness from private side through comparing the cost and profit in cash outlays. Generally speaking, based on what I have read, there are five different economic tools to evaluate the fairness of the trade-off, which are 1) equivalent land-cost model, 2) equivalent development rights model, 3) return-on-investment approach, 4) marginal cost-to-profit approach, and 5) cost-plus calibration formula (Getzels et al., 1988). Based on the analysis of strength and weakness of each tool and the availability of the relevant data, I intend to choose the equivalent development rights model\(^1\) for the evaluation. In answering “how well POSPD policy serves civic society”, I will mainly use particular case studies to illustrate the situation of using POSPD

Because the WHY questions are explanatory questions, some qualitative methods will be utilized to answer them. Using the techniques like interview and archival research, I intend to analyze the bonus policy as well as the characteristics of urban regime in Hong Kong and illustrate the on-going transition of urban regime in which civic society is trying to influence the policy-making process of incentive production of public space.

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\(^{1}\) \(EDR = \frac{\text{Total Sales Price of Land}}{(\text{Site Area} \times \text{FAR})}\)

\(\text{Added Square Footage of Building Needed to Compensate Amenity Costs} = \frac{\text{Cost of Amenity}}{\text{Development Rights Cost}}\)
d) Composition

The last step of case study is writing the research report, in which the researchers will work up a mass of cumbersome data, complicate theories and laborious analyses into a written document in a well-organized and reader-friendly manner. There are chiefly three steps in the composition process: targeting the case study, developing the compositional structure, and reviewing the draft (Yin, 2008).

Because different audiences, such as colleagues, a dissertation committee, professionals, policymakers, practitioners and the general public, have different expectations, targeting the case study is critical to the success of a case study. Different expectations will impact a case study’s structure, emphases, length, narrative mode and so forth.

As to the general structure of a case study, there are six different types: linear-analytic, comparative, chronological, theory-building, “suspense” and unsequenced (Yin, 2008). My dissertation will use linear-analytic structure which includes an overview of the issue being researched, a review of the relevant prior literature, the methods used, data collection, data analysis, findings and conclusions, and theoretical generalization and practical implication beyond the specific case. As Yin (2008: 176) wrote, “the structure is comfortable to most investigators and probably is the most advantageous when research colleagues or a thesis or dissertation committee comprise the main audience for a case study.”
II. LITERATURE REVIEW

My dissertation topic deals with several literature bodies, including urban governance, the production of space, public space, the privatization of public space, incentive zoning. Based on what I have read so far, each body of the relevant literature is as following:

2.1 Urban Governance

The main literature body regarding urban governance in my study is regime theory brought forward by Clarence Stone (Stone, 1989). As one of the most famous paradigms dealing with the new urban politics in the West, regime theory primarily focuses on the power structure and mutuality of urban governing coalition, so-called “regime”, consisting of government, business sectors and civic groups. The innovation of the theory lies in the transition from the long-lasting controversy upon “social control” between elitism and pluralism towards “social production”. According to Stone (1989: 229), “in a world of diffuse authority, a concentration of resources is attractive.” Thus, the political power concerns the capacity to act, or “power to”, instead of “power over”. In other words, the debate on urban governance changes from “who to govern” to “how to govern”.

Before reviewing regime theory, as its important theoretical foundation, the model of urban growth machine deserves a close attention. The late 1970s was the emerging era of Neoliberalism with the significant transformations politically, economically and socially, and the increasing power of transnational corporations and private capital. Due to the failure of
Keynesian welfare economic policy, public authority was diffused and many powers, including business sectors, labor unions, civic groups and so forth, participated into policy-making body. Against this background, Harvey Molotch published his seminal paper “The City as Growth Machine” in 1976, in which he argued that land was the dominate factor in local politics and economy. As he put, “the political and economic essence of virtually any given locality, in the present American context, is growth” and “any given locality is an aggregate of land-based interests” (Molotch, 1976: 309-310). In this sense, growth means continuous development and redevelopment of urban land, basic industries expansion, a constantly increasing urban-area population, a rising scale of retail and commerce, and broader tax base. Moreover, Molotch pointed out that because developmental resources could not be created but only be distributed. Each locality strived to obtain the preconditions of growth at the expense of the others, and meanwhile land-use interest groups competed for public funding and tried to shape decision-making beneficial to their own interests inside local authority. For the purpose of boosting competitiveness, local growth coalitions at different levels were established, mainly including the interest groups who had “the most to gain or lose in land-use decisions”, such as elected officials, business elites, private developers, labor unions and public or quasi-public agencies. Though “split they might be on other issues”, “the desire for growth provides the key operative motivation toward consensus for members of politically mobilized local elites” (Molotch, 1976: 310). From the analysis of power structure of growth coalition above, Molotch came to the conclusion that local governments were neither the representatives of the local population as a whole, nor even the representatives of the social classes which produced them, but only the representatives of
their own interests. Therefore, it was not surprised that only a small group of local elites received the benefit of growth while the cost, such as pollution and traffic congestion, was endured by all the residents. In Molotch’s word, “local growth is a transfer of quality of life and wealth from the local general public to a certain segment of the local elite” (Molotch, 1976: 320).

In 1987, the book “Urban Fortunes: the Political Economy of Place” co-authored by John Logan and Harvey Molotch further developed the model and the theoretical framework. From their perspectives, local government utilized land use plan to promote urban development and economic development. In this process, there existed two different sets of interests, for “exchange values” or for “use values” deriving from Marxist political economy (Logan et al., 1987: 17-49). When narrowing down to urban land, exchange values meant those of marketplace while use values referred to the capacity of creating a livable human inhabitant environment. In reality, it was very common to see the conflict between the two in almost every parcel of land. Urban growth machine sought for the former while local residents sought for the latter. Based on different purposes, urban governance coalition could be divided into two categories: “pro-growth coalition” and “anti-growth coalition”, both of which bargained and then compromised to shape relevant policies (Logan et al., 1987; Vogel et al., 1989). For this reason, the pro-growth coalition who took the power usually attempted to control the agenda of decision-making and to keep anti-growth coalition off the process. In this sense, the model was an elite model. As for the critique on the grow machine model, Box (1998: 49) argued that the model paid too much attention to “the underlying economic
dynamic of urban politics” while neglecting “the structural question of whether community leaders for a cohesive elite or shifting issue-based coalitions”.

Complementally, regime theory paid heed to the power structure of urban governing coalition. The preconditions of the theory lay in the free-market economy with fragmented powers and dispersed resources in the contemporary American cities, in which local governments and private actors had to collaborate and depended on each other to govern (Zhang, 2001). As Stone (2005: 311) argued, “government is by itself an inadequate problem solver. Public policy impacts (and therefore public policies) depend on complementary actions from nongovernmental sources.” Elkin (1987: 18) attributed the primary reason to “the division of labor between state and market, which stems from the corresponding arrangement of the national political economy”. Because regime theory was based on social production rather than social control, collaboration became a necessity to bring together fragmented powers and resources to accomplish tasks, which generated urban regime.

As for the core concept of the theory, “regime”, Stone (1989: 4) argued that it was “an informal yet relatively stable group with access to institutional resources that enable it to have a sustained role in making governing decisions”. From Stone’s definition, the concept of “regime” could be understood from the following perspectives. First, regime was “informal” which meant that collaboration was achieved through informal networks across institutional boundaries rather than formal institutions, so-called “civic cooperation” (Stone, 1989: 5). Further, Stone (1993) emphasized that the collaboration was not taken as a given but needed
to be achieved and maintained. Thus, regime did not necessarily exist in every city. Second, regime was relatively “stable” which could span different administration periods. For example, Stone (1989) described the stability of the Atlanta regime from the 1940s to the 1980s across five mayors’ terms of office. Therefore, electoral turnover did not necessarily represent regime change. Of course, regime change could occur. Unfortunately, Stone did not clearly theorize it (Orr et al., 1994). Third, the members in the regime were not equal and their roles were relying on their access to “institutional resources”. The interest groups possessing the resources needed for certain governing missions were more likely to have places in the coalitions. Accordingly, different urban affairs generated different regimes, in which different groups had different degrees of influences depending on the resources they brought into the coalition. In addition, urban regime was not as penetrable and open to any group as the expectation upon democratic politics. The actors who sought to have meaningful influences on urban affairs needed to “meet important threshold tests”, which meant the possessions of political, economic, social and other kinds of resources (Stone, 2005: 313). Due to the capital resources it controlled, business sectors were often playing an important role in urban governance coalitions while some disadvantaged social groups failed to effectively influence urban politics because of the lack of such resources. Also, business sectors embracing urban development were usually well-organized which made them much stronger than some poorly-organized social groups resisting urban development. This could explain the establishment of urban growth machine from another perspective. Stone (2005) further attributed the inequality in urban regime to the deeply embedded inequality in the social stratification systems.
Compared with the model of urban growth machine, Stone developed significantly the urban governance theory through categorizing different types of urban regime. He held the opinion that different purposes determined different compositions of power structures and different power structures defined different types of regime (Stone, 1989). Thus, the significance of business sectors in urban regime in many cases did not imply business hegemony in all urban governing coalitions. For example, business sectors in education reform regime might not play as an important role as the counterpart in urban development regime. In this sense, it was reasonable to regard Molotch and Logan’s model of urban growth machine as one type of urban regime. Based on the analysis above, Stone (1993: 18-22) further brought forward four different regime types with different purposes: 1) “maintenance or caretaker regimes”, which focused on routine service delivery and low taxes; 2) “development regimes”, or “pro-growth coalitions” (Logan et al., 1987), which focused on promoting urban growth and economic development; 3) “middle-class progressive regimes”, or “anti-growth coalitions” (Logan et al., 1987), which focused on the issues of improving the livelihood of citizens, such as environmental protection, historic preservation and affordable housing; 4) “lower-class opportunity expansion regimes”, or “service-delivery regimes” (Dowding et al, 1999), which focused on human investment and humanistic solicitude, especially for disadvantaged classes, such as education and job training. As for Stone’s categorization of regimes, Mossberger and Stoker (2001: 813) argued that “the latter two are most difficult to achieve in part because they entail a measure of coercion or regulation of businesses rather than voluntary cooperation.”
Besides Stone, some other scholars also put forward their own classifications of urban regimes. Based on historical review, Fainstein (1986) and Elkin (1987) each summarized the urban politics transition of post-WWII American cities into three chronological regimes. Although they were given different names, the fundamental contents were quite similar (Dowding, 2001). From the 1950s to the early 1960s, it was the period of “directive regimes” or “pluralist regimes”, when local government played a key role in urban planning and development while private developers’ roles were limited. From the mid 1960s to the mid 1970s, it was the period of “concessionary regimes” or “federalist regimes”, when federal government sponsored social powers via federal initiative to enter the issues of urban growth predominated by private developers. From the mid 1970s to the 1980s, it was the period of “conserving regimes” or “entrepreneurial regimes”, when the movements of civil rights and welfare rights were forced concessions on the growth machine and public-private partnership became popular in urban development. Based on Stone’s classification, Clark (2001) developed six types of regimes, which were entrepreneurial regimes, stewardship regimes, progressive regimes, activist regimes, demand-side regimes, and caretaker regimes. On the basis of reviewing the urban politics typology of American cities, Imbroscio (1998) summed up three types of regimes, which were community-based regimes, such as Chicago in the 1980s, petty bourgeois regimes, such as San Francisco in the late 1980s and the early 1990s, and local-statist regimes, such as American cities in the colonial period and the early 19th Century. After a broad literature review on regime theory, Ward (1996) collected thirteen different types of regimes and illustrated relevant examples.
2.2 Space Production

Theory of space production was primarily established by French philosopher Henry Lefèbvre in his seminal book “The Production of Space” first published in French in 1974 and translated in English in 1991. As a Neo-Marxist, Lefèbvre significantly extended the focus of Marxist theory into space. As Logan and Molotch (1987: 10) mentioned, “Marx gave relatively little attention to space as an analytical problem.” Space production theory corrected the theoretical weakness. His primary argument was that space was a dynamic process constantly produced and reproduced by the actions and relations among people and processes rather than a merely physical container to be inhabited (Lefèbvre, 1991). Each mode of production was embedded into its own particular space production and the transformation from one mode of production to another would produce new space. Based on the research of the bourgeoisie hegemony in capitalism, he made the argument with rhetorical questions, “Is is conceivable that the exercise of hegemony might leave space untouched? Could space be nothing more that the passive locus of social relations, the milieu in which their combination takes on body, or the aggregate of the procedures employed in their removal? The answer must be no” (Lefèbvre, 1991: 11).

To better interpret his concept of “relations of assembly” that produced space, Lefèbvre brought forward a three-part model consisting of “spatial practices”, “representations of space”, and “representational spaces” (Lefèbvre, 1991: 38-39). First, spatial practices referred to “social” space where everyday activities happened. They were shaped and perceived by individual users’ experience, and could shape the uses of space in return as well. In my
research, spatial practices were the administration and controls from officials and private owners on POPS as well as the efforts of individuals and social groups to reshape the use of POPS. Second, representations of space referred to “physical” spaces of planners, bureaucrats and political decision-makers. Such spaces were rationally conceived through verbal rhetoric rather than actual spatial interaction, and were conceptions of space as opposed to perceptions of space. In my study, they could be interpreted as POPS conceptualized by zoning codes. Third, representational spaces referred to “emotional” spaces imagined or dominated mostly by non-verbal symbols and they were highly symbolic and culturally embedded. In my research, representational spaces were the traditional notions of ideal public spaces based on different contexts.

As to the capitalistic spaces, Lefèbvre thought that they were organized by the codes of capital, which were the dominant ideologies in capitalist society. Such codes were created by dominant classes usually in the forms of power and capital coalition, which served as a superstructure to control individual’s everyday life and shaped every individual’s ideology. Thus, the reproduction of urban space was fundamental to the reproduction of society as well as the dominant codes. The illustration of his abstract argument in my research lay in that as a new type of public space under Neoliberalism, POPS was inevitably controlled by the fundamental Neoliberal ideology which made it vary from ideal concept of public space and reshaped individual’s public life. Through deciphering the dominant codes and its change underneath POPS, I might illustrate the transformation of urban political economy at upper level.
In addition to Lefèbvre, there are some other scholars who contributed to the debate on urban space production in the era of globalization. Harvey examined how urban public spaces had been reshaped to reflect the interests of capital in capitalist society (Harvey, 1980). He argued that contemporary urban spaces, particular public spaces, were the products of economic relations, and such spaces were often exclusive, specifically resulting from unequal economic exploitation. To be more particular, he furthered his opinion that such exclusive spaces were as a response to the powerful political and economic forces that had encouraged capital accumulation over social justice and individual achievement over the common good (Harvey, 1997). Sassen illustrated how changes in global financial instruments remolded urban spaces in major global cities (Sassen, 1991). She attributed the spatial segregation represented by the phenomenon of gentrification to global economic polarization. Bauman described the shrinkage of public spaces in size and number at global level and further attributed the phenomenon to the reason that “the elites have chosen isolation and pay for it lavishly and willingly” (Bauman, 1998: 21). Marcuse and van Kempen also concluded that globalization had led to a shift “towards private control of what is done in public spaces” (Marcuse et al., 2000: 260).

2.3 Debates on Ideal Public Space

As to the terminology of public space, it was not “trans-historical” but the outcome of “a specific historical situation” (Nadal, 2000: 29). Its emergence could be traced back to the urban-sociological works of Lewis Mumford and Jane Jacobs in the early 1960s when was
one of the significant periods of accelerated political-cultural change in the history of Western civilization. Ironically, the term was brought into existence only as a reaction towards its possible disappearance at that time when the rapid technical progress and social-economic restructuring increased the scale of spatial dispersal and segregation which endangered the traditional public spaces (Nadal, 2000). Unlike some similar former modernist concepts prevalent before the 1960s, such as open space and recreational space, the concept of public space was more abstract and general rather than functionally determined. As one of the weapons of the ephemeral coalition between Mumford and Jacobs against Modernist-technocratic wrecking-ball slum-clearance and tabula rasa urban renewal movement after World War II represented by Robert Moses’ New York City, the term of public space was mainly used for protecting the old vibrant urban fabric with mixed-use and complexity, and diversified and heterogeneous urban life. In 1960, Mumford first discussed the social function of public space as the place “to bring people together” in his paper. As he argued, “when both private and public spaces are designed together, this mingling and meeting may take place, under the pleasantest possible conditions…” (Mumford, 1960: 173). One year later, Jacobs advocated strongly for marking urban space as public space. As she wrote, “…there must be a clear demarcation between what is public space and what is private space…” (Jacobs, 1961: 394). However, neither of them gave a clear definition of the term they used. The first formal definition came from Howard Saalman who regarded physical accessibility, or so-called “penetrability” by himself, as the most essential difference between public and private space. As he wrote in his book, “perhaps the most essential difference

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2 According to Nadal (2000), the earliest use of the term of public space was in Charles Madge’s book “Private and Public Space” in 1950. Later on, Hannah Arendt also used the term in her book “The Human Condition” in 1958. However, both of the works are either too obscure or not focusing on urban space per se.
between public and private space within the city is their relative penetrability” (Saalman, 1968: 26). In 1973, the first book by Lyn Lofland solely dealing with urban public space appeared. In the book, based on the agreement with Saalman’s definition, enlightened by Mumford and Jacobs’ poetic metaphors of “urban drama” and “street ballet” (Mumford, 1961: 575; Jacobs, 1961: 65), Lofland extended the concept of public space as a place where social interaction and public life happened, and distinguished between big and small public through defining “cosmopolitan” and “parochial” urban public spaces (Lofland, 1973). The distinction elaborated a seldom-touched issue of public space before, which was a sense of belonging and identity. Later, Richard Sennett used the etymological analysis to confirm Lofland’s concept by tracing back the meaning of “public” in the ancient Greek’s time. According to him, the Greek word “synoiskismos” was equal to “public” in English, which meant “making a city”. The first part “syn” meant “coming together” and the second “oikos” meant “a household unit in Greece, something between a family and a village” (Sennett, 1988: 82). Thus, public space was originally an open space for social interaction for different walks of people.

In 1981, Kevin Lynch did his ground-breaking work to bring forward the delineation of five dimensions of spatial right to differentiate between public and private space: presence, use and action, appropriation, modification, and disposition, which were re-titled as access, freedom of action, claim, change, and ownership and disposition later (Carr et al, 1992). In 1983, Benn and Gaus broadened the discourse into the issue of administration through involving three ascriptions of “access”, “agency” and “interest” (Benn et al., 1983: 25). According to them, access referred to the accessibility of public spaces; agency involved the
administration of public space, including profit-oriented and nonprofit-oriented; interest meant the targeted groups using public spaces. Till present, although controversy still exists, a formal definition of public space had become clarified. On the basis of a general historical review of public space research, Chen and Ye did a good summary of the definition.

2.4 Privatization of Public Spaces

American ecologist Garrett James Harding (1968) is the first to research the phenomenon of privatization of public goods. He put forward a seminal theory called “the tragedy of the commons”. The theory is built on the hypothesis of egoism. Because every shepherd wants to maximize his own interest even at the expense of others, it will inevitably cause overgrazing and ecosystem collapse of the commons. Using this example, he illustrated how individual consciousness produces collective unconsciousness. Additionally, Hardin discussed the externality of public goods. Due to the non-excludable attribute, everybody has the right to use it and cannot prevent others from doing so. Under the circumstance, unavoidably, there are many free riders who take advantage with no or little cost. The ambiguity of the property right of the commons lead to the over-consumption of public resources. In the end, in order to prevent the tragedy of the commons, Hardin argued that “the alternative we have chosen is the institution of private property coupled with legal inheritance…We must admit that our legal system of private property plus inheritance is unjust-but we put up with it because we are not convinced, at the moment, that anyone has invented a better system” (Hardin, 1968: 1247).
Chris Webster (2007) extended Hardin’s theory into the realm of urban public spaces and advanced the residual theory of public space. The theory categorizes urban spaces into four types on the basis of two economic attributes, which are rivalry and exclusivity. Type A space (pure private space) is excludable and rival; type B space is excludable and non-rival; type C space is non-excludable and rival; and type D space (pure public space) is non-excludable and non-rival. His hypothesis is that urban public spaces have a tendency of transforming from public to private domain, or from D, through C and B, to A.

Initially, an urban public space, as a pure public good, belongs to type D space. As the number of users goes up, it is transformed from non-rival to rival, or type C space, which means that the users have to compete with each others to have full benefit of the place. When the space capacity reaches “the congestion threshold”, the situation becomes increasingly unstable and unsustainable economically. Such phenomenon “happens as individuals over consume urban space in the sense of building to densely and with too little open space” (Webster, 2007: 82). Eventually, type C space will surpass the threshold, and will be transformed to type B space through institutional and physical design methods. Type B space, as a club good, stays stable as long as the governance institutions can “control the quantity and quality of the various attributes of space vulnerable to congestion and the numbers of consumers” (Webster, 2007: 83). When it falls out of equilibrium, type B space will be institutionally unstable and “a progressive delimitation of property rights and a fragmentation of ownership” will be necessary (Webster, 2007: 90). Every time property-rights are reassigned, cooperation costs will be reduced and efficiency will be increased in favor of parties with the greatest power to influence institutional change. Then, type B space will
gradually move towards type A space. The whole transformation depicts the privatization process of urban public spaces. Accordingly, the conclusion lies in “that property rights over urban space tend to fragment over time; that valued public domain space with open access will be over consumed; that congestion of open space leads to property-rights changes; that public domain space tends to shrink over time; and that stable spatial configurations of open space emerge residually as minimal configurations necessary to supply particular shared consumption benefits” (Webster, 2007: 81).

Particularly regarding POPS, according to public spaces exclusion in New York City, Smithsimon (2006) advanced a similar categorization with Webster’s. It consists of four major types: privatized space, community space, filtered space, and popular space. Like type A space, privatized space is the place under private control from which everyone except for the owners is discouraged from entering. The owners implement considerable physical barriers to achieve the exclusion. According to an overall evaluation about POPS in New York City (Kayden et al, 2000), most of the POPS built between 1961 and 1975 belong to privatized spaces. Like type B space, community space is exclusively for the club members. The exclusion and control are implemented by the members either to prohibit outsiders from entering or to make them feel unwelcome. Like type C space, filtered space is the place which the users compete to use. Usually, the ability of consumption is used as the criteria of exclusion in the current commercial society. Certain undesirable groups are discouraged to access such space. Like type D space, popular space aim to include all walks of life and encourage diverse usage.
Based on Smithson’s research, Németh and Schmidt (2007) raised a wide variety of interrelated legal, design and policy tools used by private sectors for overt securitization and exclusion of undesirable populations. Also, Németh (2007) advanced an evaluation index to quantify the degree of privatization of public spaces.

2.5 Critiques on “Pseudo Public Space”

With the predominance of Neoliberalism across the entire world since the 1970s, there were three significant political, economic and technical trends reshaping significantly the discourse of public space. The first was the worldwide campaign for market liberalism and downsizing governments which required the increasing use of free market rather than public authority to produce public goods. At the same time, large-scale public funding curtailment weakened the fiscal capacity of local governments. Second, with the restructuring of global economy, the power of transnational corporate grew rapidly which triggered polarized local and global economies and subservience of local public interest to global capital interests. Third, the invention of internet and information technologies created virtual space for communication and therefore transformed profoundly the traditional form of social interaction via the separation between public life and physical space (Banerjee, 2001). Under the influences of the three trends, local governments as entrepreneurs and public-private partnership emerged. Against this backdrop, starting from New York City, incentive zoning became the major tool for shrinking governments to leverage private capital to build public spaces, and POPS first appeared in the discourse of public space, which off-tracked from what the 1960s and 1970s initiators argued for the term.
Although some scholars advocated the incentive production of public space to resuscitate decaying downtown areas (Garvin, 1996; Stone, 1989) and some argued that POPS was just a different kind of public space which had a different conception of the public (Németh, 2009), the new type of public space was criticized by diverse opponents primarily from two points of view: the discriminatory restriction of accessibility and activities based on commodification and the enhanced control power on public spaces based on privatization. Compared with the traditional definition of ideal public space, the opponents argued that such new public space was just bogus, therefore so-called “pseudo-public space”, among whom two outstanding scholars contributed the leading theoretical critiques in the discourse, who were Habermas and Sennett as introduced below.

Based on Hannah Arendt’s historical research (Arendt, 1958), Jürgen Habermas (1989) further developed her basic opinion on public sphere as a virtual community, not necessarily existing in any identifiable space, between public authority (state) and private realm (society) starting from the 18th Century Europe along with emerging coffee houses, literary and media presses. In his words, it was “made up of private people gathered together as a public and articulating the needs of society with the state” (Habermas, 1989: 30-31) and “The line between state and society, fundamental in our context, divided the public sphere from the private realm...Included in the private realm was the authentic 'public sphere', for it was a public sphere constituted by private people” (Habermas, 1989: 176). State served as the authority of managing public affairs; society was the scope of private activities; public sphere provided a place where citizens were able to participate in public affairs and a platform for
communication between the government and the people. Ideally, public sphere could form a collective force to affirm and monitor the affairs of the state and the power of public authority should only safeguard the atmosphere of freedom and equality in public sphere, rather than intervening in civic activities inside.

However, more significantly to my topic, he discussed the invasion of private interests into public sphere from the 19th and 20th Century with commercialization, and took newspaper media as an illustration to demonstrate such invasion. “Even since the marketing of the editorial section became interdependent with that of the advertising section, the press became an institution of certain participants in the public sphere in their capacity as private individuals, that is, it became the gate through which privileged private interests invaded the public sphere” (Habermas, 1989: 185). Thus, the publicity in public sphere was not authentic public anymore but just manipulative public. Under the sanction power of press barons, public opinions were manipulated into “authorized opinions” and the activities by the public in public sphere were under control, which Habermas called “refeudalization” because he argued that privileged press leaders manipulated public opinions just like feudal rulers controlled urban commons. Although Habermas’ hypothesis of public sphere decline didn’t touch upon urban public space particularly, his abstract critique could be concretized to the discourse of public space privatization. In the free market economy and commercial society, the wide spectrum of the public was narrowed into different groups of potential customers solely according to their purchasing powers, and diverse public life was simplified into consumption. Accordingly, for private owners or managers of pseudo-public spaces who pursued maximum of economic interests, their public spaces were structurally transformed
from the forums for social interaction of all walks of life to the money-spinners for their targeted clients or the showground of their competitive capital powers. In this sense, there was a long ranging decline of public life in the modern Western world and particularly since the recent decades, the decline has been aggravated. And my dissertation research might be regarded as a corporeal case study of Habermas’ abstract manipulation of public realm.

Unlike Habermas’ theoretical critique of abstract public realm, Richard Sennett (1977) made a material critique of urban public space and paid close attention to the contemporary relationships between public and private life. On the basis of Jacobs’ and Mumford’s critiques against the Modernistic urban planning with well-planned order, he argued that cities were the carrier of public life and should be kept as disordered and heterogeneous rather than controlled and homogeneous like what contemporary cities did. Yet, beyond them, Sennett made a historical research from the ancient Rome through the Second-Empire Paris to the contemporary New York City, and further concluded that the mixed and diverse character of urban public space was in the crisis of decay. Particularly, when facing the emergences of the “tower-in-a plaza” paradigm and POPS in New York City, he forwarded the concept of “Dead Public Space” (Sennett, 1977: 12). The concept referred to the open-air plaza in front of plate-glass modern international style skyscrapers. He pinpointed the paradoxical separation between visibility and accessibility in such dead public spaces and argued that they were just the passages from outside to inside of the buildings. As he wrote, “the form of this international-type skyscraper is at odds with its function, for a miniature public square revivified is declared in form, but the function destroy the nature of a public square, which is
to intermix persons and diverse activities”(Sennett, 1977: 12). He accused the death of public space to the increasing private control inside, which turned public space into “an area to pass through, not to use; to sit on one of the few concrete benches in the concourse for any length of time is to become profoundly uncomfortable” (Sennett, 1977: 13). The concept was accepted and reiterated by some later scholars as “the end of public space” (Banerjee, 2001; Sorkin, 1992; Kohn, 2004; Mitchell, 1995).

Furthermore, Sennett attributed the crisis of public space in modern cities to the ideological overemphasis on efficiency instead of equity. He argued that the only purpose of urban open spaces was to allow people to circulate efficiently through it rather than for social gathering. Thus, they were not public at all but only for the people to get in and out as fast as possible without any staying or even slowing down. Sennett depicted the process of nongovernmental forces erosion into public space and the decline of publicness in cities throughout the history, especially in the recent trend towards privatization. As to the solutions, he argued that neither private sectors nor the state and federal governments were dependable to foster public life, and then put forward a third possible way of anarchy. He suggested eliminating government’s role in both urban planning and ordinary police work and city residents would have to go back to “disordered, unstable, direct social life” (Sennett, 1970: 144).

Except for the two leading theorists above, some other scholars also contributed significantly to the discourse mainly from two perspectives below. The first was the issue of
the limitation of accessibility and activities due to privatization. Kohn (2004) and Ford (2000) criticized the privatization of public space for the destruction of truly democratic expression and free speeches. Mitchell (1995, 2003) demonstrated that how the existing laws and zoning ordinances over-protected private interests and segregated political speeches out of privatized public spaces, and further summarized that the recent U.S. Supreme Court cases about protest in public spaces had impacted the “legal geography”. Knox (1993) pointed out that without the intervention from public authority, public spaces would be turned to “market advantage” by private owners for more profit. Mitchell (2003) argued that there was obvious exclusion of the individuals and groups who failed to contribute such market advantage in private public spaces. Waldron (1991) indicated that the current legal paradox provided private sectors with the power to exclude the homeless out of their owned or operated public spaces, which was against personal freedom. Valentine (1996), Wilson (1991) and Day (1999) introduced gender to the discourse, arguing that female use was more constrained in privatized public spaces. Eugene (2001) used case studies to illustrate how minority groups were excluded in privatized public spaces. Smithsimon (2008) reveals that private developers intentionally made their public spaces uninviting and exclusive for undesirable groups through design methods.

Security in public spaces was the second perspective for the critique by scholars and theorists in the discourse. Security itself was broadly accepted as the prerequisite for viable public spaces (Jacobs, 1961, Newman, 1972, Oc et al., 1997), and natural surveillance through encouraging more usage of diverse people was advocated, such as Jacobs’ (1961: 45) “eyes upon the street”. However, the critique in the discourse here was about unnatural
surveillance from private owners or managers for the purpose of exclusion and restriction in public spaces. Especially after September 11th, 2001, the emphasis on security and potential terrorist attacks gave more reasonable justification to private sectors to increase control on their own public spaces, which was so-called “increasing militarization of urban space” (Warren, 2002: 614). Davis (1992: 156) wrote that “the universal consequence of the crusade to secure the city is the destruction of any truly democratic space”. Marcuse (2002) argued that the over-emphasis on security in public spaces transferred decision-making power to quasi-governmental bodies serving for the interests of transnational corporations instead of public interests, which further promoted the trend of privatization at the era of Neoliberalism. As he opined, “the net result is a further skewing of the benefits and costs of globalization” (Marcuse, 2002: 596).
III. HONG KONG

3.1 Profile

3.1.1 Territory

As one of the two special administrative regions (SAR) of the People’s Republic of China, Hong Kong is located in the southern coast of the nation, enclosed by the Pearl River.
Delta and the South China Sea. According to HKSAR 2010 Census Data (Census and Statistics Department, 2010), the megalopolis has a population of 7,061,200, among whom 95 percent is Chinese. As to the territory, Hong Kong, consisting of Hong Kong Island, Kowloon, New Territories, and Lantau Island, has a land mass of 426 square miles. The density of 16,576 per square miles makes the city one of the most densely populated areas in the world (Figure 2).

Figure 3. Administrative districts of Hong Kong

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Administratively, as a city-state, Hong Kong has one unitary system of government with no municipal authorities. While the HKSAR government as a city-level government administers the whole region, there are also 18 local councils representing 18 geographic districts, which advise the city government on local affairs such as public facilities (Figure 3). To be more particular, Hong Kong Island is subdivided into four districts: Central and Western District, Eastern District, Southern District, and Wan Chai. Kowloon has five districts: Kowloon City, Kwun Tong, Sham Shui Po, Wong Tai Sin, and Yau Tsim Mong. New Territories consists of eight districts: Kwai Tsing, North District, Sai Kung, Sha Tin, Tai Po, Tuen Mun, Tsuen Wan, Yuen Long. The majority of Lantau Island is Islands District and the rest part belongs to Tsuen Wan.

3.1.2 History

Briefly, Hong Kong’s history can be divided into pre-colonial era (before 1841), British early colonial era (1841-1941), Japanese occupation era (1941-1945), British late colonial era (1945-1997), and HKSAR era (after 1997).

Before 1841, Hong Kong was ruled for thousands of years by many dynasties throughout the history of China. It used to be wasteland, residential settlement, military fortification and trading port. After the First Opium War between Qing Dynasty and the British Empire, Hong Kong Island was occupied by British forces and the Convention of Chuenpee was signed to initially admit the occupation in 1841. One year later, under the Treaty of Nanking, Hong Kong Island was formally ceded to the British Empire. The British colony was established
and the City of Victoria as one of the first urban settlements was under construction in the following several years. In 1860, after the Second Opium War, Qing Dynasty further ceded the Kowloon Peninsula to the British Empire under the Convention of Peking. In 1898, under the Convention for the Extension of Hong Kong Territory, the British Empire further obtained the New Territories, Lantau Island and many adjacent small islands on a 99-year lease. Since then, the territory of Hong Kong has kept unchanged till today.

British early colonial era continued till the eruption of the Pacific War. After Britain and Canada’s defeat in the Battle of Hong Kong, Hong Kong was occupied by the Empire of Japan in 1941. During Japanese occupation, Hong Kong experienced a significant food shortage and population decrease. After the World War II, Britain resumed colonial control over Hong Kong. During the post-war period, Hong Kong's population recovered quickly as a huge influx of immigrants from China arrived for refuge from the ongoing Chinese Civil War. From the 1950s to 1980s, rapid industrialization brought economic prosperity which made Hong Kong one of the Four Asian Tigers. With the implementation of the Open Door Policy in the Mainland China since 1978, the manufacturing competitiveness gradually declined in Hong Kong due to the development of the manufacturing industry in southern China. In addition, as the main channel of foreign investment into the Mainland China, the core economy of Hong Kong was transformed from manufacturing industry to service industry in the 1980s and 1990s. On December 19 1984, Chinese government and British government signed the Sino-British Joint Declaration after long-lasting discussion and bargain, which determined to transfer sovereignty to the People’s Republic of China in 1997. Chinese
government promised to retain the existing capitalist system for at least 50 years, or till 2047. On July 1st 1997, Hong Kong became the first special administrative region in China with a high degree of autonomy and Tung Chee-Hwa served as the first Chief Executive of HKSAR. The reunion of Hong Kong terminated 156 years of British colonial rule and unveiled a new era.

At the very beginning of HKSAR era, Hong Kong suffered from both the Asian financial crisis and the avian influenza in 1997. In 2003, the outbreak of SARS attacked Hong Kong again. However, with the powerful political and economic support from the central government and the increasing number of tourists from the Mainland China, Hong Kong has been recovering from such difficulties. On March 10th 2005, under the pressure from both Hong Kong and Beijing, Tung Chee-Hwa announced his early resignation before the end of his second term. In the 2005 election, Donald Tsang Yam-Kuen, the then Chief Secretary for Administration, became the second Chief Executive of Hong Kong on June 21st 2005. In 2007, he was re-elected for full five-year term. In 2012, Leung Chun-Ying was elected as the new Chief Executive and assumed office on July 1st 2012. Nowadays economically Hong Kong keeps serving as an international financial center, while it has relative political independence and faces some conflicts with the central government in areas such as universal suffrage.
3.2 Urban Regime Development

According to Scott’s historical research (Scott, 2010), except for some minor amendments when the territory of Hong Kong expanded to include the Kowloon peninsula in 1860 and the New Territories in 1898, the Letters Patent and the Royal Instructions stayed unchanged until the signing of the Sino-British Joint Declaration in 1984. Accordingly, the British colonial periods can be generally separated into two historical periods: the conservative period between 1841 and 1984, and the transitional period between 1984 and 1997.

3.2.1 Conservative Colonial Period (1841-1984)

At the beginning stage, the situation of Hong Kong was quite chaotic with fragmented political system, uncoordinated policy making, and severe corruption. In 1862, the British government reformed the governing regime in Hong Kong through appointing the well-educated directly from the top British universities as the senior officials who administered the new British colony. Under the rule of the cadet system, the situation of Hong Kong became improved and then prosperous by the end of the 19th Century. Before the 1890s, the members in the Executive Council were only limited to a few British senior officials. However, with the economic prosperity in the 1890s, the business community became increasingly significant and business elites were included in the Executive Council and the Legislative Council. For instance, as the financial leader in Hong Kong, the Chairman of the Hong Kong and Shanghai Bank being a member of the Executive Council has become
conventional since then. Influence by the significant changing configuration of the urban regime, laissez-faire became the predominating value for the government. The value could be further interpreted as follows: a small and efficiency-oriented local government with fiscal frugality and free of corruption, a stable, centralized and hierarchical governing system with political neutrality, and minimal provision of civil services, all of which contributed greatly to lower tax and economic prosperity favored by businessmen. Also, influenced by some large-scale strikes from Chinese labors in the 1920s, the British government started to appoint some Chinese elites as the Executive Council and the Legislative Council. Due to the relative political stability, the governors seldom made changes to the practices of their predecessors. The situation continued till the eruption of the World War II.

After resuming the rulership from Japanese in 1945, the British government had to face the changing nature of Hong Kong society, which triggered some top-down attempts of reforming the urban regime in the conservative period. For the sake of regaining the support of Hong Kong people, the then Governor Sir Mark Young (1941 and 1946-1947) brought forward the Young Plan to boost democratic reform in political system in 1946 (Wang, 1997). He argued that Hong Kong people should take more responsibilities to deal with local affairs. The main content of the plan was to establish the Municipal Council. As proposed, the Municipal Council consisted of 30 members, of whom half were British and half were Chinese. Moreover, two thirds of the members should be directly elected by the citizens. The main duty of the council covered fire control, public facilities, vehicle management, education, civil service and so forth. Surprisingly, although the Young Plan would benefit the Chinese,
due to the political indifference of Chinese citizens and the controversy within political system at that time, it was never implemented in his term of office.

With the eruption of the Chinese civil war in 1947 and the founding of the People’s Republic of China in 1949, a large amount of refugees fled to Hong Kong, which dimmed the city’s prospect and enhanced social instability. More seriously, the breakout of the Korean War in 1950 further exacerbated the situation of Hong Kong. Against this backdrop, the successor Sir Alexander Grantham (1947-1957) took office but held a different opinion from his predecessor (Grantham, 1984). He argued that, for the Hong Kong people who only cared about making money and enjoying life, what the contemporary Hong Kong needed were “stable environment”, “appropriate tax rate”, and “impartial judicature”, rather than democratic reform (Grantham, 1984: 146). In addition, he worried the risk of being controlled by the communists in the Municipal Council, which would endanger the British governance. Thus, resuming the elite-led urban regime was more suitable for the situation of Hong Kong. Grantham’s opinion received great supports from political and business circles in Hong Kong. Eventually, after he went back to England for canvassing, the Young Plan was announced to be cancelled by the British House of Commons in 1952. In the next two decades, the movement of democracy in Hong Kong stagnated.

Although the Young Plan was regarded as radical and vetoed by him, Grantham did some political reforms to better respond to the demands of Hong Kong people. For example, he increased twice the percentages of unofficial members as well as Chinese members in the
Executive Council and the Legislative Council in 1948 and 1951. In addition, he carried out the localization of civil servants to recruit more Chinese people into the Hong Kong government (Wang, 1997). In order to stabilize the difficult situation, Grantham changed the consistent policy of laissez-faire and strengthened the official intervention in civil services. For instance, he set up the public housing program and compulsory primary education program (Scott, 2010). Similarly, two decades later, Sir Murray MacLehose (1971-1982) did a series of reforms to expand civil services, which contributed significantly to the prosperity of Hong Kong in the 1970s. The reforms included setting up ten-year public housing program, establishing the Independent Commission Against Corruption, founding free nine-year compulsory education program, upbuilding the comprehensive social security assistance program, and so forth. Although MacLehose carried out the official intervention into civil service, meanwhile, he insisted in the policy of positive non-interventionism in the economy, which consolidated the economic tradition of laissez-faire in Hong Kong (Tsang, 2009).

3.2.2 Transitional Colonial Period (1984-1997)

According to the Second Convention of Peking in 1898, the ninety-nine-year lease would expire on June 30, 1997. Thus, the future of Hong Kong became imperative in the early 1980s. After the renew request was denied, the British and Chinese governments conducted multiple rounds of negotiation. Eventually, the Sino-British Joint Declaration was eventually signed in December 1984, which ensured that the sovereign of Hong Kong would be handed over to the Chinese government on July 1, 1997. The declaration had a
far-reaching influence on the political regime of Hong Kong, which signified the beginning of the transitional period.

Generally speaking, the political regime of Hong Kong in the transitional period unfolded two characteristics: the acceleration of democratic reform and the constant friction between the central government and the Hong Kong government. As to the impetus of expanding the suffrage by the British colonial government, Scott (2005: 39) attributed to two considerations. First, the democratic reform would decrease “difficulties in governing the territory before the retrocession.” Second, without promoting the movement of democracy in Hong Kong, the British government would “face some international criticism” after handover. However, the central government which preferred political stability for smooth transition held an opposite opinion “that Britain had done nothing substantive to increase democratic representation for 150 years of colonial rule and that it was a little late to accelerate the pace of democratization in the last years of the transitional period.”

In the conservative period, the governors mainly focused on local issues, while those in the transitional period spent most of their attention to the constitutional affairs in Beijing. Scott (2005: 37) argued that “MacLehose was the last Governor to play a major direct role in the domestic affairs of Hong Kong.” In July 1984, before the signing of the Sino-British Joint Declaration, in order to reassure the public and increasing bargaining chips in the coming negotiation, MacLehose’s successor Sir Edward Youde (1982-1986) published a green paper named “The Further Development of Representative Government in Hong Kong” to solicit
the feedbacks from the society. In the report, the Hong Kong government was proposed to gradually transit towards a representative government. It was suggested that the Legislative Council would carry out indirect election in 1985. In November 1984, the white paper was published to formalize the proposal. Youde’s political reform lifted the curtain on the movement of democracy in Hong Kong in the transitional period, and changed significantly the political pattern in Hong Kong. In the Executive Council, there were no elected members before 1985. With the increasing elected members and the emergence of political parties, the power of the Governor began to be weakened and challenged, especially in cases of conflict over policy issues, and the Legislative Council was also transformed “from a body that usually passively approved government policies to a much more representative and critical institution” (Scott, 2005: 38). Outside the official political system, some unofficial political organizations emerged. For instance, the Joint Committee on the Promotion of Democratic Government consisting of around 91 grass-root organizations was established in 1986, who committed themselves to promote the movement of democracy in Hong Kong.

Encouraged by the success of Youde’s reform and pushed by the Joint Committee on the Promotion of Democratic Government, the successor Sir David Wilson (1987-1992) published a new green paper in 1988 to further propose direct election in the Legislative Council in 1988, and establish a survey office to collect the feedbacks from the public. Surprisingly, the official result showed that about 70% of the respondents argued against the proposal, which was broadly questioned about its authenticity. Accordingly, Wilson decided that only minor changes would be made in the composition of the Legislative Council. The
abortion of the direct election plan arose the criticism from the society. The unofficial member of the Legislative Council and leader of the Joint Committee on the Promotion of Democratic Government, Martin Lee Chu-ming, inveighed against the British government for betraying Hong Kong peoples’ trust. As to the reason underneath, the autobiography of the last Governor Patten revealed that the result was intentionally manipulated by the Hong Kong government under the pressure from Beijing, because there was a secret agreement between the British and Chinese governments that if the Hong Kong government abandoned direct election in 1988, the central government would include the promise of direct election in the Basic Law (Patten, 1998; Chung, 2004).

In 1989, the Tiananmen Square protest happened in Beijing. Meanwhile, the Joint Committee on the Promotion of Democratic Government and other unofficial groups organized a large-scale demonstration in Hong Kong to support the protest in Beijing and to appeal for democratic reform. The significant political events changed the attitude of the Hong Kong government, and Wilson reckoned that it was no longer wise for the Hong Kong government to resist the pressure for direct election. As a result, the Legislative Council opened eighteen seats for direct election in 1991 and the democrats won an overwhelming victory. However, in fear of losing control over the Legislative Council, Wilson immediately filled most of the remaining seats in the chamber with conservatives using the power of appointment (Scott, 2005).
In 1992, the last Governor Christopher Patten (1992-1997) assumed office. Before long, he published the first policy address, in which a series of political reforms in the election of the Legislative Council in 1995 were put forward, including separating the membership in the Executive Council from membership in the Legislative Council, cancelling all the appointed seats, adding nine new functional constituencies, and increasing the number of voters in the functional constituencies. However, Patten’s proposal led to a fierce and constant friction between the Chinese and Hong Kong governments. Originally the central government promised “through train” for the 1995 legislators to remain in office until 1999, and wanted to remain political stability for smooth handover and to keep the electorates in the functional constituencies small. After many rounds of negotiation in vain, Patten insisted in carrying out his plan, which was passed by the Legislative Council. Again, the 1995 election in the Legislative Council saw the overwhelming victory of the democrats. As a response, the central government expressed strong dissatisfaction, arguing that Patten’s reform was against the Joint Declaration and there would be no “through train”, which meant that the 1995 Legislative Council would be dissolved after handover in 1997. Then, the Provisional Legislative Council was established to enact legislation in line with the central government’s position. Because Patten didn’t admit its legality, the Provisional Legislative Council was located in Shenzhen before handover. Afterwards, there were not official talks between Hong Kong and Chinese governments any more until 1997.
3.2.3 Autonomous Period (1997-2011)

After the transfer of sovereignty to China in 1997, the Basic Law, within the frameworks of the Joint Declaration and the Constitution of People’s Republic of China, replaced the Letters Patent and the Royal Instructions to serve as the constitutional document of the Hong Kong Special Administrative Region (HKSAR). According to the Joint Declaration, the British and Chinese governments reached a consensus on the principle of “one country, two systems” which preserved the previous capitalist economy, lifestyle and the legal system for 50 years, except for national defense and foreign affairs. However, regarding the political composition, the method for the formation of central political institutions, and the democratic pace at which the representative governments would be introduced, no agreement had been reached and the Basic Law either didn’t mention or only had ambiguous provisions. The constitutional vacuum left a continuing controversy in the post-1997 period.

Although the central government promised high degree of autonomy in Hong Kong, so-called “Hong Kong people administering Hong Kong”, the friction between the Chinese and Hong Kong governments in terms of democratic development existed in the beginning. After signing of the Joint Declaration, the Drafting Committee for the Basic Law was established by the central government to draft the Basic Law. In the committee, 23 out of the 59 members were from Hong Kong, among whom only two were democrats, Martin Lee Chu-ming and Szeto Wah. But after the Tiananmen Square protest in 1989, they were ousted by the central government due to their public voicing the support of the protesters. Objectively, the significant political event delivered a heavy blow to the democrats in the
central government, and pushed the drafters into an even more conservative perspective of the future political arrangement. In addition, another committee named the Consultative Committee was set up to collect the public opinion from Hong Kong people as the reference of the drafters. But it was proved that the committee with little power was just a rubber-stamp institution to simply legitimate and endorse the decisions made by the drafters (Scott, 2005). Eventually, the Basic Law was endorsed in 1990 by the National People’s Congress without the participation of Hong Kong people while the British government came to terms to avoid potential frictions during the transitional period. The drafting process led to the issue of legitimacy lacking the approval of Hong Kong people after the handover.

The Basic Law inherited the British top-down polity, in which the Chief Executive had formidable authority while the power of the Legislative Council was relatively weak. On the one hand, the Chief Executive kept most of the autocratic powers of the previous Governor. According to Article 48 of the Basic Law, the Chief Executive had the power of decision on policy-making, signing bills passed by the Legislative Council, nomination of the Principal Officials, appointing and removing judges of courts and public servants, implementing directives from the central government, and so forth. Based on Article 49 and Article 50, the Chief Executive enjoyed the powers of returning bills to the Legislative Council for further consideration, refusing to sign the bills passed a second time by the Legislative Council, or even dissolving the Legislative Council if it refused to pass the budget or other important bills. In addition, without the support from the central government, the Chief Executive cannot be removed solely by the Legislative Council, because the removal of the Chief Executive must
be reported to the central government for decision, based on Article 73(9). On the other hand, the power of the Legislative Council was restricted. Although Article 68 specifies that “the ultimate aim is the election of all the members of the Legislative Council by universal suffrage”, there is no a specific timetable for achievement. The electoral system is also favorable to the conservative and pro-governmental parties. The proportion of the directly-elected seats is limited as no more than 50%, while the functional constituency seats occupying no less than 50% have many business and professional members, who are mainly pro-governmental (Table II).

<table>
<thead>
<tr>
<th>Year</th>
<th>Officials</th>
<th>Appointed</th>
<th>Directly-elected</th>
<th>Functional Constituencies</th>
<th>Election Committee</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>3</td>
<td>18</td>
<td>18</td>
<td>21</td>
<td>-</td>
<td>60</td>
</tr>
<tr>
<td>1995</td>
<td>-</td>
<td>-</td>
<td>20</td>
<td>30</td>
<td>10</td>
<td>60</td>
</tr>
<tr>
<td>1998</td>
<td>-</td>
<td>-</td>
<td>20</td>
<td>30</td>
<td>10</td>
<td>60</td>
</tr>
<tr>
<td>2000</td>
<td>-</td>
<td>-</td>
<td>24</td>
<td>30</td>
<td>6</td>
<td>60</td>
</tr>
<tr>
<td>2004</td>
<td>-</td>
<td>-</td>
<td>30</td>
<td>30</td>
<td>-</td>
<td>60</td>
</tr>
<tr>
<td>2008</td>
<td>-</td>
<td>-</td>
<td>?</td>
<td>?</td>
<td>-</td>
<td>?</td>
</tr>
</tbody>
</table>

Data Source: the official website of Legislative Council

In the post-colonial period, Tung Chee-Hwa, as the first Chief Executive of HKSAR, stayed in power from 1997 to 2005, with reappointment in 2002. The main reforms in political system in his term were the abolition of the Urban and Regional Councils and the introduction of the Principal Officials Accountability system, both of which could be regarded
to move towards more centralized government and to strengthen the control of the Chief Executive (Scott, 2005).

The Urban Council was a financially independent non-governmental municipal council, whose was responsible for municipal services in Hong Kong Island and Kowloon. The equivalent body for the New Territories was the Regional Council. The predecessor of the Urban Council, the Sanitary Board, was established in 1883 which dealt with the serious hygiene and housing situations. In 1935, the board was replaced by the Urban Council, in which five elected members and five officials. Also, an affiliated department named the Urban Services Department was established to take charge of local services including environmental hygiene, recreational and cultural facilities, food safety and so forth. Although there were no elected members for a short period of time after WWII, it returned to the Urban Council shortly in 1952 when two members were elected. In 1953, the elected members increased to 4 and in 1956 it doubled again. By 1973, half of the members were elected from district constituencies and the other half were appointed by the Governor. Before the district board elections in 1982, the Urban Council elections were the only way, through which Hong Kong citizen could express their opinions through the ballot (Table III). Similarly, in its counterpart in the New Territories, the Regional Council had 24 members totally, of whom half were elected. It also had an affiliated department named the Regional Services Department. Functionally, the relationship between the Urban and Regional Councils and the Hong Kong government was ambiguous and sometime frictional. In some cases, the practices of the councils did not conform to those of the Hong Kong government.
Table III
THE CHANGE OF THE URBAN COUNCIL COMPOSITION

<table>
<thead>
<tr>
<th>Year</th>
<th>Ex-officio members</th>
<th>Appointed unofficial</th>
<th>Elected unofficial</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1946</td>
<td>5</td>
<td>6</td>
<td>-</td>
<td>11</td>
</tr>
<tr>
<td>1952</td>
<td>5</td>
<td>6</td>
<td>2</td>
<td>13</td>
</tr>
<tr>
<td>1953</td>
<td>5</td>
<td>6</td>
<td>4</td>
<td>15</td>
</tr>
<tr>
<td>1956</td>
<td>6</td>
<td>10</td>
<td>10</td>
<td>26</td>
</tr>
<tr>
<td>1973</td>
<td>-</td>
<td>12</td>
<td>12</td>
<td>24</td>
</tr>
<tr>
<td>1983</td>
<td>-</td>
<td>15</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>1986</td>
<td>-</td>
<td>15</td>
<td>15</td>
<td>30</td>
</tr>
</tbody>
</table>

Data Source: the official website of HKSAR Government

In the post-colonial period, the Urban and Regional Councils were not acknowledged politically in the Basic Law. According to Article 97, district organizations like the Urban and Regional Councils “are not organs of political power” but may be for consultation “in such fields as culture, recreation and environmental sanitation.” In October 1997, then-Chief Executive Tung Chee-Hwa questioned the functionality of “the regional organizations, Municipal Councils and the District Boards” and checked “whether the present structure of local representative government will continue to ensure the efficient and responsive delivery of services” (Tung, 1997). Shortly, the inefficiency of the Urban and Regional Councils to deal with the avian flu crisis in 1997 gave the HKSAR government an appropriate reason to call into questions the validity of the Urban and Regional Councils. In 1998, the Constitutional Affairs Bureau released a consultation document showing that strong public support for an enhanced central government role in food and hygiene matters. Eventually, the Urban and Regional Councils were dissolved on December 31, 1999 by Tung Chee-Hwa and two newly-established departments in the HKSAR government, Food and Environmental
Hygiene Department, and Leisure and Cultural Services Department, took the functions undertaken by the Urban and Regional Services Departments. Using Scott’s words, “while undertaken and justified in the name of efficiency, it was also a prelude to the introduction of more political control over the government as a whole” (Scott, 2005: 54).

The Principal Officials Accountability System (POAS) was the second main political reform by Tung Chee-Hwa. After the transfer of sovereignty, in order to assume the smooth political transition and the continuity of the political machine, the HKSAR government mostly inherited the colonial political system with little modification, in which the old principal officials during the last British administration kept their positions in the new non-colonial government. According to the old political system, all the principal officials were headed by the Chief Secretary for Administration. Additionally, they were permanent and pensionable.

With the increasing public concern over the civil services after 1997, several cases of policy failure dealing with the faults of senior civil servants caused lots of public critiques, such as the “short pile” scandal and the catastrophic opening of the new airport. Against the backdrop, POAS was implemented at the beginning of Tung’s second term on July 1, 2002. In the new system, all the principal officials were nominated by the Chief Executive either from within or from outside the civil service to the Chinese central government and also had the authority to recommend their removal. Therefore, the principal officials were only accountable to the Chief Executive, rather than to Chief Secretary for Administration.
previously. In addition, they served on contract at the pleasure of the Chief Executive, which meant that their positions were temporary and more easily to be dismissed by the Chief Executive. As Tung promised, the new system would be “more accountable to the people of Hong Kong” (Yau et al., 2008). As an immediate response, the then-Chief Secretary for Administration, Anson Chan Fang announced her early resignation to protest the reform. Shortly after the implementation, several cases dealing with the then-Secretary for Financial Services and the Treasury Frederick Ma Si-hang, the then-Financial Secretary Anthony Leung Kam-Chung, the then-Secretary for Civil Service Joseph Wong Wing-ping, and the then-Secretary for Security Regina Ip Lau Suk-yee tested the system. However, Tung’s protection of his beleaguered officials reflected that the principal officials in the new system were only accountable to the Chief Executive instead of the people of Hong Kong, which triggered a large-scale protest from the public on July 1, 2003. Hundreds of thousands of Hong Kong people participated in the parade. From then on, the parade on July 1 annually became a significant non-official political campaign to show the voices from the bottom. Only after the protest, Tung reluctantly accepted the forced resignations of Regina Ip Lau Suk-yee and Anthony Leung Kam-Chung. Thus, it was believed by many Hong Kong people that, in effect, the Chief Executive used the POAS system to exert more control over the administrative grade.

To sum up, the transition of the urban regime in Hong Kong over 170 years experienced from a conservative centralized colonial regime before 1984, through a transitional colonial regime from 1984 to 1997 which tried to decentralize the power, to an relatively autonomous
regime after 1997 which tried to centralize the power again and was influenced by the sovereign power of China.

3.3 Land Development Administration

3.3.1 Land Leasehold System

There never exists private land ownership in the history of Hong Kong. In the British colonial period, according to the Letters Patent, all the urban lands were called “crown land” or “government land”, which belonged to the Queen and were administered by the Governor on behalf of the Queen. In the post-colonial period, the Basic Law provides that all the lands in the territory of the HKSAR are owned by the Peoples’ Republic of China and are administered by the HKSAR government. All the revenue from the lands belongs to the HKSAR government. Under public land ownership, either the British Hong Kong Government or the HKSAR government adopts the land leasehold system. The only exception is St. John's Cathedral in the Central with freehold land title. The characteristics of land leasehold system is that private land owners only have the right to use rather than the ownership of land. In other words, private owners pay to use land from government for a period of time, so-called lease term, and must return it after expiration of the lease. Under public landownership, the Hong Kong government leases urban lands to an individual as commodity through the leasehold system. As “root of title”, government lease document include the information about parties, dates, price, and all the documents relating to subsequent transactions (Wang, 2005; Nissim, 2008; Gan, 1992).
After the occupation of Hong Kong Island by the British troop, the first land sales including 35 marine lots along Queen's Road took place on June 12 1841. At that time, the grant of land that had been sold was kept by the Land Officer and only included the information of the name of the purchaser and the boundary of the lot. Until then, a proper administrative and legal framework to sell and record land titles had not been established yet. Later, the ratification of the Treaty of Nanking made Hong Kong Island a British legal territory. In January 1844, the British government stipulated that all land must be leased and the lease term was fixed at 75 years, except for land not required for building for 21 years in order to assure the liability of the purchasers to the Crown. Renewals would be at the discretion of the government. The leasehold system was commenced by announcing the principles of land disposal. Through public auctions, the highest bidders for the payment of an annual rent would take the allotments. Renewals would be at the discretion of the government. For the previous purchasers, they were also enforced to retain their lots on a 75-year lease. Due to the then position of Hong Kong as a burden to the home government, it was expected to support itself financially as soon as possible. Declared as a free port from the outset, Hong Kong could not get revenue from customs duty. In this situation, rent from land became the main source of revenue and the large-scale construction of roads was implemented to open up more lands for lease.

In March 1844, the new leasehold system immediately met with the strong complaints about the high rent and relatively short lease term from the chief merchants who held most of the original allotments. The following economic recession in 1848 made the home
government reconsider the complaints and eventually made a significant concession by allowing the administration to substitute 999-year leases for urban land in 1849. The previous 75-year leases also got extended to 924 years further. The purpose of the change was to stimulate private investment on land, especially from British merchants. It was during this period that many most valuable lots in the Central and Wan Chai were obtained by British corporation with 999-year lease term. In 1898, considering sharing the benefit from the increasing value of lands, the lease term for new leasing lands was shortened to 75 years again. The difference from the previous 75-year lease was that it could be renewable for one further term after expiration. A full premium based on the land value of the time was required to be paid. The new policy was also applicable to the land in the New Territories which was leased to Great Britain for 99 years based on the Peking Convention signed on June 9, 1898. The 75-year lease term from July 1, 1898 could be renewed for a further 24 years less the last three days. In 1920, some reclaimed land lots at Yau Ma Tei of Kowloon were issued to 99-year lease which could be renewed for another 99-year term.

The Sino-British Joint Declaration in 1984 had a series of significant impacts on the land leasehold system. First, the existing system would be inherited so as to ensure the political and economic stability after 1997. As it put, "all rights in relation to such leases", concerning acquisition, use, disposal, inheritance and compensation for lawful deprivation, "shall continue to be recognized and protected under the law of the Hong Kong Special Administrative Region." Second, in terms of lease extensions, the Sino-British Joint Declaration regulated that the leases for the lands of the north Kowloon and the New
Territories would expire on June 27, 1997. Then, all the lands would be returned to the Chinese Government on July 1, 1997. For Hong Kong Island and Kowloon Peninsula, the lease terms that would expire before July 1, 1997 would get an automatic renewal to June 30, 2047 and those not expiring before July 1, 1997 would still be effective. Third, the Land Commission consisting of an equal number of officials designated respectively by UK Government and PRC Government was established. The organization provided the central government with a lengthy insight into land administration system in Hong Kong, which not only better prepared the future of the HKSAR government but also served as a template for the later land administration system of the Mainland China. Last but not least, in fear of selling out all the developable lands in Hong Kong by the British Hong Kong Government before 1997, the declaration stated that "the total amount of new land to be granted...shall be limited to 50 hectares a year (excluding land to be granted to the Hong Kong Housing Authority for public rental housing) from the entry into force of the Joint Declaration until June 30, 1997." Despite the 50-Hectare Quota, the extra quota was justified to the Land Commission in every year of the transition. From Figure 4, it is clear that the actual annual land disposal from 1985 to 1997 exceeded the limit and it also increased significantly together with the boom of property market in Hong Kong.
Figure 4. Annual land disposal from 1985 to 1997

Data Source: the official website of HKSAR Government

After July 1 1997 till now, the HKSAR government inherits the colonial land leasehold system and shows respect to the existing land leases for two main reasons. First, it can ensure smooth transition and stability of land administration. Second, the top-down system is in accord with Chinese government. According to the Hong Kong Reunification Ordinance, "the Chief Executive on behalf of the Government of the HKSAR" substitutes the Governor to execute the power "to lease or grant State land." Today, new leases and renewed leases have 50-year lease term from the date of grant or renewal, which means that all new leases and renewed leases prior to July 1 1997 will go up to June 30 2047. Also, all the leases in the New Territories are extended until June 30 2047. All the existing non-expiring leases are still valid.
Provided that only a modification occurs, the lease term will not be extended. If a modification occurs by land exchange, a new 50-year lease term will be issued from the date of the Conditions of Exchange are executed. At present, the lease terms in Hong Kong generally have five different types: 50 years, 75 years, 75+75 years, 99+99 years and 999 years. Additionally, there are other short-term or temporary tenancies, which are not mentioned due to scarcity.

3.3.2 Administrative Authorities

Generally speaking, two main types of land development administrative systems exist in Hong Kong, which are lease-based administrative system (planning by contract) and statute-based administrative system (planning by edict). Three main administrative authorities get involved in the two different systems, which are the Lands Department, the Buildings Department and the Planning Department. They not only have different power to influence land development but also have overlapping jurisdictions. The Lands Department is the main lease-based administrative authority; the Buildings Department and the Planning Department are the main statute-based administrative authorities (Lai et al., 2007, 2000, 2010; Nissim, 2008).

Lease-based administrative system was first implemented in 1841. Under the land leasehold system, there are some conditions inside the leases. Such conditions are usually in the form of enforceable clauses that stipulate requirements, restrictions, obligations or other
contents for lessees. Once getting a parcel of land, the lessee must accept the attached lease conditions inside the lease. Thus, the system is built on a contractual basis. Through the so-called "planning by contract" system, the government is able to remain control over leased land (Lai, 2010; Lai et al., 2000).

Statue-based administrative system started in 1939 with the first promulgation of the Town Planning Ordinance. The system is built upon the ordinances and regulations passed by the Legislative Council. Such ordinances and regulations that control land development mainly include the Town Planning Ordinance, the Buildings Ordinance, the Building (Planning) Regulations, the Land Resumption Ordinance and so forth, which are exerted without consent of private individuals. Accordingly, the system is also named "planning by edict".

a) The Lands Department

As the oldest administrative authority of land development in Hong Kong at the very outset of the British colony in the 1840s, the predecessor of the Lands Department was the Public Works Department and later Buildings and Lands Department, which used to be the only administrative authority on land development, which had the power of land disposal, town planning and buildings control. To be more specific, in land disposal, it took charge of preparing land titles and stipulating land lease documents. In town planning, it took on planning districts and roads, subdividing land parcels, and stipulating land uses in lease documents. In buildings control, it designated building restrictions for each parcel of land as
lease conditions, including permitted building types, building height, site coverage, plot ratio
and so forth. Nowadays, its town planning power and buildings control power have been
gradually replaced or duplicated by the Planning Department and the Buildings Department.

The legal tools of administrating land development in the hand of the Lands Department
are land leases and related legal documents. It conducts administration through land disposal,
land resumption, considering application for lease modification and enforcing breach of lease
conditions. Land disposal is the primary function of the Lands Department. Through reporting
the annual Land Sale Program, the Lands Department can administrate the provision of new
land every year. Most of new land is sold by public auction. In some situation like complex
development conditions for certain public facilities required by the government or special
land uses, tender is also used.

Land resumption is another fundamental yet controversial function of the Lands
Department. Under public landownership, the Lands Department is the only authority in the
government which has the right to acquire private land by resumption for the implementation
of public projects on the basis of public interest, such as roads, public housing, urban renewal,
urban open spaces, drainage improvement, public schools or others in the Public Works
Program. In total, there are seven main ordinances under which land resumption proceedings
may be instituted: 1) the Lands Resumption Ordinance (Cap. 124); 2) the Roads (Works, Use
and Compensation) Ordinance (Cap. 370); 3) the Railways Ordinance (Cap. 519); 4) the Land
Acquisition (Possessory Title) Ordinance (Cap. 130); 5) the Land Drainage Ordinance (Cap.
As the significant legal documents of land, land leases designate the obligations and duties of land owners and development requirements as lease conditions. Depending on different land sources, lease conditions can be further categorized into different forms: Conditions of Sale, Conditions of Tender, Conditions of Exchange, Conditions of Grant, Conditions of Regrant and so on. To be simple, all above are called lease conditions. Lease conditions usually include the following information: lease term, permitted land uses, maximum permitted building height, minimum and maximum permitted gross floor area, maximum permitted site coverage, the period required for construction, and other requirements regarding recreational facilities, transportation facilities and landscaping. To legalized the requirements above, there are usually some legal documents attached under land leases and they may vary as the case may be. The following are some common documents: Building Covenant (regulating the period required for construction), Deeds of Mutual Covenant (stipulating undivided shares ownership), Certificate of Compliance (as the proof of construction completion), Master Layout Plan (for large-scale development), Deed of Variation (for lease modification) and so forth. Zooming into my research topic, the leases of land lots with POSPD usually have Deed of Dedication which stipulates the dedicated areas,
b) The Buildings Department

The Buildings Department's predecessor is the buildings branch of the former Buildings and Lands Department and it became an independent department in 1994. The Buildings Ordinance (Cap. 123) and the Building (Planning) Regulations (Cap. 123F) give it the statutory power of controlling buildings development and enforcing against unauthorized buildings and a system of building application that adds to the building covenants in the leases. The main legal tool in the hand of the Buildings Department is considering the application for building plans approval and the Building Authority is the main decision-making body. From the name of the Building (Planning) Regulations, it is clear that not only building plans themselves but also adjoining neighborhood plans are reviewed in considering applications. The Buildings Department also considers some common planning control parameters like plot ratio and site coverage restrictions, building height limit and compatible land uses with adjoining environment, based on the Buildings Ordinance which stipulates a system of site classification for calculating plot ratio and site coverage for buildings and the statutory consideration of the "immediate neighborhood." In the process of reviewing the application of building plans, some other attached contents may be considered as well. Take Deed of Dedication as an example. According to the Building (Planning) Regulations, private developers can incorporate the plans of dedicated areas in the application of building plans for bonus plot ratio. Once approval, Deed of Dedication is required to be
signed between the Lands Department and the developers and the legal document is attached to the land leases. Under Section 42 of the Buildings Ordinance, where special circumstances render it desirable, the Building Authority is empowered with discretionary power on the basis of public interest to exempt areas dedicated for public use from the gross floor area calculation and to grant bonus areas by approving building plans that exceed the permitted plot ratio.

Another legal tool in the hand of the Building Department is Occupation Permit after the completion of building construction. Although both against unauthorized development activities, there is a significant difference between Certificate of Compliance and Occupation Permit. Certificate of Compliance is issued by the Lands Department after the developers complete all the lease conditions like providing vehicular lanes, pedestrian passages, footbridges or open spaces. Only after receiving Certificate of Compliance, new development becomes legal estate. Occupation Permit is issued by the Buildings Department upon the satisfactory completion of all building works, according to Section 21 of the Buildings Ordinance. The main concerns include structural works, sanitary provision, drainage connection, and removal of all temporary works like scaffolding and hoarding. Besides, some legal documents from other related departments are essential for the issue of Occupation Permit, such as Fire Certificate from Fire Service Department and Water Supply Certificate from the Water Supply Department. Without it, new buildings are prohibited for use, sale or lease. Issued Occupation Permits are also attached to land leases.
c) The Planning Department

The Planning Department was established in 1991, which is responsible for preparing statutory plans and other district or local plans, making policies of planning, land use, buildings and urban renewal, and formulating, monitoring and reviewing land use at the territorial level. The legal power of the Planning Department comes from the Town Planning Ordinance and the main tools in its hand are preparing and enforcing statutory plans and considering planning permissions. The principal body responsible for statutory town plans is the Town Planning Board chaired by the Secretary for Development and consisting of appointed nonofficial members. It is formed under the Town Planning Ordinance and served by the Planning Department. Its main functions include overseeing the preparation of draft statutory plans, considering representations to such draft plans and considering applications for planning permission and amendments to plans. Based on the Hong Kong Planning Standards and Guidelines, the Planning Department also undertakes actions against unauthorized land uses.

Statutory plans can be further categorized into two kinds: Outline Zoning Plans and development permission area plans. Outline Zoning Plans are for urban land, and identify road systems and proposed land uses. As the annotation, a schedule of notes and an explanatory statement are attached to each Outline Zoning Plan, which note the land uses always permitted (Column 1 uses) and the land uses requiring the permission from the Town Planning Board (Column 2 uses). Development permission area plans are interim plans for non-urban land. Similarly, they also indicate the land use zones and are accompanied by
schedules of notes and explanatory statements. The effective period is three years from the
date of first publication and they will be replaced by Outline Zoning Plans within the period.
The provisions for enforcement will continue to be applicable after the replacement. Statutory
plans are usually superimposed onto land with pre-existing leases. This means that they do
not have any influence on pre-existing use and property right, but provided that lease
modification happens which requires planning permission, the leased parcels of land are
under control of statutory plans. In addition, in order to better facilitate urban renewal process
as a whole for large parcels of land, the Planning Department invents the concept of
Comprehensive Development Area (CDA) for Master Layout Plans of the Lands Department.
Once designated as CDA zone, the area is required to submit a Master Layout Plan of the
whole area for review by the Town Planning Board and the affected individual landowners
are no longer permitted to subdivide or combine properties for redevelopment.
Redevelopment will proceed only after the Master Layout Plan is approved (Lai, 1996; Lai et
al., 2000).

Considering planning permission is another statutory power of the Planning Department.
However, planning permission system did not start until 1974 when the British Hong Kong
Government amended the Town Planning Ordinance as a result of the influential case of
Singway Co., Ltd. v The Attorney-General (Bristow, 1984). At the beginning, planning
permission system was only applicable to urban areas which were covered by Outline Zoning
Plans. In 1991, the range of application were extended to rural areas in the New Territories
and development permission area plans were introduced. According to Section 16 and 16A, if
the proposal is under “Column 1 uses”, the developer only needs to apply for building plans approval from the Buildings Department under the Buildings Ordinance to commence development. If the proposal is under “Column 2 uses”, the developer is required to apply to the Town Planning Board for planning permissions. The planning application should be submitted together with relevant consultancy reports, such as Traffic Impact Assessment or Environment Impact Assessment studies, for further considerations. The Town Planning Board then acknowledges receipt and fix date of Planning Committee meeting. Provided that the proposal is regarded as an improvement to the existing environment or increase the value of lands in the neighborhood, planning permissions will be issued. In some cases, the applications and decisions by the Town Planning Board should be reviewed by the Metro Planning Committee or the Rural and New Town Planning Committee. Eventually, there might be four kinds of decisions about the planning application: approval with conditions, approval without conditions, deferment for more information and rejection. Nowadays, very few proposals are approved free from planning conditions. The Town Planning Board usually imposes some planning conditions to the proposed development, such as the provision of open spaces. These planning conditions will be conveyed to the developer in the form of a letter. A copy of this letter will be deposited at the Planning Department for public inspection for free. Under the Town Planning Ordinance, if an application is rejected, the developer has the right to seek a review of the decision and to a hearing by the Town Planning Board. If still aggrieved by the decision upon review, the applicant can appeal to the Appeal Board. No person involved in the original decision by the Town Planning Board will sit on the Appeal Board. The decision of the Appeal Board is final. Provided that the proposal is under neither
“Column 1 uses” nor “Column 2 uses”, the only way that the developer can do is to apply for rezoning to make the site under either Column 1 or Column 2 uses. If the land lease does not permit the project, but the zoning plan permits, the modification of the lease will be needed and a modification premium should be paid before it applies for building plans approval. Additionally, the Town Planning Board has the authority to add, subtract, or remove rights and obligation in the form of planning conditions in lease documents over plots of land without compensation. In fact, the categories and details of planning conditions keep increasing over the years (Planning Department, 1995; Lai et al., 2007; Liu et al., 1997).

3.3.4 The Overlapping Jurisdictions of Land Administrative Authorities

As mentioned previously, the three main administrative authorities came from the then only administrative authority on land development, Public Works Department and later Buildings and Lands Department. The de-federalization of the agency has led to not only a higher degree of specialization but also the overlapping jurisdictions (or we may call it interacting functions) of the current three main administrative authorities (Lai et al., 2000). From Figure 5, we can see the overlapping jurisdictions as follows.
First, the overlapping jurisdiction between the Planning Department and the Buildings Department is the common focus on building environment, no matter "immediate neighborhood" in Section 16(1)(g) of the Buildings Ordinance or "adjoining environment" in Section 16 of the Town Planning Ordinance. Both of the two authorities accentuate the compatibility of developmental land with surroundings in terms of building height, land use and so on. Building plans approval of the Buildings Department is not only contingent on the decision of the Town Planning Board where planning permission is necessary but also enforces statutory town plans.

Second, both the Buildings Department and the Lands Department emphasize public right of ways within private properties for pedestrian circulation and convenience which is
one of the main concerns of implementing the policy of POSPD. Besides, the two authorities control and exert enforcement against unauthorized structures outside the coverage of statutory town plans.

Third, one of the main common jurisdictions between the Lands Department and the Planning Department related to my research focuses on large-scale development or redevelopment. The purpose of Comprehensive Development Area concept of the Planning Department is to create a planning system to better facilitate Master Layout Plan of the Lands Department. In this way, planning conditions are incorporated in the lease as lease conditions and enforced by lease-hold system.

Last but not the least, the concerns that all the three authorities focus on some substantial parameters of development control, including building height restrictions and plot ratio restrictions. A mandatory ceiling of building height and plot ratio is always included in lease conditions, statutory town plans and building plans approval. Enforcement against unauthorized structures within the coverage of statutory town plans is also the common concern of the three authorities.
IV. DEVELOPMENT REGIME AND POSPD DEVELOPMENT

As we know so far, there are two kinds of production mechanisms through which different types of POSPD are built by different builders. In this chapter, such different builders and the pro-growth coalition that they consist of in the process of POSPD development will be explored and some particular representative POSPD as individual case studies.

4.1 Does Urban Regime Exist in Hong Kong?

As has been introduced in Chapter Two, urban regime is "an informal yet relatively stable group with access to institutional resources that enable it to have a sustained role in making governing decisions." It has two preconditions, which are free market economy and democratic politics (Zhang, 2001). Free market economy indicates that resources are dispersed and local government has to assemble resources from private sector to facilitate the implementation of public policies. Democratic politics implies that political power is fragmented and local government needs to collect social capital from social groups and organizations to gain the legitimacy of the government itself and the policies it has made. Only under the circumstances can urban governing coalition, or urban regime, characterized by public-private partnership emerge. To some extent, Hong Kong basically meets the two preconditions as the two following reasons.
First, as one of the earliest opening ports to the outside world in China, Hong Kong has quite a long history of free market since British received a semblance of legal title under the Convention of Chuenpee in 1841. Nobel Prize winner Milton Friedman (1998) once described Hong Kong as an example of the free market system. As he said, "if you want to see capitalism in action, go to Hong Kong" (Ingdahl, 2007). According to the Index of Economic Freedom published by the Heritage Foundation and The Wall Street Journal, Hong Kong maintains the freest market economy body in the world for fifteen consecutive years. Business culture is playing a central role in Hong Kong’s culture and private capital has a mighty impact on public policy making and implementation. Hong Kong is the most concentrated city of billionaires and millionaires in Asia. According to the 2012 World's Billionaires List by Forbes Magazine, Li Ka-Shing's Family as the richest family in Hong Kong has $25.5 billion ranking No. 9 worldwide, Thomas and Raymond Kwok's Family has $18.3 billion ranking No. 27, Lee Shau-Kee's Family has $18 billion ranking No. 29, and Yu-tung Cheng's Family has $16 billion ranking No. 39, each of whom owns one of the four most influential real estate tycoons: Cheung Kong (Holdings) Ltd., Sun Hung Kai Properties Ltd., Henderson Land Development Co. Ltd., and New World Development Co. Ltd.. Besides, Sino Group owned by Robert Ng Chee Siong's Family, The Wharf (Holdings) Ltd. owned by Peter Woo's Family, Hongkong Land Holdings Ltd. owned by Jardine Matheson Holdings Ltd. and Swire Properties Ltd. owned by Swire Group are large influential property developers in Hong Kong as well. Besides, in terms of land resource, Hong Kong Economic Times on July 5 2010 shows that the developable land reserve in the hand of the HKSAR government is 320 hectares while the total number of land in the hands of five leading private
developers, Cheung Kong (Holdings) Ltd., Sun Hung Kai Properties Ltd., Henderson Land Development Co. Ltd., New World Development Co. Ltd. and Sino Group, is 1279 hectares, nearly four times as much as the government. Thus it can be seen that resources in the hand of the HKSAR government are limited and it has to depend heavily on private capital in policy making and implementation. Against this backdrop, the Hong Kong Government has been carrying out laissez-faire capitalism policies for decades, especially since the 1980s (Xue et al., 2010; Cuthbert et al., 2010).

Second, in democratic politics, government officers are elected by the citizens and hence governmental authority is restricted and supervised by the general public. People relying on the votes in their hands can express their preferences and influence policy-making process directly or indirectly. Therefore, vote becomes a kind of institutional resources the people can bring into the urban governing coalition. However, unlike business sectors, the public is poorly-organized in most cases and thus social groups and organizations need to assemble social capital to help the public pass the “threshold tests” (Stone, 2005: 313). Strictly speaking, Hong Kong is never a democratic society since the Governor was appointed by the Queen in British colonial period and the Chief Executive is elected by the Selection Committee rather than universal suffrage in HKSAR period. However, Hong Kong indeed has direct elections for a certain proportion of seats in Legislative Council since the political reform of the last Governor Chris Patten in 1991. In addition, Hong Kong has non-negligible grassroots power which promotes local pro-democracy movement. For instance, Hong Kong once acted as a base camp to support greatly the Tiananmen Square protests in Beijing in
1989. Nowadays, although prohibited and suppressed by the Chinese central government, there are still some grassroots voluntary commemorative activities on June 4th annually and the attitude of the central government towards Hong Kong’s pro-democracy movement appears much more tolerant than towards the mainland Chinese cities'. More importantly, Hong Kong has relatively high levels of speech freedom and press freedom worldwide. Under the Basic Law, "Hong Kong residents shall have freedom of speech (Article 27)", "the freedom of the person of Hong Kong residents shall be inviolable (Article 28)", and "the freedom and privacy of communication of Hong Kong residents shall be protected by law (Article 20)." The 2010-2011 Press Freedom Index, an annual ranking by Reporters Without Borders, shows that Hong Kong ranks No. 34 in the world, higher than France and Italy. Hong Kong's press is relatively independent and diverse, where people can express dissent and criticize the government. This unquestionably gives the people institutional resources, even if not powerful enough in some cases, to restrict the power of the government and influence policy making and implementation. Some case studies in this dissertation like Times Square and Grand Promenade reveal such grassroots impact on the decision making of urban governing coalition. Although there is no universal suffrage so far, Hong Kong is currently on the way from semi-democratic to democratic politics.

All in all, from the statement above, we can see that power is fragmented and resources are dispersed in Hong Kong. The government, business sectors and the general public has institutional resources to bring into the urban governing coalition. It might be safe to conclude that Hong Kong basically meets the two preconditions of urban regime existence. Next, the
structure of urban regime in Hong Kong will be parsed in detail and several representative case studies of POSPD development will be explored to illustrate the characteristics of the urban regime.

4.2 Structure of Urban Regime

Based on the classification of urban regime by Stone (1989, 1993), the urban regime in Hong Kong belongs to development regime, or pro-growth coalition (Molotch, 1976; Logan et al., 1987). As mentioned, Milton Friedman acclaimed Hong Kong as the model of the free market system, but Hong Kong is not as free as he thought. In reality, land is owned and controlled by the government and the economy of Hong Kong is dominated by a handful of developer conglomerates owned by wealthy and mighty clans, which have hoarded huge land reserve and investment property portfolio which can enable them to extend their preponderant financial power to other industrial sectors such as utilities, public transport, and retailing. Alice Poon named this situation of multi-industry monopoly "developer cartel-hegemony" in her controversial yet influential book (Poon, 2005; 2010). Although I regard "developer cartel-hegemony" as a political manifesto rather than an academic term and prefer not to use it in my dissertation, undisputable is the fact that there does exist a highly powerful urban growth machine between public authority and private capital, which has mighty capacity to mobilize resources and to promote desirable development. Highly based on the common interests in land, the coalition mainly consist of the HKSAR government, quasi-government organizations, banking giants, and real estate giants and the "new class". As Molotch (1976)
argued, the coalition between public power and market power is not the representative of local people as a whole but the only representative of the common interests of the members. Therefore, unlike Friedman's thoughts, Hong Kong's urban regime and the public policies it made are pro-larger-developer instead of pro-free-market.

Broadly speaking, regime theory divides the human society into three kinds of power based on different institutional resources: government, market and society, all of which check and balance. Different formations of the three kinds of power constitute different types of urban regime. However, Stone's tripartite composition might be too rigid in some cases. When zooming in the structure of Hong Kong's development regime, I find that the boundaries between the three types of power could be indistinct, as shown below (Figure 6). There are quasi-government organizations between the core government and private sector and there is "new class" between the core government and grassroots. Next, each of the components in the urban regime will be introduced.

![Figure 6. Structure of development regime in Hong Kong](image)
4.3 Government

The core government mainly refers to the bureaus and departments which are staffed by civil servants. The legal authority of was derived from the Letter Patent and the Royal Instruction before 1997 and from the Basic Law after 1997. The formal structure of the government has traditionally be highly centralized and hierarchical since the establishment of the colony in 1841 and remained largely unchanged after the handover (Figure 7). At the peak of the structure is the Chief Executive whose power is derived from the Public Service (Administration) Order and the Public Service (Disciplinary) Regulations. Beneath the Chief Executive is the Chief Secretary for Administration who is the head of civil service. Slightly beneath are the Financial Secretary and the Secretary for Justice. Below are 11 bureaus, each of which has a secretary. Hierarchically, departments come beneath the bureaus, which exert authority to implement the laws and regulations under their own jurisdiction. Each department has a director and two or three deputy directors who take charge of making decisions within the area of the department's remit. The bureaus have oversight over the execution of power of departments beneath them. In this highly hierarchical system, power has always been concentrated in the hands of a small group of senior civil servants. In most cases, the funding of bureaus and departments usually depend on revenue raised by the government and granted by the Legislative Council which approves the budget estimates. In this way, the ways in which the government spends its money are under review of the Legislative Council. However, some departments have income from their activities, which triggers a debate about whether such departments should be operating commercially.
I Ideologically, the core government has kept the philosophy of laissez-faire for over five decades. The former Financial Secretary of the British Hong Kong Government from 1961 to 1971, Sir John James Cowperthwaite, first invented a terminology named "positive non-interventionism" to describe the ideological orientation of the government when he observed that the economy of Hong Kong in the 1960s and 1970s was doing well in the absence of government intervention. As he noted, "in the long run, the aggregate of decisions of individual businessmen, exercising individual judgment in a free economy, even if often mistaken, is less likely to do harm than the centralized decisions of a government; and
certainly the harm is likely to be counteracted faster" (Legislative Council, 1996: 216). He also added the point that the government should establish and maintain the regulatory and physical infrastructure to facilitate market-based decision making. The former Financial Secretary of the British Hong Kong Government from 1971 to 1981, Sir Charles Philip Haddon-Cave, accepted and said that "positive non-interventionism involves taking the view that it is normally futile and damaging to the growth rate of an economy, particularly an open economy, for the Government to attempt to plan the allocation of resources available to the private sector and to frustrate the operation of market forces" (Legislative Council, 1996: 216). He further developed his predecessor's term and argued that the "positive" meant the government carefully considered each possible intervention to determine "where the advantage" lay and when provision of public goods and services ran into trouble the government had to intervene. Since then through the handover till today, the term has been continued by the successive terms of government. To echo the philosophy of "positive non-interventionism", the former Financial Secretary from 1995 to 2001 and later Chief Executive from 2005 to 2012, Donald Tsang Yam-Kuen, once reiterated the words of "big market, small government" as his main ruling principle in media (Tsang, 2005, 2006). In line with the principle, the core government has two main value orientations: limiting the functions of government; and divesting functions to private sector.

First, limiting the functions of government is primarily for the purpose of fiscal frugality and cost-effective. In the period of the British colonial rule, the government was always under the pressure from both the British government and the local business community in funding
public goods and services. The British government did not want to subsidize its colony and the local business community regarded it as the burden of increasing taxation. A balanced budget is a central plank in the eyes of the government. In comparison with most developed countries, the HKSAR government spends two or three times less public expenditure in providing public goods and services (Lam et al., 2007). For instance, the statistical data of the 2008-2009 Budget shows that public expenditure as a percentage of Gross Domestic Product (GDP) is only about 19%. This implies that the government acts as a residual power in providing public goods and services. As Donald Tsang said, "market leads, government facilitates", which summarized the attitude of the government over the previous five decades. Certainly, as Sir Charles Philip Haddon-Cave argued, positive "non-interventionism" does not mean no intervention of the government at all and "small government" does not mean limited government. In fact, through not only facilitation but also regulation, the government is so powerful that its impact is almost omnipresent in Hong Kong.

Second, with the belief in the superiority of market power and the minimalist principle, the Hong Kong government has long divested much of the delivery of public goods and services that would otherwise have to be provided by the government to private sector for decades. Outsourcing has always been one of the main concerns of the government since it not only meets the proclaimed principle of "big market, small government" but also reduces costs and public expenditure (Scott, 2010). There are three main types of outsourcing in Hong Kong: 1) service contracts for specific activities such as security and maintenance; 2) management contracts typically through concessions to private sector to manage businesses; 3)
build-own-operate (BOO) schemes that grant concessions to private companies or consortiums to build, finance and operate new infrastructure projects (Hayllar, 2005). Outsourcing increased steadily in the 1980s and 1990s with the effort of the British Hong Kong Government who believed in the philosophy of "positive non-interventionism." After 1997, the revenue decline and budget deficit resulting from the Asian Financial Crisis in 1997 and the eruption of SARS in 2003 compelled the HKSAR government to accelerate outsourcing process. The first Chief Executive, Tung Chee-Hwa, believed that the government could benefit from more private sector involvement in the provision of public goods and services. A report by Efficiency Unit of the HKSAR government shows that the total number of outsourcing contracts between the government and private sector in 2006 was about 4000 with a value of about HK$ 200 billion, which was over six times the value of contracts in 2002. Of course, Efficiency Unit also stressed in the report that "departments should note that they can outsource service but not the ultimate responsibility" (Efficiency Unit, 2008; Scott, 2010). This means that the government has the authority to terminate the outsourcing contract if the public goods and services are not satisfied.

From the structure of the HKSAR government, we can see that the Lands Department, the Planning Department, the Buildings Department under the Development Bureau are the three main departments getting involved in the realm of the production of POSPD in the core government. As introduced in Chapter 3, the Lands Department mainly takes charge of land disposal, land resumption, and land lease administration; the Planning Department is primarily responsible for preparing statutory plans, making policies and making decisions
about the applications of planning permission; and the Buildings Department works on controlling building development, enforcing against unauthorized construction and considering building application. The Land Department produces the POSPD via mandatory mechanism and the Buildings Department and the Planning Department produce the POSPD via incentive mechanism. Essentially, POSPD policy is a kind of outsourcing policy that encourages private sector to build public open spaces without spending public expenditure. According to Hayllar's classification of outsourcing in Hong Kong, POSPD policy belongs to BOO schemes in which private sector uses its own money to build, own and manage POSPD.

4.4 Quasi-Governmental Organizations

Result from limiting the functions of government and divesting functions to private sector, quasi-government organizations are created by the core government to undertake non-core governmental functions or even commercial activities on behalf of public interest, including non-government authorities, agencies, institutions and corporations. In some cases, they may act more like government with less autonomy and more dependency and in other cases they may act more like private sector with more autonomy and less dependency. So to speak, they stay between the core government and private sector and have the characteristics of the both.

Quasi-government organizations in Hong Kong are created in three different ways: by executive decree; under an ordinance passed by the Legislative Council; or by their own
private constitution under which they may provide functions which are seen to be in the public interest and for which they may receive government funding. In the sequence of the relationship with the core government from relatively dependent to relatively autonomous, statutory body can be classified into three main types: executive body, statutory body and public company (Scott, 2005, 2010) (Figure 8).

![Figure 8. Core government and quasi-governmental organizations](image.png)

First, established by executive order or under delegated legislation, executive body is a relatively autonomous agency to perform particular governmental functions and is usually fully funded by government. The relationship between the core government and executive body is very close and it is common that related senior civil servant take the chair of executive body. However, there might also be some overlapping in functions and resultant
conflicts between the core government and executive body in the case that powers and duties are not well defined. The work of executive body is generally under legislative supervision of the government, even though not for all. The examples of executive body include Hong Kong Monetary Authority, University Grants Committee, Women's Commission and so forth.

Second, different from executive body, statutory body is established under an ordinance passed by the Legislative Council. It is given particular public authority which is believed to be better exerted independently or autonomously. The ordinance prescribes how to use such public authority lawfully and the Legislative Council scrutinizes statutory body's activities. Statutory body can be divided into two types: non-profit agency and commercially-viable public entity. As for non-profit agency, it may be subvented or non-subvented by the core government. Independent Commission Against Corruption (ICAC) and Hong Kong Trade Development Council are the examples of non-profit subvented statutory body, which are not expected to raise money to fund their own activities. The Hong Kong Council of Academic Accreditation is an example of non-profit non-subvented statutory body, which is expect to be self-financing at least partially. Commercially-viable public entity is established to better implement public policy without the constraints of normal bureaucratic practice. It is required to be wholly self-financing and to raise money to sustain its functions. In some respects, commercially-viable public entity is permitted to act in a similar way to private sector yet is still subject to scrutiny by the Legislative Council. Therefore, considering the potential political cost to the government, commercially-viable public entity cannot operate purely
commercially. Hospital Authority, Airport Authority, Housing Authority, Urban Renewal Authority (URA) are the examples of commercially-viable public entity.

Third, public company is established by its own constitution pursuant to the Companies Ordinance (Cap. 23) and sometimes also subject to other special ordinances. The government holds all or a majority of shares in public company. It is expected to be wholly self-financing and to operate like private sector in market. In other words, it is primarily in pursuit of profit and has more financial autonomy than other quasi-governmental organizations. An representative example of public company is Mass Transit Railway Corporation Ltd. (MTR Corporation Ltd.), which was established under the Companies Ordinance (Cap. 23) and the Mass Transit Railway Ordinance (Cap. 556). According to the Hong Kong Stock Exchange, the government holds 76.82% stake of MTR Corporation. In order to ensure profit making, MTR Corporation Ltd. is given high degree of financial autonomy by the government, such as determining fare levels, the frequency of operations, the number of trains purchased.

In Chapter 3, it has been mentioned that only the Lands Department in the core government has the authority of land resumption in the core government. However, besides the Lands Department, three quasi-governmental organizations in Hong Kong are empowered to apply in writing to the Secretary for Development, the head of the Development Bureau, requesting him or her to recommend to the Chief Executive in the Executive Council to exert the power of land resumption under the Lands Resumption Ordinance (Cap. 124), which are Housing Authority, URA and MTR Corporation Ltd.. Except for Housing Authority which
takes charge of public housing construction and management, URA and MTR Corporation Ltd. directly get involved in the production of POSPD.

4.4.1 Urban Renewal Authority

Urban Renewal Authority (URA) is a statutory body responsible for undertaking, encouraging, promoting and facilitating the process of urban renewal and redevelopment in the older urban areas of Hong Kong. Its predecessor was Land Development Corporation (LDC) which was established by the British Hong Kong Government in 1988.

In the 1980s, public-private partnership replaced government-led policy as the prominent policy in urban redevelopment in both the United Kingdom and the United States (Barnekov et al., 1989). Urban Development Corporations were founded in many UK cities to facilitate public-private partnership and to draw private-sector expertise and resources into urban policy formulation and implementation. The new institutional mode of tackling the issues of urban renewal was introduced into Hong Kong and LDC was created accordingly under the background. On October 7 1987, the then Governor of Hong Kong Sir David Wilson brought forward a proposal of creating LDC in his annual address to the Legislative Council. After approval, LDC was formally established on January 15 1988. The original purpose of LDC was to take full advantage of the economic potential of underutilized land parcels in urban areas by promoting the redevelopment of valuable commercial and residential sites for years restricted by multiple land ownership. According to the Land Development Corporation
Ordinance (Cap.15), LDC was expected to "conduct its business according to prudent commercial principles but with the approval of the Financial Secretary it may engage in projects which are unlikely to be profitable." Although the government lent a low-interest loan of HK$ 100 million as the initial capital to LDC, it was expected to be financially self-sustainable. In other words, LDC should make enough money from profit-oriented projects to cover its non-profitable social responsibilities. In operation, LDC had to behave like private developers in land acquisition to negotiate with property owners at length about reasonable compensation. Only when it was approved that LDC had taken all reasonable steps to otherwise acquire the land on terms that are fair and reasonable, it could make an application to the government for resumption of the land it could not acquire. Due to the limits of power and resources, LDC was criticized of lack of effectiveness in promoting urban renewal and the British Hong Kong Government proposed to transform it into a more powerful authority in 1996.

After the handover in 1997, the first Chief Executive of the HKSAR government Tung Chee-Hwa announced in his 1998 Policy Address that he proposed to continue the British colonial government's plan of transforming LDC into a more powerful and effective organization in implementing urban renewal. The Urban Renewal Authority Bill was introduced into the Legislative Council in 1999 and the Urban Renewal Authority Ordinance was enacted. URA was subsequently established to replace LDC in 2000. Compared with LDC, URA is more powerful in capacity of better integration into the pro-growth machinery and more effective delivery of a comprehensive urban renewal approach in three aspects. First,
unlike LDC's piecemeal project-based urban renewal, URA is capable to propose a 20-year area-based urban renewal scheme as the comprehensive guideline. Second, URA is empowered to request the government to exert early resumption of land without the necessity of first having to take all reasonable steps of negotiation with property owners in the private market. Third, although URA is still expected to be financially self-sustainable in the long run, it does receive much more financial support from the government. For example, URA's redevelopment projects could enjoy the waiver of normal land premium, beneficial adjustments to normal plot ratios and so forth (Adams et al., 2001). In 2001, URA brought forward its new strategy of urban redevelopment named "4R Strategy": Redevelopment, Rehabilitation, pReservation and Revitalization. Today, URA has become one of the most influential yet highly controversial statutory bodies in the realm of urban redevelopment in Hong Kong.

4.4.2 Mass Transit Railway Corporation Ltd.

Mass Transit Railway Corporation Ltd. (MTR Corporation Ltd.) is a public company listed on the Hong Kong Exchange and Hang Seng Index. Its core business is to construct, maintain and manage the subway and railways systems throughout Hong Kong and it also invests in railways across the world, such as London, Stockholm, Beijing, Shenzhen, and Melbourne. In addition, like URA, MTR Corporation Ltd. is a super powerful property developer and landlord in Hong Kong which are empowered to apply in writing to the Secretary for Development, the head of the Development Bureau, requesting him or her to
recommend to the Chief Executive in the Executive Council to exert the power of land
resumption under the Lands Resumption Ordinance (Cap. 124). An article in Wenwei Po
(Hong Kong) on May 23 2008, an influential local newspaper, mentioned that, except for the
HKSAR government, MTR Corporation is the primary landlord holding the second largest
amount of land in Hong Kong.

Under the newly-enacted Mass Transit Railway Corporation Ordinance (Cap. 270),
MTR Corporation was established in 1975 as a government-owned statutory corporation in
order to initiate the construction of the Hong Kong Mass Transport System. The Budget
2009-2010 by the HKSAR government shows that the initial capital of MTR Corporation was
2 billion HK$ and it was 100% owned by the government. The corporation was expected to
conduct its business according to "prudent commercial principles." The first subway line was
completed and in use in 1979. From 1981 to 1995, the government injected the total capital of
32.7 billion HK$ into MTR Corporation.

In 1999, the then Financial Secretary and later Chief Executive Donald Tsang
Yam-Kuen brought forward the proposal of privatizing MTR Corporation. On October 5 2000,
MTR Corporation became MTR Corporation Ltd. through its listing on the Hong Kong Stock
Exchange, which marked the start of the HKSAR government's planned initiative to wind
down its interests in various public utilities. Before that day, MTR Corporation was wholly
owned by the HKSAR government. Afterwards, 23.18% stake (around 1 billion shares) has
been sold to private shareholders and the government holding 76.82% is still the primary
owner and controller of MTR Corporation Ltd.. The government also promised that it would be the major shareholder of MTR Corporation Ltd. and keep no less than 50% stake for more than 20 more years. In June 2001, MTR was transferred to Hang Seng Index. On December 2, 2007, Kowloon-Canton Railway Corporation (KCRC), another railway corporation wholly owned by the HKSAR government, was merged with MTR Corporation Ltd.

As the second largest landlord, property development is always one of the most profitable businesses of MTR Corporation Ltd., from which the profits even outstrip those from fares. An article in The Wall Street Journal on March 9, 2010 reported that the total net profit of MTR Corporation Ltd. in 2009 was HK$ 7.3 billion, of which HK$ 3.55 billion was made from property development and HK$ 2.12 billion was made from fares (Ng, 2010). Through large-scale land resumption or reclamation, MTR Corporation Ltd. obtains large parcels of land to construct railway lines and stations. Then it develops properties above the new or stations for profit-making. Many recently built stations are incorporated into large housing estates or shopping complexes. Such examples include but not limited to International Finance Center (IFC) above Hong Kong Station, Island Harborview above Olympic Station, Residence Oasis above Hang Hau Station, Maritime Square above Tsing Yi Station, Elements above Kowloon Station, Sun Yuen Long Center above Yuen Long Stop and so forth.
4.5 Private Sector

There is a popular saying in the Hong Kong society that "Hong Kong is controlled, not by the Hong Kong government, but by The Hong Kong Jockey Club and The Hongkong and Shanghai Banking Corporation" (Poon, 2005: 11). Despite the saying more or less like overstatement, there is no denying that the economy of Hong Kong is indeed under control of some most influential gigantic enterprises and banks having the capacity to impact the life of Hong Kong people. In fact, as a crucial political power in the urban regime, a group of the business giants also has tremendous influence on urban development and particularly the production of POSPD.

4.5.1 Real Estate Giants

Private consortiums owned by wealthy and privileged families possess much more capital than the HKSAR government, the majority of which dug their first pots of gold in real estate development and still remains private developer giants. Based on the enormous profit they earned from real estate development, they subsequently extended the businesses into public transport, public services, utilities, retailing and so forth through large-scale acquisition from British corporations since the 1970s. Eventually, with the control over those money-spinner industries, cross-sector conglomerates emerged and enriched a minority of privileged business elites and some richest families worldwide (Poon, 2005; 2010). In the following, some leading real estate tycoons among the elite business group are introduced in detail. As mentioned previously, based on the 2012 World's Billionaires List by Forbes
Magazine, there are four leading private developers listed as below in the sequence of the wealth their owners possess: Cheung Kong (Holdings) Ltd., Sun Hung Kai Properties Ltd., Henderson Land Development Co. Ltd., and New World Development Co. Ltd..

Cheung Kong (Holdings) Ltd. is one of the largest private developers of residential, office, retail, industrial, and hotel properties in Hong Kong as well as the flagship of the Cheung Kong Group owned by the Li's Family. The present chairman is Li Ka-Shing and the deputy chairman and managing director is his elder son Victor Li Tzar-kuoi. In 2012, the total wealth of the family is $255 million ranking No. 9 in the world. Li's business empire started in the 1950s with a small plastics manufacturer. From the 1960s, the company began to invest in property development and accumulated considerable wealth rapidly. In 1979, the Cheung Kong Group annexed 49.97% stake in Hutchison Whampoa Ltd. from The Hongkong and Shanghai Banking Corporation and controlled it. This was a huge leap for the development of the Cheung Kong Group. As a worldwide conglomerate, the business of Hutchison Whampoa Ltd. covers retailing, telecommunication, ports, energy, infrastructure, property development and so forth. For example, one of the two predominating supermarkets in Hong Kong, the PARKnSHOP, and the worldwide health and beauty chain stores, Watson's, are part of Hutchison Whampoa Ltd.. Another milestone was to acquire The Hongkong Electric Company from Hongkong Land Holdings Ltd. in 1983, which almost monopolized the power supply in Hong Kong. Currently, the Cheung Kong Group owns nine companies in total, covering real estate, utility, infrastructure, ports, energy, retailing, telecommunication, biotechnology, etc. As a leading developer in Hong Kong, about one in twelve of the private
residences in Hong Kong were developed by Cheung Kong (Holdings) Ltd. and it also holds a large amount of developable land reserve.

Sun Hung Kai Properties Ltd. is the second largest private developer in Hong Kong, which is owned by the Kwok's Family having $183 million and ranking No. 27 in the 2012 World's Billionaires List. The company was founded in 1963 by Kwok Tak-Seng, father of Walter, Thomas and Raymond who took over the management of the company in 1990 when their father passed away. In the early 1950s, Kwok Tak-Seng started out as a trader and, together with Lee Shau-Kee and Fung King-Hey, he established Eternal Enterprises Company to invest in real estate development in 1958. In 1963, the company was restructured and renamed Sun Hung Kai Enterprise. In 1972, the three co-founders split their stock to developed their own businesses separately and Kwok set up Sun Hung Kai Properties Ltd.. Unlike the Cheung Kong Group, Sun Hung Kai Properties Ltd. developed vertically primarily focusing on property development rather than horizontally in the 1970s and 1980s. Rapidly, it became one of the predominating private developers from factories and plain residential estates through hotels and office towers to premium-quality residential and commercial projects. By the mid 1980s, it had established over 100 subsidiaries and associated companies with in-house expertise in development-related businesses, such as land acquisition, design, construction, engineering, property management, finance, insurance and so on. On the basis of the real estate business empire, Sun Hung Kai Properties Ltd. also extended into other businesses and currently owns 33.3% stake and controls The Kowloon Motor Bus Co. Ltd., a public bus service company with a large amount of land for bus depot. The cheap source of
developable land contributes greatly to the largest private land reserve of Sun Hung Kai Properties Ltd. in Hong Kong. In addition, the conglomerate owns 64.1% stake in Smartone Communications as of June 2009, the third largest mobile phone company in Hong Kong. Nowadays, as the two largest private developers, Cheung Kong (Holdings) Ltd. and Sun Hung Kai Properties are together increasingly dominant in property development. A local newspaper, South China Morning Post, once reported that the market share of the two companies in residential development accounted for about 50% in 2003 and increased to about 70% in 2010 (Kwok, 2012).

Henderson Land Development Co. Ltd. is the third largest Hong Kong real estate developer by market capitalization owned by the Lee's Family possessing $180 million and ranking No. 29 in the 2012 World's Billionaires List. In 1973 after splitting partnership and leaving Sun Hung Kai Enterprise, Lee Shau-Kee founded Wing Tai Development and later established Henderson Land Development Co. Ltd. as his flagship company in 1981. In 1988, Wing Tai Development was renamed Henderson Investment which took charge of non-property-development business. The current chairman of the conglomerate is Lee Shau-Kee and his two sons Lee Ka-Shing and Lee Ka-kit are vice chairmen. Henderson Land Development Co. Ltd. mainly focuses on small-size and medium-size residential development and gets deeply involved in redevelopment in older urban areas via land acquisition strategies. It also has a considerable amount of developable land banks and earlier entered into mainland real estate market. In additional to the core business of property development, The Hong Kong and China Gas Company is another money-spinner of Lee's business empire. The Lee's
Family holds 38.46% of the share capital of and controls the predominating public utility company in Hong Kong which supplies gas service to around 85% Hong Kong households and to commercial and industrial clients in Hong Kong and gets involved into the Mainland China in water supply and disposal. Besides, two other main subsidiaries are Miramar Hotel and Hong Kong Ferry.

New World Development Co. Ltd. is the flagship of the New World Development group of companies, consisting of New World Development, New World Infrastructure, New World China Land, New World Cyberbase, owned by the Chongs' Family having $160 million and ranking No. 39 in the 2012 World's Billionaires List. Cheng Yu-Tung is the co-founder and former chairman. His elder son Henry Cheng Kar-shun took the position in 2012 after his father retired and his grandson Adrian Cheng Chi-Kong is the director and general manager. New World Development Co. Ltd. was founded in 1970 and Cheng Yu-Tung held 57% stake. The company is famous with the development of complex shopping centers, luxury hotels and premium apartments. Some monumental projects include the Hong Kong Exhibition and Convention Center, Grand Hyatt Hotel, New World Harbor View Hotel, Regent Hotel, New World Center and K11 Project. In the late 1990s, New World Development Co. Ltd. began to extend into public service business. It began its telecommunications business in 1995. In 1998, it started operating a franchised public bus service through establishing New World First Bus and Citybus. In 1999, New World First Ferry Services Ltd. was founded.
In addition to the four leading private developers above, there are also some other influential developers in Hong Kong, including but not limited to The Wharf (Holdings) Ltd., Sino Group, Hongkong Land Holdings Ltd., Swire Properties Ltd..

The Wharf (Holdings) Ltd. was founded by Sir Catchick Paul Chater in 1886 in Hong Kong, which was originally in running wharfage, dockside warehousing and merchant shipping. In the 1970s, it annexed Harbor Center Development Ltd., Hong Kong Tramways Ltd., Star Ferry Company Ltd. and extended its business into public services. In 1980, Sir Pao Yue-Kong took his holding to 49% stake and secured control of The Wharf (Holdings) Ltd. and then took the position of chairman. In the 1986, Pao retired and appointed his son-in-law Peter Woo Kwong-Ching as the chairman of the conglomerate. In the 1990s, Woo extended the business into real estate development on the basis of the company's waterfront sites of wharf and precious sites of the bus depot in urban areas. Two major flagship property developments are two premium shopping centers Harbor City and Times Square. In addition, Woo's empire operates other business like I-Cable Communications, Wharf T&T, Modern Terminals Limited and Marco Polo Hotels.

Sino Group is one of the largest property companies in Hong Kong and its sister company Far East Organization is the largest private property developer in Singapore, both of which are owned by the Ng family, the richest family in Singapore. The company was founded by Ng Teng-Fong in 1972 in Hong Kong and the current chairman is his elder son Robert Ng Chee-Siong. Sino Group's core business is developing residential, office, industrial
and retail properties for sale and investment purposes. It also invests in hotel development, as well as hotel and club management.

As one of Hong Kong's longest established property developers, Hongkong Land Holdings Ltd. has a unique position in real estate market. It was co-founded by Sir Catchick Paul Chater and James Johnstone Keswick in 1889 in Hong Kong. Now, the company is under control of Jardine Matheson Holdings Ltd. To some extent, it shaped the urban landscape of Hong Kong's Central Business District. Although exceeded by local property development magnates, it is still well-known with the highly premium office towers, high-end residential units and luxury commercial centers and hotels that it owns and manages in the heart of the Central. The most famous landmarks in the hand of Hongkong Land includes Jardine House, The Landmark, Alexandra House, Chater House and Prince’s Building, which are linked by pedestrian bridge system. Meanwhile, it has also expanded its business of premium property development in Asia.

Founded in 1972 in Hong Kong, Swire Properties Ltd. is a subsidiary of Swire Group headquartered in London. Like Hongkong Land Holdings Ltd., it focuses on the development and management of high-end premium commercial and residential projects in Hong Kong as well as worldwide. The famous projects in Hong Kong are Pacific Place I, II and III, and Citygate Shopping Center.
4.5.2 Banking Giants

In addition to real estate giants, banking giants also play a significant role in the development regime and indirectly impact urban development through the financial relationship and the common interests with real estate giants. Hong Kong is unusual in that it is one of the few countries or territories where commercial banks are still permitted to issue their own banknotes. The banking giants in Hong Kong refer to the three commercial banks which are licensed by the Hong Kong Monetary Authority to issue banknotes in Hong Kong or Hong Kong Dollars: The Hongkong and Shanghai Banking Corporation Ltd. (HSBC), Standard Chartered Bank (Hong Kong) and the Bank of China (Hong Kong).

As one of the oldest banking groups in the modern world, HSBC is a prominent bank established and based in Hong Kong since 1865 and is the founding member of the HSBC Group. From the popular saying at the beginning of this section, we can see that HSBC is the most powerful bank in Hong Kong and Hong Kong people simply call it "The Bank", "Hong Kong Bank" or "The Lion Bank". It is also the largest bank in Hong Kong with branches and offices throughout the Asia Pacific region including other countries around the world. Experiencing the Qing Dynasty, Republic of China and People's Republic of China, HSBC could be seen in many great historical events and significantly influenced the history of Hong Kong as well as China. In 1965, HSBC Group acquired 51% stake in Hang Seng Bank, an influential local bank, and controlled it during a crisis of the latter. At present, Hang Seng Bank is the biggest mortgage lender in the primary market and HSBC Group holds 62.14% stake. Since the establishment of HSBC, it has been serving as one of the note-issuing banks.
Now, the data from Hong Kong Monetary Authority shows that, of the total notes in circulation measured by value, HSBC is the most prolific issuer, its notes representing 67.7% of those in issue.

Standard Chartered Bank (Hong Kong) was established in 1859 when The Chartered Bank of India, Australia and China opened a branch in Hong Kong. Like HSBC, Standard Chartered Bank (Hong Kong) has been responsible for issuing banknotes of the Hong Kong dollar since 1862 till today. In 2000, it acquired Hong Kong-based retail banking business of the Chase Manhattan Bank, including Chase Manhattan Card Company Limited. The chairperson of the bank is Katherine Tsang, younger sister of the former Chief Executive of Hong Kong, Donald Tsang Yam-Kuen.

The Bank of China (Hong Kong) was founded in Hong Kong in 1917, which marked the entry of state-owned Chinese banks into the then-colony's banking sector. It is the second largest commercial banking group in Hong Kong in terms of assets and customer deposits and the designated clearing bank in Hong Kong for transactions involving Chinese Yuan, Mainland China's currency. It is legally separate from its parent, Bank of China, although they maintain close relations in management and administration and cooperate in several areas. Today, The Bank of China (Hong Kong) is the biggest mortgage lender in Hong Kong in the secondary market.
4.6 New Class

Based on B. Bruce-Briggs' research (1979), the terminology of "the new class" was first invented to describe the nature of the New Politics movement in America after WWII. As Podhoretz deployed the term politically, "The nature of the New Politics movement is easy enough to describe in sociological terms. The movement is made up largely of educated, prosperous people, members of the professional and technical intelligentsia and their wives and children, academics and their students...as a class and as a potential political force" (Bruce-Briggs, 1979: 2). The new class regards itself as a "conscience constituency" motivated only by ideas and ideals, while others are driven only by issues "of the stomach."

Alexander Cuthbert and Keith McKinnell first used the term to pinpoint the emerging similar social class in Hong Kong (Cuthbert et al., 1997). However, different from the original meaning of the new class as an independent social class of professional and technical intelligentsia, the new class in Hong Kong refers to the knowledge class with bureaucracy consisting of well-educated professionals who are employed by or keep a close relationship with the core government and quasi-governmental organizations. Given quasi-governmental organizations as the bridge between government and market, the new class could be looked upon as the same between government and society. Different from grassroots, the members of the new class are commonly the elites and celebrities in their own professional fields whose professional knowledge, social status and fame as institutional resources bring themselves into the urban regime.
Unlike other British colonies, the birth of Hong Kong, which has almost no pre-colonial past, was from the British colonial rule in 1841 and the prosperity of Hong Kong also benefited from the British colonial rule that transformed it from a colonial city to a global city since the late 1970s. Thus, any discussion of Hong Kong must sooner or later raise the question of its relation to the British colonialism. Without exception, the emergence of the new class in Hong Kong had deep roots in the British colonial rule.

First, Hong Kong's culture of a fetishism of material wealth has been significantly shaped by the British colonial rule. Due to the worries about lacking political legitimacy, the British Hong Kong Government intended to strengthen the legitimacy through promoting economic prosperity and thus discouraging political aspirations to democracy from Hong Kong people in a long period of time. “Freedom” in politics was intentionally transformed by the government to “free market” in economy. In other words, the energy got largely channeled from politics to economy. Ackbar Abbas called it “doom and boom” and further elaborated that “one of the effects of a very efficient colonial administration is that it provides almost no outlet for political idealism (until perhaps quite recently); as a result, most of the energy is directed toward the economic sphere” and “the more frustrated or blocked the aspirations to ‘democracy’ are, the more the market booms” (Abbas, 1997: 5). Under the circumstances, the traditional concepts of social class in Hong Kong Chinese society has been replaced by money worship. The pursuit of wealth becomes the only devout faith and money is highly valued regardless of how it is made. Borrowing Abbas' words, many Hong Kong people hold the opinion that “if you cannot choose your political leaders, you can at least
choose your own clothes” (Abbas, 1997: 5). Thus, the new class in Hong Kong gradually lost its role as a "conscience constituency" motivated only by ideas and ideals and became relatively interest-driven. As Lau argued, "social status hierarchy can easily be converted into a hierarchy of material wealth, attesting to the one dimensional nature of stratification in the society" (Lau, 1982: 68-69).

Second, the traditional absence of democratic politics and universal suffrage gave great discretionary power to the British Hong Kong Government and a land leasehold system was established from the very beginning of the colony, which made the government not only the primary client of urban development projects but also the predominant employer of the new class. For example, Cuthbert and McKinnell (1997) once mentioned that over 90% of the graduates from local urban planning schools were hired by the government. Accordingly, the new class emerged as the semi-autonomous agencies affiliating to the considerable power of the government, "whose power base is guaranteed by a monopoly over technical discourses and arcane knowledge" (Cuthbert et al., 1997: 297). In other words, restricted by employment contracts, the professionals of the new class gradually lost the original nature of independency and neutrality and, albeit only having indirect political power, they played a significant role of facilitating and justifying policy making and implementation using their inscrutable professional knowledge to outsiders in the urban regime. Using David Harvey's critique, "the planner's knowledge is used ideologically, as both legitimation and justification for certain forms of action. Political struggles and arguments may, under the planner's influence be
reduced to technical arguments for which a 'rational' solution can easily be found...but it is the
capitalistic definition of rationality to which we appeal" (Harvey, 1985: 177).

On July 18 1984, the British Hong Kong Government released a report named "Green
Paper: A Pattern of District Administration in Hong Kong" that symbolized the beginning of
Hong Kong's political reform. In the report, the concept of "functional constituencies" was
first developed, which were groups of the professionals and intellectuals involved in the
electoral process, and it was advised to create 12 seats out of the total 24 seats from different
professional interest groups in the Legislative Council. A functional constituency represented
a professional field and eligible voters in a functional constituency could be individuals as
well as designated legal bodies like professional agencies, organizations and corporations.
The concept of functional constituencies was first implemented in 1991 and 14 functional
constituencies were created in the election for the Legislative Council, including Urban
Council, Regional Council, labor, commercial, industry, finance, architectural, surveying and
planning, and so forth. The establishment of functional constituencies considerably
strengthened the political power of the new class through granting it direct representation on
the Legislative Council. In 1992, the then Governor Chris Patten suggested furthering the
political reform by adding 9 additional functional constituencies to extend voter base of the
political system, which was later implemented in the 1995 election of the Legislative Council.
After the handover in 1997, although the 1995 Legislative Council was dissolved in
contradiction to the Basic Law, the existing political system was retained and further
developed, and thus the new class had carried even more weight. In the 1997 election of the
Legislative Council, the number of the seats from the functional constituencies had been increased to 30. Presently, there are totally 28 functional constituencies by which 30 seats in the Legislative Council are elected. The other 30 seats are directly elected by Hong Kong people through geographical constituencies. Roughly speaking, the binary partition in the voting system actually represents the division of the society into the new class (functional constituencies) and the grassroots (geographical constituencies). Functional constituencies have some exclusive thresholds to keep the grassroots out. For example, the voters in the commercial (first) constituency have to be the members of The Hong Kong General Chamber of Commerce, the voters in the commercial (second) constituency have to be the members of the Chinese General Chamber of Commerce and the voters in the real estate and construction constituency have to be the members of the Real Estate Developers Association of Hong Kong, Hong Kong Construction Association, and Hong Kong E&M Contractors' Association. In functional constituencies, the electoral base is not uniform and there might be votes from institutional bodies or from individuals or from both (Table IV).
**Table IV**

THE ELECTORAL BASE OF THE FUNCTIONAL CONSTITUENCIES (2009)

<table>
<thead>
<tr>
<th>Functional Constituency</th>
<th>No. of Registered Electors</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Institutional Bodies</td>
</tr>
<tr>
<td>1 Heung Yee Kuk</td>
<td>155</td>
</tr>
<tr>
<td>2 Agriculture and Fisheries</td>
<td>160</td>
</tr>
<tr>
<td>3 Insurance</td>
<td>141</td>
</tr>
<tr>
<td>4 Transport</td>
<td>178</td>
</tr>
<tr>
<td>5 Education</td>
<td>88,964</td>
</tr>
<tr>
<td>6 Legal</td>
<td>6,022</td>
</tr>
<tr>
<td>7 Accountancy</td>
<td>22,089</td>
</tr>
<tr>
<td>8 Medical</td>
<td>10,493</td>
</tr>
<tr>
<td>9 Health Services</td>
<td>36,491</td>
</tr>
<tr>
<td>10 Engineering</td>
<td>8,261</td>
</tr>
<tr>
<td>11 Architectural, Surveying and Planning</td>
<td>6,117</td>
</tr>
<tr>
<td>12 Labor</td>
<td>597</td>
</tr>
<tr>
<td>13 Social Welfare</td>
<td>12,293</td>
</tr>
<tr>
<td>14 Real Estate and Construction</td>
<td>441</td>
</tr>
<tr>
<td>15 Tourism</td>
<td>1,236</td>
</tr>
<tr>
<td>16 Commercial (First)</td>
<td>1,040</td>
</tr>
<tr>
<td>17 Commercial (Second)</td>
<td>748</td>
</tr>
<tr>
<td>18 Industrial (First)</td>
<td>715</td>
</tr>
<tr>
<td>19 Industrial (Second)</td>
<td>805</td>
</tr>
<tr>
<td>20 Finance</td>
<td>132</td>
</tr>
<tr>
<td>21 Financial Services</td>
<td>578</td>
</tr>
<tr>
<td>22 Sports, Performing Arts, Culture and Publication</td>
<td>2,060</td>
</tr>
<tr>
<td>23 Import and Export</td>
<td>875</td>
</tr>
<tr>
<td>24 Textiles and Garment</td>
<td>3,579</td>
</tr>
<tr>
<td>25 Wholesale and Retail</td>
<td>1,829</td>
</tr>
<tr>
<td>26 Information Technology</td>
<td>364</td>
</tr>
<tr>
<td>27 Catering</td>
<td>582</td>
</tr>
<tr>
<td>28 District Council</td>
<td>425</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>16,060</strong></td>
</tr>
</tbody>
</table>

*Source: HKSAR Government, 2009*
Functional constituencies are propitious to the new class through giving a minority of elites disproportionate political power and influence. According to the statistical data of the 2004 Legislative Council election by the Government Information Center\(^3\), there are only 192,374 eligible registered electors in functional constituencies while the total number of the counterparts in geographical constituencies is 3,207,227. This illustrates that 5.7% of Hong Kong people have the equal political power to the rest 94.3%. In addition, inequality of political power exist even inside the functional constituencies and higher-level members possess more than lower-level ones since they hold multiple voting from multiple identities in the professional field. For instance, according to a research report by Human Rights Monitor in 1998, Robert Ng Chee Siong, the chairman of Sino Group, who owns the real estate company and is also entitled to a personal vote in the same functional constituency, controls between 3% and 4% of the official registered electorate in the real estate and construction constituency and about 5% of the real electorate after allowing for multiple registrations by persons other than himself, which would be equivalent to wielding 15,490 votes in the Hong Kong Island geographical constituency. Additionally, he controls 2 votes in the tourism constituency through his hotel management holding company and through his ownership of the City Garden Hotel which are registered institutional bodies in the constituency. Totally, he actually controls 41 votes in the Legislative Council election (Human Rights Monitor, 1998). As a tip of the iceberg, this example illustrates the potential of voting monopoly by the privileged elites and families in the political system. Although it is prohibited by law for a person from being both an individual voter and an authorized representative of an institutional

body voter in the same constituency, no legal barrier has been set up to prevent a person from registering his or her companies, instructing others, who may be relatives or employees, to be the officers and authorized voting representatives of those companies, and then instructing those authorized representatives to cast their votes in accordance with directions given by the person who is the directing mind of the operation. Furthermore, there is also nothing to prohibit a person from setting up multiple institutional bodies in a functional constituency or across constituencies to gain multiple votes.

Regarding the production of POSPD, the most relevant functional constituency is the architectural, surveying and planning constituency. It is composed of registered architects, planners, landscape architects, surveyors and the members of Hong Kong Institute of Architects, Hong Kong Institute of Planners, Hong Kong Institute of Landscape Architects, and Hong Kong Institute of Surveyors. The process of voting is held at the general meetings of the associations. Other related functional constituencies include the engineering constituency, the commercial (first) and (second) constituencies, the real estate and construction constituency. In order to further reinforce cooperation and promote the common interests of different professional circles, The Hong Kong Coalition of Professional Services was officially established on November 22 2001. One of the co-founders of the common interests based organization is Leung Chun-Ying, the current Chief Executive of the HKSAR government. Another co-founder and the chairman is Ping Cheung Lau, who was the representative on the Legislative Council as a member for the architectural, surveying and planning functional constituency from 2000 to 2004. Currently, the coalition has 11 major
professional bodies: 1) Hong Kong Institute of Certified Public Accountants; 2) The Hong Kong Institute of Architects; 3) Hong Kong Bar Association; 4) Hong Kong Dental Association Limited; 5) The Hong Kong Institution of Engineers; 6) The Hong Kong Institute of Landscape Architects; 7) The Law Society of Hong Kong; 8) The Hong Kong Medical Association; 9) Hong Kong Institute of Planners; 10) The Hong Kong Institute of Surveyors and 11) The Hong Kong Institute of Chartered Secretaries.
V. GENERAL POSPD DEVELOPMENT IN HONG KONG

5.1 Development History

Learning from New York's experience in terms of POPS incentive policy, Hong Kong is the earliest city which implemented POSPD policy in Asia. In half a century, POSPD has experienced significant transition and generated a series of different categories of public spaces along with different periods and stages of urban development in Hong Kong.

Since Hong Kong population skyrocketed after World War II, the Building Ordinance was relaxed in 1956, allowing rapid urban development to accommodate the increasing population. As stipulated, the maximum site coverage of the buildings lower than 15 meters could be up to 100%. Consequently, with the booming real estate market and the rapidly increasing land prices, private developers usually used full coverage of their sites and the buildings were built next to the boundaries of land plots which shaped the urban landscape of high density and narrow streets (Tse, 2001). For the sake of encouraging private sector to leave more open spaces to streets and to ease the issue of congestion, POSPD policy was imported from New York City's experience. On September 21, 1962, the issue of Section 20B(1) of the Building (Planning) (Amendment) (No. 2) Regulations to the Hong Kong Gazette marked the beginning of POSPD policy. As Section 20B(1) noted, the new supplement was “to encourage developers to provide additional space for pedestrian circulation at ground level.” According to my interview with Mr. Ling Kar-Kan, Deputy Director of the Planning Department, the original purpose of adopting POSPD policy was to
encourage setback areas as street widening because there was no setback requirement for
private sector in the Building (Planning) Regulations. The interview with Mr. K. M. Mo, the
former Assistant Director of the Buildings Department by Wing-Tak Too also affirmed to the
original intention of POSPD policy that provided public passageways for pedestrian
circulation which was different from POPS in New York City as recreational open spaces
(Too, 2007). Before 1962, the Hong Kong Government required compulsorily some certain
development sites where needed to set back as street widening in order to enhance pedestrian
flow, and the surrendered areas became publicly-owned. However, due to the relevant
complicated legal and documentary modification as well as the increasing maintenance
burden on the government itself, the incentive zoning became an alternative. There were three
main considerations of the then British Hong Kong Government to use incentive way instead
of mandatory way and to let private sector keep rather than surrender dedicated public spaces.
First, the pre-leased land plots in the hand of private sector were out of control of the
government and incentive zoning was the most acceptable tool that would meet with the least
difficulties. Second, the procedures of lease modification to change lot boundaries and land
assessment were complicated and time-consuming. Third, the government were not willing to
take on the responsibility of daily maintenance in the future. In this backdrop, street widening
became the predominant typology of the POSPD built in the 1960s and 1970s, although some
other types of POPSD like pedestrian passage were also built in some cases. Until 1973, the
first POSPD in the form of pedestrian passage, Jardine House (the former Connaught Place)
did not appear, whose original purpose was to create an open space in the dense Central
Business District of Hong Kong (Too, 2007).
In the 1980s and 1990s, three different trends of urban development significantly transformed the development of POSPD, which were 1) the planning strategy of “leveling of city” in urban centers, 2) land reclamation in waterfront areas, and 3) comprehensive development and redevelopment in older urban areas and new towns.

With the rapid increase in population and economic development since the 1960s, there was an increasingly imperative need to grade separate vehicular and pedestrian traffic in urban centers. In the 1980s, the official planning strategy named “leveling of city” was introduced by the government to promote the development of footbridge system. Similar to the case of street widening, the implementation of such strategy was also through the application for building plans approval under the Building (Planning) Regulations. The reasons why the government had to use incentive mechanism was that most of valuable lands in urban centers under control of private sector, especially some influential British corporations, had the earliest leases which could be traced back to the beginning of the colony. Most of the leases they were holding were 999-year and the permitted land uses were unidentified, or commercial or business. In this situation, neither the Lands Department (through lease conditions) nor the Planning Department (through planning application) had the authority to compel the private developers to build POSPD in their own parcels of land, and the incentive tool became the only way of encouraging private sector to build footbridges and second-level pedestrian decks in Central, Admiralty and Wan Chai. The most famous example of this case is the system of footbridges and second-level pedestrian decks in Central developed by Hong Kong Land Ltd.. This type of POSPD includes, but not limited to, the
Landmark, Alexandra House, Chater House, Entertainment Building, Aon China Building, Hang Seng Bank Headquarters, Three Pacific Place, Sino Plaza and so forth.

Due to the lack of natural flat land, land reclamations commenced right from the outset of Hong Kong. For example, all the 35 marine lots along Queen's Road Central in the very first land sales in 1841 were at the seashore and resulted in some reclamation, all of which are several blocks away from the north shore of Hong Kong Island today. Another example is

Figure 9. Reclamation and development in Hong Kong

Source: the website of The Lands Department, HKSAR
that the tram routes on Hong Kong Island along the main arteries like Queen's Road, Hennessy Road, Causeway Road and King's Road used to run along the waterfront. Land reclamation has transformed not only urban areas but also rural areas. Most of new towns relied heavily on large-scale land reclamation to provide flat land for development. According to a statistical research, approximately 6000 hectares of marine land in total has been added to the territory of Hong Kong from 1841 to 2008, nearly 4000 hectares of which were reclaimed after 1980 (Nissim, 2008) (Figure 9). Large-scale land reclamation in the 1980s and 1990s made a mass of provision of new lands in both urban areas and rural areas for auctions or tenders. Since the government had hundred-percent control over such new lands, the Lands Department usually imposed enforceable clauses of providing POSPD as lease conditions, which meant that POSPD should be built by the lessees without bonus. In terms of built pattern, new reclaimed lands were usually developed in the form of large-scale transport-oriented mix-used complex and the POSPD in such projects were in the form of podium open spaces above ground. MTR Corporation Ltd. usually got involved in the type of development. As mentioned in Chapter Four, such examples include but not limited to International Finance Center (IFC), Island Harborview, Residence Oasis, Maritime Square, Elements, Sun Yuen Long Center and so forth. After the enactment of the Foreshore and Seabed (Reclamations) Ordinance (Cap. 127) in 1997, the process of large-scale reclamations has been slowed down. In addition to the large-scale reclamation in the 1980s and 1990s, the return of the large parcel of valuable land in Central previously occupied by the British Military Forces Victoria Barracks to the government in 1979 and the following provision of part of the land into private land market provided more development room for POSPD in the
urban center in 1980s and 1990s. The Lands Department had full control of the land through rewriting the land leases for auction and several landmark POSPD were built in Central, like Pacific Place Phases I & II, Bank of China Tower, Citibank Plaza and Cheung Kong Center.

Before the 1960s, the government seldom intervened in urban renewal. From the 1960s to the 1980s, only some scattered small-scale urban renewal projects in the form of "pencil development" occurred (Lai, 1996; Tse, 2001; Adams et al., 2001). However, such projects further aggravated rather than improved the congestion of the pre-existing urban environment in that they usually redeveloped with even higher density yet with few open spaces for the purpose of pursuing profit. In this situation, large-scale urban development and redevelopment projects were initiated in the late 1970s having significantly changed urban fabric. In order to facilitate it, Comprehensive Development Area (CDA) was first introduced into the Outline Zoning Plan (OZP) in 1976 as "Other Use" to existing street blocks with the intention of ensuring development or redevelopment on a comprehensive basis. As mentioned in Chapter Three, once designated as CDA zone, the affected areas are required the submission of a Master Layout Plan (MLP) for the entire zone by one development agency for the approval by the Town Planning Board under the Town Planning Ordinance. A CDA zone can be imposed statutorily on either large sites with obsolete uses under single ownership, such as transport depots and dockyards, or a host of small sites under multiple ownership, such as older urban areas. For CDA with single land titles, they are either owned by private developers or easy to be acquired for private developers, thereby often developed or redeveloped by private developers. The examples are Times Square and HSBC
Headquarters. For CDA with multiple land titles, they are usually time-consuming for private developers to acquire. Hence, Land Development Corporation (LDC) and the successor Urban Renewal Authority (URA) are normally involved using its draconian legal power under the Land Resumption Ordinance (previously known as Crown Lands Resumption Ordinance) to take back leasehold titles in redevelopment projects. With the effort of LDC and URA, POSPD in the form of large-scale open spaces and plazas were built in older urban areas, such as the Grand Millennium Plaza, the Central Plaza, K11 Project, Vista, and Island Crest. Case by case, due to the intricate situation of negotiation between URA (or LDC) and private developers, the POSPD they got involved in may or may not have bonus, depending on how much control power of the government over the redevelopment process. Thus, it is not surprising to see URA or LDC projects on the lists of the Buildings Department and the Lands Department. Some particular cases even appears on both.

In the late 1990s and 2000s, with the economic downturn represented by the Asian Financial Crisis in 1997 and the Global Financial Crisis in 2008, POSPD development was slowed down together with the real estate development. Meanwhile, the existing POSPD underwent significant transformations towards commercialization encouraged by the official slogan to recover local economy and towards privatization influenced by the large amount of floating immigrant labors such as Philippine maids. Such transformation triggered a large-scale social campaign from Hong Kong grass-root stratum and several controversial events related to POSPD became the hot debates in the society, like Times Square Event, the Grand Promenade Event, the Grand Millennium Plaza Event, and the Occupying the Central
Movement, which will be elaborated and analyzed in detail in case studies. In response to the public criticism and concern, the Lands Department and the Buildings Department each announced its own list of the existing POSPD named "Provision of Public Facilities in Private Developments" for public investigation and supervision in 2008. On the basis of a consultant research by the team of Rocco Design Architects Ltd., School of Architecture, CUHK and LandElite Surveyors Ltd., the Development Bureau promulgated a new guideline named "Public Open Space in Private Developments Design and Management Guidelines" in 2011. Currently, the hottest controversy on "land hegemony" triggered by a book published in 2010 by Alice Poon also extends to the debate of POSPD, which upgrades the issue of POSPD to a political issue (Poon, 2005; 2010).

5.2 Typology

The typology of POPSD is generally based on the two lists of the Lands Department and the Buildings Department as of April 2012. However, what needs to mention here is that neither of the two lists include every POSPD for some unknown reasons. For example, the open spaces in Park Avenue and Island Harborview located in Tai Kok Tsui of West Kowloon are built by private developers and shown as "open space" in the Outline Zoning Plan. But they are not included in the lists.

Based on the historical review of POSPD development, the typology of POSPD in Hong Kong can be broadly categorized in term of spatial form as follows: 1) street widening, 2)
pedestrian passage, 3) footbridge connection and 4) open space. The first two types are brought forwarded on the POPSD list of the Buildings Department and the last two are from the counterpart of the Lands Department, although there might be some overlaps in some cases.

Street widening can be further subdivided into linear street widening and corner street widening. Such POSPD are used solely for street pedestrian traffic, usually with small area and nearly no public amenities or planting. In most cases, they are next to sidewalks and difficult to be distinguished. For private owners, they require little maintenance and management and, for the public, they are seldom used for other activities except for walking through. From this point, due to lack of diverse public life, street widening can hardly be called public open space on the basis of the theoretical discourse in Chapter Two. Pedestrian passage is an inclusive concept brought forward by the Building (Planning) Regulations. Such POSPD are commonly bigger than street widenings and can contain other activities, although improving pedestrian traffic is still the main concern. For this reason, according to the POSPD list of the Buildings Department, all the other POSPD except for street widenings are all classified into the typology of pedestrian passage. Here, pedestrian passage refers to the POPSD in the form of ground-level plazas, through-block arcades and so forth.
To make it more clear, I introduce the classification of footbridge and open space from the Lands Department. Footbridge connection includes not only the footbridges but also the connection interior spaces like hallways, stairs, elevators and escalators in the buildings. Open space refers to the POSPD in the form of large ground-level plazas, podium-level squares and gardens in CDA projects. The typology of POSPD in Hong Kong including represented cases of each type is mapped chronologically in the following figure (Figure 10).

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\[\text{Figure 10. Typology of POSPD in Hong Kong}

\textit{Data Sources: Lands Department, Buildings Department and BRAVO system}

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\[\text{Note: The year of each case is mainly based on the query of building plan documents in BRAVO system of the Buildings Department.}\]
5.3 Production Mechanism

Because of the difference of land ownership, the production of POSPD in Hong Kong is different from New York City's POPS which are produced solely via incentive zoning, and it has two types of production mechanisms through different administrative authorities: incentive mechanism and mandatory mechanism. In other words, the requirement of providing POSPD could be requested either by the government or by private developers. Incentive mechanism is mainly applicable to the cases of land development over which the private sector has full control, while mandatory mechanism is applicable to those over which the government has full or at least partial control.

As discussed in Chapter Three and Four, there are basically three administrative authorities of land development: the Lands Department, the Planning Department and the Buildings Department, each of which represents one of the three tools of development control in the hand of the government: lease condition by the Lands Department, planning permission by the Planning Department and building plans approval by the Buildings Department. The Lands Department is the authority of implementing mandatory mechanism on the basis of "planning by contract", the Buildings Department is the authority of implementing incentive mechanism on the basis of "planning by edict", and the Planning Department is the in-between authority of implementing CDA policy to facilitate the production of large-scale POSPD, either from mandatory or from incentive mechanisms.
First is the mandatory mechanism. As to new provision of land into private land market like government-owned land and newly-reclaimed land, the detailed requirements of providing POSPD as lease conditions can be stipulated by the Lands Department in land lease documents. Once developers obtain the land lots in auctions or tenders, they must accept and obey the requirements of POSPD as lease conditions. There is hence no extra bonus for the developers in this case. For the land lots held by private developers, provided that the proposal of development or redevelopment is not permitted by the existing land lease, such as land use and permitted density, the developers have to apply to the Lands Department for lease modification. It is the very opportunity for the government to rewrite the development control sections of the old lease which might restrict urban development. The procedure is usually full of negotiation and bargain between the government and the developers about the issues of new terms and conditions and the premium assessment. In this process, the requirements of providing POSPD can be added to the new lease conditions, which are mandatory and without bonus.

Second is the incentive mechanism. As to some land lots under control of the private sector, the requirements of providing POSPD could be either mandatory or incentive, depending on different situations. If the proposed land use of a parcel of land held by private sector is under "Column 1 uses" in the schedule of notes of Outline Zoning Plan, the developers do not need to apply for planning permission. In this case, only incentive mechanism by the Buildings Department can be utilized to encourage the private developers to build POSPD through building plans approval. In the review of building plans by the
Building Committee including other relevant departments, the requests of providing POSPD could be brought forward either by the government or by the developers. Once approval, the extra bonus will be awarded to the developers in return for dedicated areas and Deed of Dedication will be signed between the Lands Department and the developers, which will be attached to the land leases. If the proposed land use is under "Column 2 uses or CDA zone", the developers have to apply for a planning permission from the Planning Department under Section 16 of the Town Planning Ordinance. In this process, the Town Planning Board has the authority to request the developers to build POSPD based on the consideration of improving overcrowding built environment. Such requests are then achieved through incentive mechanism in the following building plans approval by the Buildings Department. If requested by the Planning Department, the developers are required to include the proposals of POSPD for the building plans submission. After approval, the extra bonus will be awarded to the developers by the Buildings Department and Deed of Dedication will be signed between the Lands Department and the developers, which will be attached to the land leases. If the proposed land use is under neither "Column 1 uses" nor "Column 2 uses ", the developers have to apply for rezoning to make the site under either Column 1 or Column 2 uses. Similarly, the requirement of providing POSPD can also be brought forward by the Planning Department and achieved in building plans approval by the Buildings Department.
5.4 Ordinances and Regulations

From the introduction of production mechanism of POSPD in Hong Kong, it is clear that the POSPD list of the Lands Department is different from that of the Buildings Department. As mentioned before, POSPD on the list of the Lands Department are produced through "planning by contract". In other words, they are compulsorily required in lease conditions which can be regarded as contracts between the government and private lessees. POSPD on the list of the Buildings Department are produced through "planning by edict", or through regulations and policies. Generally speaking, such regulations and policies related to POSPD include Section 22 of the Building (Planning) Regulations, the Practice Notes of Authorized Persons no. 233 (PNAP 233), and Public Open Space in Private Developments Design and Management Guidelines (POSPD Guidelines).

5.4.1 Section 22 of the Building (Planning) Regulations

Section 22 of the Building (Planning) Regulations was revised from the former Section 20B(1) in 1976. The content keeps almost the same except for the length unit changed from imperial to metric (Too, 2007). It affirms the legitimacy of incentive dedication regulations by stating two lawful situations of allowing the excess over permitted site coverage and plot ratio as follows

a) “Where, between ground level and a height of not less than 16 feet or, where
the Building Authority is satisfied that there will be no obstruction to vehicular
traffic using the street, 11 feet 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.”

b) "Where part of a lot, being a part that abuts on a street, is acquired by the Government, either by agreement or by resumption under the Lands Resumption Ordinance (Cap. 124), for the purpose of street widening."

In any of the two situations above, POSPD regulations can be applied and private developers are allowed lawfully to receive bonuses in the form of site coverage and plot ratio. In addition, the regulation further stipulates the ceilings of total site coverage and total plot ratio.

For the ceiling of total site coverage, it should not exceed "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.”
For the ceiling of total plot ratio, it should not be
"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 "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
lot so dedicated to the public by the area of the site on which the building is
erected, whichever is the less."

5.4.2 PNAP 233

The name of PNAP 233 is "Dedication of Land/Area for Use as Public Passage", which
was first issued in November 1999 and revised twice later in December 2002 and June 2003.
Based on Section 22 of the Building (Planning) Regulations, it further defines two major
types of POSPD which can be considered for dedication of public space and stipulates the
purposes of POSPD regulations, the bonus calculation in detail and general guidelines.

The two types of POSPD are street widening and pedestrian passage. Here, I borrow the
words in PNAP 233 as follows.

a) "dedication of setback area at street level for the purpose of public passage;"

b) "dedication of an area within or through a building at ground level or other
floor levels for public passage."
PNAP 233 affirms the authority of the Buildings Department to examine and approve the applications for dedication from private developers. Four main purposes of POSPD for consideration are listed below.

a) "alleviation of congestion problems of vehicular or pedestrian traffic on public roads or walkways;"

b) "linkage with a footbridge/subway or proposed footbridge/subway which is or will be readily accessible to and used by the general public, and such linkage would significantly enhance public safety or convenience;"

c) "improvement of road safety or significant enhancement of public convenience;"

d) "provision of suitable greenery compatible with the use of the proposed public passageway."

Once any of the four purposes is approved to be satisfied, the Buildings Department may exempt the dedicated areas from the calculation of gross floor area (GFA). Next, whether or not the bonus in the form of additional plot ratio and site coverage will be granted will be considered. "If such dedication is considered to be essential by government, taking into account alternative public passages available in the vicinity," the bonus will be granted to the private developers. However, as "essential" is a subjective vocabulary and no detailed objective evaluation standards are brought forward in PNAP 233, whether or not granting bonus solely depends on the decisions made by the Buildings Department.
As one of the most important part of POSPD regulations, there are two clauses regarding the detailed calculation of plot ratio bonus value in PNAP 233, which are listed below.

“Where the dedicated area within a building serves both the public and the users of the building, the amount of exempted GFA and/or bonus GFA will be assessed by taking into account the proportion of traffic generated by the public and the users of the building.”

“The maximum bonus plot ratio, in terms of additional GFA, generally will be at multiples of the dedicated area (five times for dedicated area at ground level and two times for areas at other floor levels) subject to the total bonus in return for the dedication not to exceed 20% of the permissible plot ratio with the dedicated area being exempted from accountable GFA.”

From the two clauses above, we can learn that, on the one hand, the particular plot ratio bonus value which might be different from case to case should be assessed on the basis of "the proportion of traffic generated by the public and the users of the building". On the other hand, the upper limit of plot ratio bonus is five times the dedicated area at ground level and two times the dedicated area at other floor levels, or 20% of the permitted plot ratio after the dedicated area being exempted, whichever is the less. However, PNAP 233 only stipulates clearly the upper limit of the bonus but not specifies how to calculate plot ratio bonus according to "the proportion of traffic generated by the public and the users of the building. In
fact, PNAP 233 provides the Buildings Department with great discretionary power of administering and implementing POSPD regulations.

In order to make the public better informed and pursue greater transparency, PNAP 233 requires that the notices including the information like the use as public passage, open hours and the private managers must be displayed "in conspicuous locations of the area."

5.4.3 POSPD Guidelines

As introduced before, POSPD Guidelines are promulgated by the Development Bureau in 2011 as a response to the public concern of POSPD. The guidelines propose to be used as reference by the government, private developers, relevant statutory bodies involved in POSPD development like URA, designers of POSPD, private managers and public users. Unlike the Building (Planning) Regulations and PNAP 233 which are policy-oriented, the architecture-oriented guidelines mainly prepared by architects focuses on two dimensions: design and management.

The design guidelines intend to improve POSPD's quality of physical space based on three principles of connectivity, appropriateness and quality. Beyond the previous purpose of public passage, more spatial types are introduced for recreational activities. Totally, the guidelines categorize POSPD into five spatial types: public green, plaza, courtyard, pocket space, and promenade. The definitions are listed as follows:
a) “Public Green is defined as a public open space with extensive green coverage and soft landscaping that serves the district for leisure, relaxation, and breathing space in the neighborhood. It is open to sky, passive recreation-oriented and should preferably be at grade. The minimum area should be 500 square meters and minimum green coverage should be 50%.”

b) “Plaza is defined as a public open space with a vibrant atmosphere that serves the district and/or the city with multiple usage from leisure, communal gathering, to cultural performance. It is well connected with adjacent streets and has high visibility to the surrounding area, and a high degree of flexibility on uses. The location should preferably be at grade or at the principal pedestrian level with sufficient size allowing multiple uses and well-proportioned configuration. The minimum area should be 500 square meters and minimum green coverage should be 30%.”

c) "Courtyard is defined as a public open space similar to plaza but with a relatively less vibrant atmosphere that serves the neighborhood and/or the district with more limited usage from leisure, informal gathering, to play areas. It is surrounded by buildings and the major space is indirectly connected with the street through a pedestrian path with a minimum width of 6 meters and maximum length of 15 meters. The minimum area should be 200 square meters and minimum green coverage should be 30%.”
d) “Pocket Space is defined as a small scale public open space indented along the street and serves the local neighborhood as resting space, casual gathering and sitting as well as a brief stop for passers-by. The space is connected with the adjacent street and has a minimum width of 6 meters. The minimum area should be 100 square meters and minimum green coverage should be 30%.”

f) “Promenade is defined as a public space which provides passive recreation facilities and is more than a passageway for public access. For such promenades to be able to serve the purpose as POSPD, the space should be linear with a minimum width of at least 15-20 meters, which allows activities and other uses to take place along it. Every 50 meters requires a spatial recess with seating or resting area.”

For each type of POSPD, the detailed design criteria are provided in detail in the guidelines, regarding shape, street frontage, spatial ratio, green coverage and so forth (Table V).
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Public Green</th>
<th>Plaza</th>
<th>Courtyard</th>
<th>Pocket Space</th>
<th>Promenade</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Shape</strong></td>
<td>Site-specific</td>
<td>Site-specific</td>
<td>Site-specific</td>
<td>Site-specific</td>
<td>Site-specific but Generally elongated</td>
</tr>
<tr>
<td><strong>Street Frontage</strong></td>
<td>Over 30% 13.5m min width</td>
<td>Over 30% 13.5m min width</td>
<td>Over 15% 6m min width</td>
<td>Over 15% 6m min width</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Width/Length Ratio</strong></td>
<td>1:3 min</td>
<td>1:3 min</td>
<td>1:3 min</td>
<td>1:3 min</td>
<td>15-20m min width, spatial recess every 50m of length</td>
</tr>
<tr>
<td><strong>Major/Minor Space</strong></td>
<td>Site-specific but preferably 75% min for major space</td>
<td>Site-specific but preferably 75% min for major space</td>
<td>Site-specific but preferably 75% min for major space</td>
<td>Site-specific but preferably 75% min for major space</td>
<td>Site-specific but generally elongated</td>
</tr>
<tr>
<td><strong>Area</strong></td>
<td>500 sq m min</td>
<td>500 sq m min</td>
<td>200 sq m min</td>
<td>100 sq m min</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Visibility</strong></td>
<td>Visible</td>
<td>Highly Visible</td>
<td>Visible</td>
<td>Visible</td>
<td>Visible</td>
</tr>
<tr>
<td><strong>Open to Sky</strong></td>
<td>Open air</td>
<td>Open air</td>
<td>Open air</td>
<td>Open air</td>
<td>Open air</td>
</tr>
<tr>
<td><strong>Slope/Gradient</strong></td>
<td>Preferably on flat land</td>
<td>Preferably on flat land</td>
<td>Preferably on flat land</td>
<td>Preferably on flat land</td>
<td>Site-specific</td>
</tr>
<tr>
<td><strong>Green Coverage</strong></td>
<td>50% min</td>
<td>30% min</td>
<td>30% min</td>
<td>30% min</td>
<td>Site-specific, Tree for shading should preferably be provided</td>
</tr>
</tbody>
</table>
As the reference of private managers, the management guidelines summarize permissible activities in POSPD into three types: A, B, and C. Type A includes the activities that are always permitted without any need for application, such as walking, relaxing exercises, temporary stay etc. Type B refers to non-commercial or charitable activities that are required to apply for permission by private management companies and relevant government departments, such as non-commercial temporary exhibition, festive activities, civic education, and so on. Type C refers to commercial activities that are required to apply for permission by private management companies and relevant government departments. Such commercial activities should be complementary and compatible for the use of POSPD and prompt the vibrancy of POSPD, like food or drinking kiosk and open door cafeteria. For each type of activities, the management advices are brought forward. Besides, the guidelines prescribe that the permissions of the activities like use by pets, smoking in outdoor areas and busking in the POSPD are flexibly decided by management companies.

a) Type A

"To keep the place clean and to undertake proper maintenance."

"The owners/management companies should impose and enforce minimal restrictions with respect to crowd control and security where these are necessary, and set rules having regard to site-specific context."
b) Type B

"If the non-commercial or charitable activities do not comply with the lease conditions or the terms of the Deed of Dedication, the owners should first approach the Lands Department for a waiver under the lease and/or the Buildings Department for the necessary permission under the Deed of Dedication (as the case may be)."

"The owners/management companies should state clearly the procedure of applications and the rules and regulations for conducting such activities in POSPD."

"On giving such approval, the owners/management companies should satisfy itself that such activity would not cause obstruction to pedestrian flow."

"Applicants must also obtain approval/consent/license from Government Departments and statutory authorities as required in law or under administrative requirements."

"The owners/management companies have the right to set site-specific rules and requirements on matters such as the appropriateness of conducting such activity on the site, installation of temporary structures, the use of equipment, duration of the exhibition, and crowd control measures etc. Such rules and regulations
should be reasonable and not to impair the reasonable enjoyment of the POSPD by the public."

"If it is expressly provided in the contractual documents that no fee should be charged for the use of POSPD, the owners/management companies of the private developments should not charge fees for such non-commercial / charitable uses."

c) Type C

"The owners / management companies of the private developments should obtain permission from the Buildings Department (as necessary) and a waiver from the Lands Department and pay the full market waiver fees, before accepting any applications for commercial activities on the POSPD."

"If a waiver at full market waiver fee has been granted, the owners may charge fees for the commercial activities on the POSPD. "

"As a general rule of thumb, areas designated for commercial uses should not exceed 10% of the POSPD. Also, generally speaking, for a POSPD to be considered suitable for commercial activities, at least 10% of its total area should not have been granted bonus GFA. In cases where the POSPD is connected to a passageway dedicated for public use, for these cases to be
considered suitable for commercial use, at least 10% of the total area of the POSPD and the public passageway should not have been granted bonus GFA."

"Potential users shall submit applications to the owners / management companies of POSPD for approval."

"The owners / management companies shall state clearly the procedure of application and the rules and regulations for conducting such activities in POSPD."

"Applicants must also obtain separate approval / consent / license from Government Departments and statutory authorities where applicable, including from the Lands Department under the leases and other authorities as required in law or under administrative requirements."

"The owners / management company have the right to set site-specific rules and requirements on matters such as the appropriateness of conducting such activity in the site, installation of temporary structures, the use of equipment, and crowd control measures, etc. Such rules and regulations should be reasonable and not to impair the reasonable enjoyment of the POSPD by the public."
In addition to the advices of the management of permitted activities, the guidelines stipulate the terms related to opening hours, information transparency, general responsibilities of management companies. For opening hours, POSPD are required to "keep open to the public at the hours stipulated in the land leases or Deeds of Dedication" and "the minimum hours for public access should not be less than 13 hours per day." For information transparency, like PNAP 233, notices of information are required to be placed "at all main entrances or major access points of POSPD." For general responsibilities of management companies, they are required to ensure "proper maintenance" and "keep the POSPD in good sanitary conditions."

Although the POSPD Guidelines indicate the transition of the emphasis on the main function of POSPD from smoothing pedestrian traffic to encouraging recreational activities, they still have two main shortages which might cumber the implementation of the guidelines. First, the primary issue of the guidelines are that, unlike the Building (Planning) Regulations, they lack legal enforcement power and are recommendatory rather than compulsory. As the guidelines note, "the existing cases are strongly advised to follow the Design Guidelines on a reasonable basis" and "the Management Guidelines serve as a set of good practices and are advisory in nature. They do not override any of the provisions in leases or Deeds of Dedication, or any statutory provisions." Second, another issue of the guidelines in the interview that the guidelines have a limited scope of application, especially for the existing POSPD in Hong Kong produced by the incentive production mechanism. As mentioned before, the two types of POSPD produced via the incentive production mechanism are street
widening and pedestrian passage, both of which lay stress on improving pedestrian environment. However, the guidelines are not applicable to them, as noted in the last part of the guidelines

"The Design and Management Guidelines are not meant in general for public passageways in private developments provided under leases or Deed of Dedication. If the owners of public passageway in private developments so wish, they are welcome to follow the Management Guidelines, say, in terms of allowing use for non-commercial or charitable arts and cultural activities, and to follow the Design Guidelines inssofar as the requirements are appropriate in site-specific context, such as greening, planting and seating, on a reasonable basis."

"Certain activities always permissible in POSPD, such as doing relaxing exercise, should be subject to site-specific context, and might not be appropriate where the passageway is serving as a main access in a shopping arcade."

All in all, because of the short period of implementation since 2011 and the shortages above, it is difficult to evaluate the effectiveness of the guidelines so far, which needs more investigation in the future.
5.5 General Statistical Analysis

As introduced previously, the two kinds of production mechanism, namely mandatory and incentive mechanisms, generate two lists of POSPD from the Lands Department and the Buildings Department. In this part, the two lists\textsuperscript{5} are analyzed statistically in detail as below to depict the general state of POSPD in Hong Kong.

In general, there are 623 cases in the list from the Lands Department and 331 cases in the list from the Buildings Department. Geographically, in the list from the Lands Department, 60% of POSPD are located in New Territories and Islands, 25% in Hong Kong Island and 15% in Kowloon. In the list from the Buildings Department, 56% of POSPD are located in Hong Kong Island, 41% in Kowloon and 33% in New Territories and Islands. From the statistical analysis above, it is clear that the majority of the POSPD from incentive mechanism are located at the preexisting urban areas and most from mandatory mechanism are located in new towns. Furthermore, based on the distribution of POSPD in each district, we can see that dense urban areas like Central and Western, Eastern, Yau Tsim Mong and Wan Chai generally have larger amounts of POSPD in total than those less developed districts like Tai Po, Yuen Long, Kwai Tsing and North. Moreover, the percentages of POSPD from the Buildings Department's list in older urban areas are usually higher (over 50%) than that from the Lands Department. The reason underneath lies in the fact that the lands in the preexisting urban areas are mostly under control of private sector while those in the new towns are mostly under control of the government. As mentioned before, incentive is the only way for the

\textsuperscript{5} The two lists of POSPD are updated to April 2012 and may not include new cases afterwards.
pre-leased land plots to encourage private sector to build POSPD while the government is capable to impose the requirement of building POSPD for new land plots (Figure 11).

Figure 11. The number of POSPD in each district

*Data Source: the Buildings Department and the Lands Department, HKSAR*

However, when zooming in the distribution of POSPD in terms of spatial size, we learn that the POSPD smaller than 50 square meters account for 74% of the total number, while those larger than 1,000 square meters only account for 5% (Figure 12). This means that the
majority of POSPD can hardly accommodate recreational purposes other than walking and it is common to see those traffic-oriented POSPD used as street widening in the form of a long and narrow corridor space without any public amenities (Figure 13). Such open spaces can only be used for circulation, in which any public activity, even standing, is impossible. Although it was related to the scattered small-scale "pencil development" from the 1960s to the 1980s, the main reason that leads to this situation is the original purpose of POSPD regulations. Since its establishment in 1962, POSPD regulations has been aimed to improve pedestrian circulation environment. As stipulated in Section 22 of the Building (Planning) Regulations, the two lawful situations where POSPD regulations can be carried out are "for the purpose of passage" and "for the purpose of street widening." Although some POSPD in the form of plaza, square and garden emerged since the 1970s, most of them are still categorized into pedestrian passage primarily for pedestrian circulation, such as Times Square. As passageway, traffic flow capacity becomes the priority and obstacles should be restricted as few as possible. Therefore, there are not any detailed requirements regarding space quality in both the Building (Planning) Regulations and PNAP 233. In an objective manner, this encourages private developers to minimize the cost and maximize the profit. A deficiency of necessary public amenities like seating is common in most of POSPD throughout Hong Kong. Of course, the new POSPD Guidelines were promulgated in 2011 to overcome the current drawback. However, as mentioned before, due to lack of legal enforcement power, I regard the effectiveness of enhancing POSPD's quality with suspicion.
Figure 12. Distribution of POSPD in size

*Data Source: the Buildings Department and the Lands Department, HKSAR*

Figure 13. POSPD as street widening
When zooming in further, we can see the distribution pattern of POSPD in size across districts. Six most dense urban areas (Central and Western, Wan Chai, Eastern, Sham Shui Po, Yau Tsim Mong and Kowloon City) are selected for analysis. From the analysis result (Figure 14), it is clear that Central and Western has the highest percentage of large POSPD and Sham Shui Po has the least percentage. As to the distribution of POSPD in terms of typology across districts, based on the definition of POSPD typology, there are open space, pedestrian passage, street widening and street widening (corner) in the descending order of spatial size. From the figure below (Figure 15), we can see that the implementation of POSPD regulations in Hong Kong Island is better than that in Kowloon because the percentages of open space and pedestrian passage are relatively higher in Central and Western, Wan Chai and Eastern while POSPD in the form of street widening and street widening (corner) are the predominant types in Sham Shui Po, Yau Tsim Mong and Kowloon City. This illustrates that the POSPD in Hong Kong Island have more potential to accommodate diverse public life than those in Kowloon.

According to the current Hong Kong Planning Standard and Guidelines (HKPSG) by the Planning Department, the standard for provision of open space is a minimum of 20 hectare per 100,000 person (2 square meters per person), apportioned as follows: 1 square meter per person for "district open space" and 1 square meter per person for "local open space." In practice, POSPD are counted into local open space. Based on the official definition, local open spaces are "for recreation" and "provide sitting-out areas and children's playgrounds to serve the neighborhood population." However, from the previous analysis, it is clear that most
of POSPD are not competent for recreational purpose. In a newspaper article named "Only 0.5 Square Meter of Open Space per Person in Mongkok" from Apple Daily, dated November 10 2000, the deficiency of open spaces is obvious throughout Hong Kong. The average area of open space across Hong Kong is only 1.5 square meter per capita, not only lower than the requirement of HKPSG but also much lower than the counterparts like Tokyo, Singapore, Taipei, Guangzhou and Shenzhen. In particular, Mong Kok, a highly populated urban area located in Yau Tsim Mong, has only 0.5 square meter of open spaces per capita, the least in Hong Kong. Besides Yau Tsim Mong, Sham Shui Po and Kowloon City are almost as much as congested. But the analysis' result tells us that the market- driven POSPD regulations have limited effect on improving the congestion of urban environment and promoting participation in public life.

Figure 14. Distribution of POSPD in size across districts

Data Source: the Buildings Department and the Lands Department, HKSAR
With regard to POSPD distribution in land use, I discover that there are mainly three types of land uses in POSPD, which are commercial (43%), residential (30%) and business (26%) (Figure 16). Other land use mainly refers to transportation development. The result is reasonable because these three types are more profitable and have higher market value than other land uses. Private developers can get higher rewards if they build POSPD in commercial, residential and business development. As one of the cities with the most expensive land value in the world, Hong Kong’s rental rate for non-domestic units and price for domestic units are top ranked in the world all the time. For example, even in 2003 when the local real estate
market was experiencing the coldest winter, the average monthly rental rate of private retail space in Hong Kong still ranked No.1 worldwide. The statistical data of property market by the Rating and Valuation Department of HKSAR shows that the average monthly rental rate of Hong Kong Island in 2003 was HK$ 750 per square meter while the contemporary average monthly rate of American cities was HK$ 99 per square meter and even San Francisco as the most expensive city in the US had only around HK$ 162 per square meter per month (Figure 17). Furthermore, among the three types of land use, commercial has the highest market value and can generate the most profit for private developers; accordingly commercial land use logically accounts for the highest percentage. From the analysis, it is obvious that the development of POSPD is strongly driven by market force.

Figure 16. Distribution of POSPD in land use

*Data Source: the Buildings Department and the Lands Department, HKSAR*
Figure 17. Monthly rental rate of retail space in Hong Kong Island (HK$/m$^2$)

*Data Source: the Rating and Valuation Department, HKSAR*
VI. CASE STUDIES OF POSPD DEVELOPMENT

From Chapter Five, we have had an overall impression of POSPD in Hong Kong in terms of development history, typology, production mechanism, ordinances and regulations and general statistical analysis. In Chapter Six, I would like to seek some insights in detail from the particular case studies so as to illustrate the interest conflicts and concessions regarding POSPD not only between the development regime and the grassroots but also between different members in the development regime, from which we can summarize the characteristics of POSPD in Hong Kong and different interest demands from different interest groups in the processes of application, approval, operation, management and usage of POSPD. In the following section, I develop a two-dimensional matrix for better case selection.

6.1 Two-dimensional Matrix for Case Selection

As mentioned previously, there are two types of POSPD production mechanisms: incentive mechanism and mandatory mechanism. Incentive mechanism is mainly implemented by the Buildings Department on the basis of statute-based administrative system (planning by edict), and mandatory mechanism is mainly implemented by the Lands Department on the basis of lease-based administrative system (planning by contract).

From the analysis of the development regime in Hong Kong, we know that there are two main types of POSPD producers, which are private developers and quasi-governmental organizations. Private developers are primarily represented by the four real estate giants:
Cheung Kong (Holdings) Ltd., Sun Hung Kai Properties Ltd., Henderson Land Development Co. Ltd., and New World Development Co. Ltd.. Quasi-governmental organizations are URA (or the predecessor LDC) and MTR Corporation Ltd.. They may motivate themselves by incentives or may be required by lease conditions to build POSPD, depending on how much control power of the government over the development or redevelopment sites.

Table VI
TWO-DIMENSIONAL MATRIX FOR CASE SELECTION AND CASES

<table>
<thead>
<tr>
<th>Producers</th>
<th>Production Mechanism</th>
<th>Incentive Mechanism</th>
<th>Mandatory Mechanism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Sector</td>
<td></td>
<td>Times Square</td>
<td>Metro Harbor View</td>
</tr>
<tr>
<td></td>
<td></td>
<td>HSBC Headquarters</td>
<td>Cheung Kong Garden</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Central Plaza</td>
<td></td>
</tr>
<tr>
<td>Quasi-governmental Organizations</td>
<td></td>
<td>Chater House</td>
<td>Citygate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Alexandra House</td>
<td>IFC Mall</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Grand Millennium Plaza</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The Center</td>
<td></td>
</tr>
</tbody>
</table>

Using the two types of POSPD production mechanisms as one dimension and the two types of POSPD producers as the other dimension, a two-dimensional matrix is drawn as follows. In Table VI, some representative cases are located for further case studies in each quadrant. In some intricate situations, there are some POSPD built from both the incentive mechanism and the mandatory mechanism, such as Grand Promenade, Grand Millennium Plaza, and The Center. The four representative cases selected are Times Square, HSBC Headquarter, Grand Millennium Plaza and Grand Promenade to address the specific issues of
POSPD in Hong Kong. All the cases are the controversial affairs of great social concern in the recent years, each of which has a wide-ranging influence on the discourse upon POSPD and also illustrates different issues of POSPD implementation (Figure 18).

Figure 18. Locations of the selected cases

![Map showing locations of selected cases]

a) Times Square

Times Square is selected since Times Square Affair is a milestone in the history of POSPD development in Hong Kong which has aroused unprecedented public concern on POSPD and the right of the public in POSPD and triggered the tune-up of POSPD policy by the government. The case demonstrates the major issue of private social control on public domain and the grassroots movement of reclaiming public space in the social dimension.
b) HSBC Headquarter

HSBC Headquarter is chosen because, as one of the most iconic public spaces in Hong Kong's Central Business District, it has a strong symbolic meaning of so-called "corporate power" and hence becomes a popular place of political protests in Hong Kong, especially during the current global economic recession (Cuthbert et al., 1997). Through the detailed exploration of the HSBC Headquarter case, the abstract discourse upon the tension between the development regime and the grassroots can be concretized into the control and resistance between security guards and protestors, which reflects the political dimension of POSPD.

c) Grand Millennium Plaza

Grand Millennium Plaza is selected because, as one of the flagship project by the joint venture of LDC and a private developer, it can represent some characteristics of the urban renewal projects through public-private partnership. The case demonstrates the transformation of commercialization and consumerization in POSPD promoted by the development regime.

d) Grand Promenade

Grand Promenade is chosen in that it is a highly controversial case unveiling how large private developers make use of POSPD policy to maximize self-profits step by step and the conflicts of sharing interest in land between the government and private developers within the urban coalition. Also, it reflects the issue of the unrestrained use of discretionary power in the process of POSPD approval and the potential of illegal interest conveyance between senior civil servants and private developers.
6.2 Case I: Times Square

As a flagship property of The Wharf (Holdings) Ltd., Times Square is a premium shopping center and office tower complex located at 1 Matheson Street, Causeway Bay in the District of Wan Chai on Hong Kong Island (Figure 18). Causeway Bay is one of the major shopping districts in Hong Kong. A global research on the rent level for retailing by Cushman and Wakefield shows that the average rent in Causeway Bay in 2011 (US$ 20,914 per square meter per year) is ranked as the second highest worldwide slightly behind New York City's Fifth Avenue's (US$ 24,218 per square meter per year) and nearly twice as high as the third Tokyo's Ginza's (US$ 11,238 per square meter per year).

The site of Times Square was previously the depot of Hong Kong Tramways Ltd. in the highly populated urban area in the heart of Causeway Bay. The Wharf (Holdings) Ltd. annexed Hong Kong Tramways Ltd. in 1974 and obtained the parcel of highly valuable land. At that time, traditional street markets of pockets of vendors selling seafood were around the site. In July 1986, the Executive Council approved Tramways' plan to relocate its depots to Sai Wan Ho and Sai Ying Pun in order to save operation costs and lower tram fares (South China Morning Post, 1986). After the relocation of the tram depot, the site consisting of 7 small pieces of land was combined and rezoned "OU" meaning "Comprehensive Redevelopment Area" on the draft Wan Chai Outline Zoning Plan (No. S/H5/5), which means that the developer was required to develop the site as a whole and to apply for planning permission from the Town Planning Board. Because the land leases of small pieces of land were the old leases in Hong Kong with 999-year lease term and no specific land uses, the
Wharf (Holdings) Ltd. had full control over them. In the application for planning permission, The Wharf (Holdings) Ltd. made a negotiation with the Town Planning Board and agreed to dedicate part of the lot for public use. The Building Committee meeting records (no. BC I 8 27/88) dated July 19 1988 shows that the Authorized Person on behalf of the developer submitted the building plan and the dedication proposal and stated that "The open space required by Town Planning Board provides a much-needed open civic area in this part of Wan Chai. This space would allow for various public activity areas such as plaza, sitting areas, a covered walkway, fountains and landscaping." In return, he strongly requested for bonus to cover the costs of dedication. In a subsequent meeting (no. BC I 1 10/89) dated March 21 1989, the Authorized Person further stressed the importance of the proposed public space to the public and stated that the developer would sacrifice considerable economic benefits in order to fulfill the request of the Town Planning Board. In 1991, the final building plan with the proposal of dedicated public area was approved by the Buildings Department and a Deed of Dedication was signed with the Lands Department. In April 1994, Times Square Piazza with the area of 3017 square meters was completed and in use. Times Square Piazza is surrounded by two 46- and 39-story high towers and it also provides a direct on-site access to MTR subway station. Today, it has become a destination place for residents and tourists in Causeway Bay and the whole property is managed by Times Square Estates Ltd. (Figure 19, Figure 20).
Figure 19. The layout of Times Square Piazza

Data Source: The Buildings Department, HKSAR

Figure 20. Photos of Times Square Piazza
### Table VII
THE BUILDING RECORDS OF TIMES SQUARE

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Area (by lease)</td>
<td>10445.304 m²</td>
</tr>
<tr>
<td>Class of Site</td>
<td>C</td>
</tr>
<tr>
<td>Permitted Plot Ratio (non-domestic)</td>
<td>15</td>
</tr>
<tr>
<td>Total Dedicated Area (street level)</td>
<td>4365.867 m²</td>
</tr>
<tr>
<td>Bonus Coefficient</td>
<td>5</td>
</tr>
<tr>
<td>Bonus Gross Floor Area from the Dedicated Area</td>
<td>21829.335 m²</td>
</tr>
<tr>
<td>Bonus Gross Floor Area from MTR Facility</td>
<td>5189.03 m²</td>
</tr>
<tr>
<td>Total Bonus Gross Floor Area</td>
<td>27018.365 m²</td>
</tr>
<tr>
<td>Bonus Plot Ratio from the Dedicated Area</td>
<td>2.089</td>
</tr>
<tr>
<td>Bonus Plot Ratio from MTR Facility</td>
<td>0.497</td>
</tr>
<tr>
<td>Total Bonus Plot Ratio</td>
<td>2.586 (less than 20% of 15)</td>
</tr>
<tr>
<td>Total Permissible Plot Ratio</td>
<td>17.586</td>
</tr>
<tr>
<td>Total Permissible Gross Floor Area</td>
<td>183691.116 m²</td>
</tr>
<tr>
<td>Actual Built Gross Floor Area</td>
<td>183588.637 m²</td>
</tr>
<tr>
<td>Percentage of Using Development Potential</td>
<td>100%</td>
</tr>
</tbody>
</table>

Data Source: The Buildings Department’s BRAVO system

From the building records above (Table VII), we can see that the developer actually obtain an extra gross floor area of about 26,909 square meters in return for the dedication and construction of Times Square Piazza. Because it has difficulty to find the accurate land sale price for the site, I use the average land price in urban areas (including Hong Kong Island and Kowloon Peninsula) in the year of completion for conservative estimate instead. The reason why it is conservative estimate lies in the fact that, due to its advantage of location, the site of Times Square should be much more valuable than the average land price level. According to Hong Kong Annual Digest of Statistics, the total amount of collected land premium from commercial lands through public auction or tender in urban areas in 1994 was HK$ 2,515,000,000 for the total area of 5193 square meters. The average sales price of land
in 1994 was accordingly HK$ 484,306 per square meter. Based on the model of equivalent
development rights (EDR), the EDR of Times Square was HK$ 32,287 per square meter in
1994. Then, the bonus coefficient for times square was 5. Therefore, the equivalent cost of the
public plaza was HK$161,435 per square meter. From the calculation, we can see that as long
as the construction cost is lower than HK$ 161,435 per square meter, the private developer
would have the incentive to build the POSPD. The lower the actual construction cost, the
more incentives for the developer has. Obviously, from the photos of Times Square Piazza,
the pavement made of bricks and stone would not cost HK$ 161,435 per square meter. To
sum up, The Wharf (Holdings) Ltd. had earned at least HK$ 700,000,000 (HK$ 161,435 x
4365.867 m² - actual construction cost) solely from the dedication and construction of Times
Square Piazza.

Since the completion in 1994, The Wharf (Holdings) Ltd. has also legally kept earning a
large amount of extra profits from renting the extra gross floor area annually, in despite of
some maintenance cost. Next, the extra profits are calculated to illustrate such profits that the
developer has received between 1995 and 2010. From Table 6.3, we can see that, if 100% of
the office spaces are leased out, the average annual extra rents between 1995 and 2010 could
ideally be nearly HK$ 100,000,000 and the total extra rents in the two decades could be over
HK$ 1,900,000,000,000. Although it may not be possible for 100% lease-out all the time in
reality, it is clear that the extra profits are indeed considerable. Of course, maintenance costs
have always been the burden for the developer, such as cleaning and security. But compared
with the huge amount of extra profits, such routine costs are almost nothing.
Table VIII
EXTRA RENTS BETWEEN 1995 AND 2010

<table>
<thead>
<tr>
<th>Year</th>
<th>Monthly Average Rents of Grade A Private Office in Causeway Bay (HK$/ m²)</th>
<th>Annual Extra Rents (HK$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>592</td>
<td>191,161,536</td>
</tr>
<tr>
<td>1996</td>
<td>510</td>
<td>164,683,080</td>
</tr>
<tr>
<td>1997</td>
<td>482</td>
<td>155,641,656</td>
</tr>
<tr>
<td>1998</td>
<td>459</td>
<td>148,214,772</td>
</tr>
<tr>
<td>1999</td>
<td>289</td>
<td>93,320,412</td>
</tr>
<tr>
<td>2000</td>
<td>301</td>
<td>97,195,308</td>
</tr>
<tr>
<td>2001</td>
<td>329</td>
<td>106,236,732</td>
</tr>
<tr>
<td>2002</td>
<td>239</td>
<td>77,175,012</td>
</tr>
<tr>
<td>2003</td>
<td>192</td>
<td>61,998,336</td>
</tr>
<tr>
<td>2004</td>
<td>194</td>
<td>62,644,152</td>
</tr>
<tr>
<td>2005</td>
<td>279</td>
<td>90,091,332</td>
</tr>
<tr>
<td>2006</td>
<td>373</td>
<td>120,444,684</td>
</tr>
<tr>
<td>2007</td>
<td>448</td>
<td>144,662,784</td>
</tr>
<tr>
<td>2008</td>
<td>526</td>
<td>169,849,608</td>
</tr>
<tr>
<td>2009</td>
<td>464</td>
<td>149,829,312</td>
</tr>
<tr>
<td>2010</td>
<td>484</td>
<td>156,287,472</td>
</tr>
<tr>
<td></td>
<td>Total Extra Rents</td>
<td>1,989,436,188</td>
</tr>
<tr>
<td></td>
<td>Average Annual Extra Rents</td>
<td>99,471,809</td>
</tr>
</tbody>
</table>

Data Source: Hong Kong Annual Digest of Statistics (2001-2011)

However, such considerable amount of extra profits cannot satisfy the private developer who wants even more. It is reported that a corner of the piazza was illegally leased to Starbucks Coffee between July 2003 and March 2005, which is against the Deed of Dedication. Although Times Square Estates Ltd. corrected it after receiving the notification from the Buildings Department, the manager of the company Ling Luk-Ting claimed it was merely a fault of some staff, or "unintentional oversight" (Lee, 2008; Sun Newspaper, 2008).
Under the terms of the Deed of Dedication signed with the Lands Department, except for street widenings around the site, 3,017 square meters out of 4,366 square meters of the street-level dedicated area should be used as "pedestrian passage and passive recreation" for the public. But the Clause (XIV)(l) of the Deed of Dedication stipulates that "the owner reserves the full right to make rules or by-laws from time to time for regulating the public use of the said dedicated area for purposes of pedestrian passage and passive recreation substantially in accordance to the terms of this Deed of Dedication." In other words, this doubtless means that the government gives the private management company the discretionary power to set site-specific rules that it regards as appropriate, and makes it the arbiter of whether conduct is likely to cause annoyance or nuisance or to interfere with use and enjoyment of the POSPD. Having such privilege, Times Square Estates Ltd. puts several signboards at corners noticing the private ownership of the dedicated area and imposing a series of restricted rules incompatible with the enjoyment of the public on Times Square Piazza (Figure 21). For example, "no person shall bring any food or drinks on to the area", "no person while on or within the amenity grounds shall play any game" and "no demonstration or sit-in of any kind or in any form is permitted in or upon any part of or anywhere within the amenity grounds." Security guards usually walk around in the piazza for surveillance and people would be forced out if their activities are reckoned as inappropriate. It is not surprising that there is only one bench in the piazza in that sitting might block pedestrian flow and thus impact negatively the primary function as public passageway and group sitting is possible to be political protest. Even temporary stay might be prohibited sometimes. Ridiculously, Hong Kong ATV News once reported that a child was forced out by
security guards when he was tying his shoelaces because they believed that would block the traffic (ATV, 2008). It is common to see that most of the people can merely lean on the planter ledges at the edge of Times Square Piazza along sidewalk for a short rest, even though those ledges are intentionally designed uncomfortable for sitting on (Figure 22). Under this strict control, Times Square Piazza was regarded as a private space by the public for years.

Figure 21. Signboards in Times Square Piazza

Figure 22. People leaning on the planter ledges
Figure 23. Commercial activities in Times Square Piazza

Figure 24. Grassroots activities of reclaiming public space
In February 2008, a TV program named "On a Clear Day" on Commercial Radio Hong Kong reported that Times Square Piazza should be open to the public for free due to the Deed of Dedication. Initially, Times Square Estates Ltd. denied public query. On March 4, the then Director of the Buildings Department Cheung Hau-Wai was invited in "On a Clear Day" to affirm to the fact which aroused people's wide concern. In this situation, Times Square Estates Ltd. had to apologize for the "over-zealous" private security guards but refused to admit having intentionally asked them to do so. On March 5, Sun Newspaper further and Ming Pao both reported that Times Square Piazza had been temporarily leased for commercial exhibitions for 14 years since 1994 and the daily rent ranged from HK$ 28,000 to HK$ 40,000 on weekdays and from HK$ 100,000 to HK$ 124,000 on weekends (Sun Newspaper, 2008; Ming Pao, 2008a). According to the Deed of Dedication, after approval from the government, Times Square Piazza could be used for public exhibitions and the private developer could merely charge the costs of utilities, if any (Figure 23, Figure 24). Obviously, the profit-oriented behaviors of Times Square Estates Ltd. violated the Deed of Dedication. However, on the same day (March 5 2008), the then Secretary for Development Carrie Lam Cheng Yuet-Ngor was invited to the Legislative Council meeting for public inquiry. According to the meeting minutes, Carrie Lam said that "the development project of Times Square has fulfilled the requirements of the Deed" (Lam, 2008).

The news by media provoked the public and a series of grassroots movements of reclaiming public spaces followed up. Political groups came to protest, social groups came to organize various of social activities, artists came to perform street shows, friends came to play
games, and families came to picnic. All of these grassroots activities kept up pressure on the
government and the private developer. On May 4 2008, Carrie Lam was present again at the
meeting of the Legislative Council for public inquiry. She changed her previous point of view
in the first public inquiry and said that "regarding the case in which the owner of Times
Square is suspected of acting in breach of the Deed, the Government took civil action against
the owner of Times Square in 2008. As the relevant legal proceedings are in progress, we are
not in a position to reveal details" and "the management of POSPD is the responsibility of the
relevant owners." As such, the Government does not collect information on the management
agencies employed by POSPD owners" (Lam, 2008). On June 17 2008, the Secretary for
Justice filed a writ in the High Court on behalf of the HKSAR Government against Times
Square Ltd. and its parent company The Wharf (Holdings) Ltd., and sued them for violating
the Deed of Dedication and required them to return all the illegal incomes as well as fines. In
response, Times Square Ltd. insisted that it did not charge more than what the Deed of
Dedication allowed. On February 11 2011, Hong Kong Headline reported that the lawsuit of
Secretary for Justice (on behalf of the Buildings Department) v. Times Square Ltd. has been
pending for three years and probably for two more years in the future. The lawyer for the
plaintiff Yu Yeuk-Hoi said that Times Square Ltd. still refused to submit the accounts of the
incomes from leasing Times Square Piazza to the High Court because such documents were
sensitive due to the relationship with public interest. The lawyer for the defendant Ho
Pui-Him explained that the collection of all the requested documents was time-consuming and
labor intensive and recommended the plaintiff to list the necessary documents (Hong Kong
Headline, 2011).
Times Square Affair is a milestone in the history of POSPD development in Hong Kong since it has aroused unprecedented public concern on public space and the right of the public within. In response to public criticism and concern, the Lands Department and the Buildings Department each announced its own list of the existing POSPD named "Provision of Public Facilities in Private Developments" for public investigation and supervision in 2008. In 2011, the Development Bureau promulgated a new guideline named "Public Open Space in Private Developments Design and Management Guidelines." Today, the issue of public spaces in Hong Kong's society is beyond urban planning and, to some extent, becomes a political issue. From the affair, the HKSAR Government has seen the grassroots power and the growth of public consciousness. The lawsuit of Secretary for Justice v. Times Square Ltd. is regarded by commentators as a landmark in law which may have significant implications for other property owners of POSPD if it is successful.

6.2 Case II: HSBC Headquarters

As one of the most significant landmarks in the heart of Hong Kong's Central Business District, the HSBC Headquarters is located at 1 Queen's Road Central, the Central along the southern side of Statue Square on which Legislative Council Building and Prince's Building border (Figure 18). On its both sides are Bank of China Building and Standard Chartered Bank Building, the other two commercial banks which are licensed by the Hong Kong Monetary Authority to issue banknotes in Hong Kong. The privileged location manifests HSBC's position of eminence in Hong Kong.
HSBC obtained the site in 1866 at the early age of the colony and the lease held by HSBC is the oldest lease with 999-year term. The first building on the site was Wardley House used as HSBC office between 1865 to 1882. In 1886, it was replaced by a new Victorian-style building with a verandah, colonnades and an octagonal dome. In 1935, the second building was demolished and a third high-rise building was erected, which served as the government headquarters during the Japanese occupation of Hong Kong (1941-1945). With the rapid growth of HSBC businesses in the 1970s, due to space limitation, the old building could no longer accommodate all the HSBC staff. In 1978, HSBC decided to tear down the old building and rebuild a modern-style high-tech skyscraper. Designed by the British architect Norman Foster and Civil & Structural Engineers Ove Arup & Partners, the new building was completed in 1985, which was the most expensive building in the world at that time (Figure 25) (Lim, 2002).

Beneath the 41-story building runs a 12-meter high pedestrian concourse at street level, in which a pair of escalators rise to the principal banking hall on the second floor and its 10-story atrium. Different from building Times Square Piazza whose purpose was to maximize profits, building HSBC Concourse was built primarily with the principles of Feng Shui literally translated as "wind-water" in English, a traditional Chinese philosophy widely used to orient buildings in an auspicious manner. In Feng Shui, water is strongly associated with wealth and thus a direct view of water body is regarded as auspicious and prosperous in the eyes of businessmen. Therefore, HSBC had a special but unwritten agreement with the government that the area between HSBC and the Victoria Harbor including Statue Square
should never be built upon to block the direct view of water, even though the government extended the coastline further out into the harbor in the later land reclamation projects (Cuthbert et al., 1997; Law, 2002). In order not to block the "dragon vein" in Feng Shui from The Peak to Victoria Harbor, HSBC Headquarters was lifted above ground and a pedestrian concourse with the area of 3,172 square meters at street level was dedicated. In the Deed of Dedication, the dedicated area is primarily used as "pedestrian passage" and "temporary structures for exhibitions and displays may be placed." The whole property is managed by HSBC (Figure 26, Figure 27).

Figure 25. Views of the Central in 1950s, 1970s and 1994

Data Source: the website of HKSAR Government
Figure 26. The layout of HSBC Concourse

*Data Source: The Buildings Department, HKSAR*

Figure 27. Photos of Times Square Piazza
Table IX
THE BUILDING RECORDS OF HSBC HEADQUARTERS

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Area (by lease)</td>
<td>4941 m²</td>
</tr>
<tr>
<td>Class of Site</td>
<td>C</td>
</tr>
<tr>
<td>Permitted Plot Ratio (non-domestic)</td>
<td>15</td>
</tr>
<tr>
<td>Total Dedicated Area (street level)</td>
<td>3071.752 m²</td>
</tr>
<tr>
<td>Bonus Coefficient</td>
<td>5</td>
</tr>
<tr>
<td>Bonus Gross Floor Area from the Dedicated Area</td>
<td>15358.76 m²</td>
</tr>
<tr>
<td>Bonus Plot Ratio from the Dedicated Area</td>
<td>3.108 (more than 20% of 15)</td>
</tr>
<tr>
<td>Total Bonus Plot Ratio</td>
<td>3</td>
</tr>
<tr>
<td>Total Permissible Plot Ratio</td>
<td>18</td>
</tr>
<tr>
<td>Total Permissible Gross Floor Area</td>
<td>88938 m²</td>
</tr>
<tr>
<td>Actual Built Gross Floor Area</td>
<td>88916.142 m²</td>
</tr>
<tr>
<td>Percentage of Using Development Potential</td>
<td>100%</td>
</tr>
</tbody>
</table>

Data Source: The Buildings Department's BRAVO system

From the building records above (Table IX), it is clear that the developer actually obtain an extra gross floor area of about 14,801 square meters in return for the dedication and construction of HSBC Concourse. Because the parcel of land had been leased out to HSBC with 999-year term since 1866 and hence HSBC did not pay land premium in the 1985 rebuilding, here, I choose an adjacent land lot for public auction at that time for estimating the land value of the HSBC site in land sale records from the Lands Department⁶. The most similar land lot I can find was the lot (IL 8582) located at Supreme Court Road, which was designated as commercial or residential and the land premium in 1986 was HK$ 1,005,000,000 for the total area of 16,150 square meters. The sales price of land in 1985 was about HK$ 62,229 per square meter. Based on the model of equivalent development rights (EDR), the EDR of HSBC Headquarters was HK$ 4,149 per square meter in 1985.

bonus coefficient for times square was 5. Therefore, the equivalent cost of the concourse was HK$ 20,743 (or US$ 7,408\textsuperscript{7}) per square meter in 1985. Obviously, from the photos of HSBC Concourse, the pavement without any public amenity and planting would not cost HK$ 20,743 per square meter. To sum up, HSBC had earned about HK$ 63,000,000 (HK$ 20,743 x 3,071.752 m\textsuperscript{2} - actual construction cost) from the dedication and construction of HSBC Concourse.

As mentioned above, the primary purpose of dedicating HSBC Concourse was pursing healthy Feng Shui rather than profits since HSBC Headquarters was built to accommodate the increasing number of staffs. However, in fact, HSBC did receive more highly valuable office spaces in the heart of Hong Kong's Central Business District that HSBC would pay to accommodate its extra staff otherwise. Because the statistical data by the Rating and Valuation Department that can be found merely cover between 1991 and 2010, I estimate the extra saving for HSBC from 1991 to 2010 in the following table (Table X). From the table, we can see that the average annual saving between 1991 and 2010 was nearly HK$ 100,000,000 and the total saving in the two decades was nearly HK$ 2,000,000,000,000. Of course, there is always maintenance burden for HSBC, such as cleaning and security. Compared with the huge amount of saving, such routine costs are almost nothing.

In sharp contrast to HSBC Headquarter as a modern high-tech masterpiece, HSBC Concourse is a totally barren and inhuman public space. From the photos of HSBC Concourse,

\textsuperscript{7} In 1985, the exchange rate between US dollars and HK dollars was about 1 : 2.8.
we can see the pavement made of unsympathetic materials, no planting, no seating, stepped design, lack of natural light and a sense of pressure from 10-story atrium overhead. The architect intentionally reinforced the feeling of pedestrian passageway and weaken the sense of recreational place using his design skills. The only public amenities in the area are automated vending machines and the only encouraged public activities are walking through and depositing or withdrawing money. Under the Deed of Dedication, HSBC Concourse should be open 24 hour 7 days a week and hence the public space, despite inhospitable, becomes a lively gathering place for thousands of Filipino domestic maids each Sunday, who picnic, gossip, sing and dance to enjoy their day off (Figure 28). To some extent, Sunday can be looked upon as a respite from employer-employee relations on weekdays. The Deed of Dedication designates the concourse as "pedestrian passage" and thus any activity that may block pedestrian traffic is prohibited. Nevertheless, it is ironical that the public space becomes lively only when the stated rules are challenged.

Figure 28. Filipino maids gathering in HSBC Concourse on Sundays
### Table X

**EXTRA RENTS SAVING BETWEEN 1991 AND 2010**

<table>
<thead>
<tr>
<th>Year</th>
<th>Monthly Average Rents of Grade A Private Office in Central (HK$/ m²)</th>
<th>Annual Rent Savings (HK$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>501</td>
<td>88,983,612</td>
</tr>
<tr>
<td>1992</td>
<td>481</td>
<td>85,431,372</td>
</tr>
<tr>
<td>1993</td>
<td>562</td>
<td>99,817,944</td>
</tr>
<tr>
<td>1994</td>
<td>731</td>
<td>129,834,372</td>
</tr>
<tr>
<td>1995</td>
<td>736</td>
<td>130,722,432</td>
</tr>
<tr>
<td>1996</td>
<td>620</td>
<td>110,119,440</td>
</tr>
<tr>
<td>1997</td>
<td>682</td>
<td>121,131,384</td>
</tr>
<tr>
<td>1998</td>
<td>574</td>
<td>101,949,288</td>
</tr>
<tr>
<td>1999</td>
<td>406</td>
<td>72,110,472</td>
</tr>
<tr>
<td>2000</td>
<td>411</td>
<td>72,998,532</td>
</tr>
<tr>
<td>2001</td>
<td>474</td>
<td>84,188,088</td>
</tr>
<tr>
<td>2002</td>
<td>342</td>
<td>60,743,304</td>
</tr>
<tr>
<td>2003</td>
<td>266</td>
<td>47,244,792</td>
</tr>
<tr>
<td>2004</td>
<td>290</td>
<td>51,507,480</td>
</tr>
<tr>
<td>2005</td>
<td>414</td>
<td>73,531,368</td>
</tr>
<tr>
<td>2006</td>
<td>557</td>
<td>98,929,884</td>
</tr>
<tr>
<td>2007</td>
<td>719</td>
<td>127,703,028</td>
</tr>
<tr>
<td>2008</td>
<td>945</td>
<td>167,843,340</td>
</tr>
<tr>
<td>2009</td>
<td>743</td>
<td>131,965,716</td>
</tr>
<tr>
<td>2010</td>
<td>772</td>
<td>137,116,464</td>
</tr>
<tr>
<td></td>
<td><strong>Total Rent Savings</strong></td>
<td><strong>1,993,872,312</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Average Annual Rent Savings</strong></td>
<td><strong>99,693,615</strong></td>
</tr>
</tbody>
</table>

*Data Source: Hong Kong Annual Digest of Statistics (2001-2011)*
Since the outbreak of Occupy Wall Street in New York City on September 17 2011, the Occupy movement has rapidly become a global protest movement against economic and social inequality. In Hong Kong, Occupy Central movement started on October 15 2011 to echo the global Occupy Movement. Like the Wall Street protestors who occupied Zucotti Park, a privately owned public space, the counterparts in Hong Kong occupied HSBC Concourse, a public space but under private control. When the protestors started camping on October 15 2011, the security guards in HSBC Concourse once tried to stop them, but they quitted rapidly due to a great disparity in strength. In the following several weeks, HSBC did not take any action to drive them out because the anti-capitalist emotion in Hong Kong's society was ignited at that time and HSBC tried its best not to add fuel to the flames. In this situation, the proposed 5th Halloween Charity Parade held by HSBC on October 29 2011 whose route would start from HSBC Concourse had been cancelled. The encampment in HSBC Concourse had about 20 resident protestors at the beginning and the number increased up to 200 resident protestors at peak in August 2012. People like students, young professionals, social activists, the unemployed and the homeless were continually attracted to camp and create a commune in HSBC Concourse. In the daytime, protestors propagated their political views to the public and in the nights, different meetings and forums were held. Several grassroots organizations also got involved in the movement, such as Socialist Action (Hong Kong), The Alliance of Lehman Brothers Victims, People Power, Left 21 and Land Justice League. Several grassroots media like Independent Media Hong Kong (Inmediahk) followed up to report the process as it developed (Figure 29).
Since Times Square Affair in 2008, private managers of POSPD in Hong Kong have learnt from the case that they should rely on the government's police force rather than private security guards to handle unexpected incidents involving mass participation in order to prevent the situation from deteriorating. Therefore, private security guards were required to adopt the strategy of minimal intervention. On the another hand, the campers also set boundaries of the encampment in order not to block pedestrian traffic and kept protesting in a peaceful manner so as not to further challenge the Deed of Dedication. A delicate equilibrium had been established and maintained for the next several months. During the period of time, several negotiations between HSBC and the protestors that requested them to leave voluntarily used to be under way but eventually no agreement had been reached. In June 2012, HSBC brought the case to the High Court. In the public hearing, the lawyer for the plaintiff Tao Kam-Kwan argued that the occupied space was not a public space but owned and managed by HSBC, and the protestors did not provide sufficient proofs to justify their long-time occupancy as well as convincing reasons as to why they should continue to occupy without HSBC's consent. But one of the organizers Mr. Wong refuted that HSBC Concourse was dedicated for public use and the protestors had already limited the boundaries of their encampment into a relatively small area which would not stop members of the public from passing through in such a big plaza (iCable, 2012). Eventually, Mr. Justice Reuder Lai stated that the protestors' occupancy of HSBC Concourse had the actual effect of restricting the space function as a public passageway and hence it was not legal for them to continue occupying the area. He further expressed that, according to the Deed of Dedication and POSPD Guidelines, the owners or management companies should keep the public
passageways free of obstruction and were authorized to take necessary measures to stop any users from blocking the passageways or unduly obstructing other users from enjoying the POSPD. On August 13 2012, the High Court granted an injunction that compelled the protestors to clear out HSBC Concourse within 14 days, by 9pm on August 27 2012.

![Figure 29. Photos of Occupy Central Movement in HSBC Concourse](image)

After receiving the injunction, a number of protestors said they would not contest the ruling but would move to other public spaces to continue Occupy Central movement. As Ho Yiu-Sing, a member of the movement, said "I will leave this place and move to the protest area outside the central government Offices" (Lo, 2012; Yeung, 2012). But some argued that
HSBC Concourse was a public property which people had the right to use freely, and planned to defy the eviction order. Nin Chan, a member of Occupy Central movement, said: "We'll still be here on the 27th. We'll wait for them, anticipating them on the 27th" (Tang, 2012). Some core members refused interviews since they believed that the media had always "twisted our purpose" and they further argued that they would hold other activities so the government would hear their voice. Under this circumstance, legal professionals warned the protestors that the result of defying the eviction order would be severe and the offenders would be fined for contempt of court who could be sentenced to a fine at level 3 and to imprisonment for up to 6 months. Despite of such warning, about 40 protestors still ignored the eviction order and kept occupying HSBC Concourse on August 27 2012. At 7pm, the protestors held a concert and chanted "Do not leave even if we will die" (Lo, 2012). Over 100 people including some parents with their children attended the concert to support the occupiers. More than 100 people, including some parents brought along their children, attended an anti-evacuation concert to support the occupiers (Yeung, 2012). One supporter burnt joss paper and plastic shoes at the scene, attracting around 20 policemen and firemen who arrived to conduct a check. At 10pm, a hour past the deadline, security guards put up a board in HSBC Concourse to notify the protestors of the eviction order again. Still, the protestors ignored the notification and stayed overnight. The next day, the demonstrators were warned by HSBC spokesman that HSBC would request the High Court to assign bailiffs to remove them if they continued occupying the area.
On September 11 2012, 15 days after the deadline, court bailiffs started eviction the morning, which led to tough resistance from the campers. Before removing furnitures and tents, the bailiffs were requested to show the order of clearance but they ignored the complaints and carried on with the clearance. Later, dozens of outside protestors tried to came in to support the campers but they were blocked by security guards. Scuffles broke out and a few guards and protestors were injured and sent to hospital. Finally, some campers zipped themselves in couches, trying to avoid being removed. By 4pm, all the occupiers were forcefully evicted from HSBC Concourse and three people were arrested for assaulting security guards. Later, security guards closed the gates of HSBC Concourse. The whole process of clearance took almost 8 hours (Figure 30) (Ming Pao, 2012a). Occupy Central movement lasted from October 15th 2011 to September 11th 2012. The almost 11-month-long non-stop campaign was one of the longest Occupy movements all over the world. However, similar to most of the Occupy movements, it could not escape the fate of being cleared out.
However, the story never ended with the official clear-up and the conflict between protesters and security guards in HSBC Concourse still continued. On October 6 2012, The 10th Hong Kong Social Movement Film Festival (HKSMFF), a local grassroots non-profit two-day-long open-air film festival held in public open spaces throughout Hong Kong since 2003, selected the southern part of HSBC Concourse along Queen's Road Central as the place of the annual event. At 6pm, the organizers arrived at the location and prepared screening equipments. Meanwhile, dozens of security guards appeared and requested the people to move out, arguing that the area was under private control. After the organizers explained to them that showing films would be the only public activity, security guards temporarily
stopped, standing nearby and watching. However, at 8pm when people were quietly watching a film named Money As Debt showing how global bankers defrauded people of their sweat money and rendered them into slaves using debt, as a witness Julian recalled, a superior suddenly spoke loudly on his loudspeaker "This is private space. If not leaving immediately, you will be cleared out." Only after 5 seconds, "Fail to warn!" shouted the superior again and then rapidly commanded some security guards to close the gates of HSBC Concourse and the others to swarm towards the screening equipments (Julian, 2012). In the following resistance, a physical conflict between the organizers and the security guards inevitably occurred, some people were injured and some equipments were damaged. In the whole process, about 30 policemen with two police vans nearby were just waiting, filming and watching what was happening. As the later declaration by the Organizing Committee on the website mentioned, "The entire time, the cameras were directed at us: clearly, the police are only interested in whatever ‘violence’ they catch us using, the violence of others doesn’t interest them at all" (The Organizing Committee, 2012). Until the organizers cornered two high-ranking managers, the police did not jump into the chaos and escorted the two managers back to their offices. By sharp contrast, a member of the audience who was strongly demanding an explanation for the use of force was shoved to the floor by one of the security guards' superiors and later sent to hospital. But this superior was not arrested by the police for assault. After the intervention of police, the chaotic state was again under control and the organizers used the remaining unbroken equipments to finish the film along the sidewalk.
On October 7, HSBC organized more security guards to build up a wall on site ahead of time. Even more aggressively, the security guards extended the territory to the curbside so that the organizers could no longer hold the film festival on the sidewalk as they did last night. As the organizers recalled on Inmediahk (The Independent Media Hong Kong), when arriving at 17:30pm, they found that the security guards were delimiting a boundary line of so-called "private domain" using tapes which was much larger than what they claimed yesterday and the sidewalk in front of HSBC Concourse had been included. At 7:15pm, a army of security guards began to evict the people out of the "private domain" and two organizers were injured and immediately sent to hospital (Chu, 2012). In this situation, the film festival had to move to the south eastern narrow street corner and used the facade of HSBC Main Building as the screen. But security guards stood in line in front of the building and tried to block the view of the audience (Figure 31).
The lawsuit of HSBC Concourse v. the members of Occupy Central movement is a seminal judicial precedent profoundly influencing later similar lawsuits regarding the conflict in Hong Kong's POSPD in the future. First, it clearly identifies the ownership of a dedicated land in contrast with a surrendered land. In the case of HSBC Concourse, although it has been dedicated for public use, it is still HSBC's private property instead of the government's. Second, it has legally empowered private owners and management companies in handling unexpected incidents involving mass participation in POSPD. In other words, before the court case, private owners and management companies have been authorized to judge whether the behaviors of people unduly obstructing the usage of POSPD and, if so, to conduct an eviction legally using security guards. The effect of such empowerment can be seen explicitly from the different attitudes of HSBC security guards towards Occupy Central movement and the 10th HKSMFF. Before the court case, security guards adopted the strategy of minimal intervention and tolerated the occupancy of HSBC Concourse for nearly 11 months. Finally, it was court bailiffs who evicted the protestors. On the contrary, after the court case, private security guards themselves took very aggressive actions, even using force, to evict the organizers and audience of HKSMFF.

6.2 Case III: Grand Millennium Plaza

Located at 181-183 Queen's Road Central, at Sheung Wan on the western fringe of the Central Business District in Hong Kong Island (Figure 18). Grand Millennium Plaza is one of
LDC's first two redevelopment projects\(^8\) since its establishment in 1988 and still remains the successor URA's flagship project of urban redevelopment. The whole project consists of two 30- and 56-story high office towers and an Italian-style stepped plaza in-between connecting Wing Lok Street and Queen's Road Central. Currently, URA Headquarters is located on the 26th Floor of Cosco Tower. On the basis of public-private partnership, the redevelopment project was developed by LDC in a joint venture with New World Development Co. Ltd.

The pre-redevelopment site used to be a highly dense urban area with three narrow laneways, Kwong Yuen Street West, Kwong Yuen Street East and Wing Sing Street. Most of the existing buildings were low-rise of 3-4 stories high, about half of which were built before WWII and in dilapidated condition. Commercial was the primary use, storage was the secondary use and there were only about 92 people living in this area. In addition, part of the area was government land mainly used as the traditional preserved egg and egg wholesale market. Tak Wan Tea House, a famous century-old tea house, also originated from the area (Figure 32). The existing buildings were under multi-ownership and the majority of the leases were under 999 year terms. In this situation, Land Development Corporation (LDC) got involved in land resumption and redevelopment.

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\(^8\) The other flagship redevelopment project of LDC is The Center at 99 Queen's Road Central.
On March 17 1988, LDC submitted a proposal for comprehensive redevelopment of the area to the Town Planning Board and the Board agreed to rezone the scheme area as a "Comprehensive Development Area (CDA)" on the draft Sai Ying Pun and Sheung Wan
Outline Zoning Plan on April 22 1988. On March 1 1989, LDC submitted a draft development scheme plan, which was approved by the Town Planning Board on September 2 1990. As of April 1990, 71% of the land within the schemed area had either been acquired by LDC or owned by the government. In accordance to Section 4(A) of the Town Planning Ordinance, on May 21 1990, LDC submitted a Master Layout Plan with supplementary information to the Town Planning Board which was approved on July 20 1990. On September 10 1991, the Governor in Council approved the LDC Development Scheme Plan under Section 19(1)(a) of the Town Planning Ordinance. After completing land resumption at the end of 1993, LDC applied for the amalgamation with the adjoining Dao Heng Bank (DHB) site in 1994. As proposed, most of the DHB site would be dedicated for public passage at street level for bonus plot ratio in return. The application was approved by the Town Planning Board on July 14 1994. By then, site clearance had been finished and the final boundary of CDA was defined. LDC surrendered all the existing leases that it acquired within the site to the Lands Department which would then grant a single lease for the whole site. The final building plan with the proposal of dedicated public area was later approved by the Buildings Department and a Deed of Dedication was signed with the Lands Department (Figure 33). In November 1997, the redevelopment project was completed with the joint venture between LDC and New World Development Co. Ltd..

Today, surrounded by two office towers, Grand Millennium Plaza with the area of over 3,300 square meters has become one of the main attractions in Sheung Wan. Through meticulous design, the Italian-style landscaped open space with fountains, greenery and
seating areas provides the public with an oasis in the concrete jungle of the Central Business
District. The clock tower explicitly marks the entrance and the decorated facades with arcades
elegantly define the boundaries of the plaza. Besides, the stepped fountains and pools, the
rows of palm trees and flower beds, the large exterior TV screen and the sun burst pavement
with embedded fiber-optic lights invigorate the plaza day and night (Figure 34, Figure 35).
Now the property is mainly owned by Cosco (HK) Property Ltd. and managed by the Grand
Millennium Plaza Management Office of Urban Property Management Ltd..

Figure 34. The layout of Grand Millennium Plaza

Data Source: The Buildings Department, HKSAR
## Table XI
THE BUILDING RECORDS OF GRAND MILLENNIUM PLAZA

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
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</thead>
<tbody>
<tr>
<td>Site Area (by lease)</td>
<td>6726 m²</td>
</tr>
<tr>
<td>Class of Site</td>
<td>C</td>
</tr>
<tr>
<td>Permitted Plot Ratio (non-domestic)</td>
<td>15</td>
</tr>
<tr>
<td>Total Dedicated Area for Public Passage Claiming Bonus Plot Ratio</td>
<td>2443.172 m²</td>
</tr>
<tr>
<td>Total Dedicated Area for Public Passage</td>
<td>2568.241 m²</td>
</tr>
<tr>
<td>Public Open Space from Government Land</td>
<td>800 m²</td>
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<td>Bonus Coefficient</td>
<td>5</td>
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<tr>
<td>Total Bonus Gross Floor Area</td>
<td>12215.86 m²</td>
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<td>Total Bonus Plot Ratio</td>
<td>1.816 (less than 20% of 15)</td>
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<tr>
<td>Total Permissible Plot Ratio</td>
<td>16.816</td>
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<tr>
<td>Total Permissible Gross Floor Area</td>
<td>113105.86 m²</td>
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<tr>
<td>Actual Built Gross Floor Area</td>
<td>113098.265 m²</td>
</tr>
<tr>
<td>Percentage of Using Development Potential</td>
<td>100%</td>
</tr>
</tbody>
</table>

*Data Source: The Buildings Department's BRAVO system*
The building records show that Grand Millennium Plaza was produced from both incentive and mandatory mechanisms and this is why the POSPD appears on the lists from both the Lands Department and the Buildings Department. As mentioned before, part of the site with the area of 800 square meters is government land, which was hence designated as public open space without bonus plot ratio in the redevelopment project. Through incentive mechanism, the total dedicated area with the area of about 2,568 square meters was produced, of which about 2,443 square meters received bonus plot ratio. The dedicated area was designated as "public passage" in the Deed of Dedication, in return for which the developer received the total bonus gross floor area with about 12,216 square meters. Different from URA, LDC did not enjoy a waiver of land premium and it needed to acquire land piece by piece. According to a relevant research, the total land premium paid to the government for its first two flagship sites was HK$ 2,900,000,000 for the total area of 15,542 square meters (Adams et al., 2000). Because the two flagship redevelopment projects with similar size and land use are in close propinquity and distance to each other, I assume that the average land premium for the two sites are the same. Therefore, the average land premium was HK$ 186,591 per square meter. Based on the model of equivalent development rights (EDR), the EDR of Grand Millennium Plaza was HK$ 12,439 per square meter. Then, times the bonus coefficient which was 5, the equivalent cost of Grand Millennium Plaza was HK$ 62,195 per square meter in 1997. This means that as long as the construction cost of the public plaza is lower than HK$ 62,195 per square meter, or the total construction cost of the public plaza is lower than around HK$ 209,000,000, the co-developers would have the incentive to building the POSPD. As one of LDC's first flagship projects, Grand Millennium
Plaza was expected to play an exemplary role for the subsequent redevelopment projects and hence economic profits was not the only consideration. Unlike Times Square Piazza or HSBC Concourse pursuing profits maximum, from the photos of Grand Millennium Plaza (Figure 6.18), we can see that it is a well-designed open space with fountains, planting and elaborate decoration. In addition, what needs to be stressed is that the co-developers paid a large amount of money to acquire the land piece by piece, which increased the land cost significantly. In this sense, it might be more reasonable for the co-developers to receive the bonus plot ratio, despite that the equivalent cost of HK$ 62,195 per square meter was still considerable. However, unfortunately, from my personal experience of field survey, such high-quality POSPD is uncommon in Hong Kong.

After the completion in November 1997, LDC and New World Development Co. Ltd. sold the property instead of leasing in 1998. From the statistical data by the Rating and Valuation Department, the average sale price of Grade A private office in Sheung Wan in 1998 was HK$ 62,445 per square meter. This means that the extra profit from the bonus gross floor area was about HK$ 763,000,000. Compared with the total investment of HK$ 2,700,000,000, the extra profit alone accounted for about 28.3% (Ng, 2002).

From the appearance, it is an objective fact that Grand Millennium Plaza opens up the older congested urban area and provides an aesthetically pleasing open space. As a flagship project, one of LDC’s main concerns on Grand Millennium Plaza was to display the ambitions and fruits of large-scale urban redevelopment led by LDC. Therefore, the LDC held a series
of social activities in the plaza to present the great achievement of the project to the public during the first several years after the opening in November 1997. For instance, a celebration party for the elderly from the Central and Western Districts was held by LDC in December 1997. The main objective of the party was to offer the elderly, many of whom were the former residents in the site and the adjacent affected areas, the opportunity to see how their former habitat had been redeveloped and to enjoy the fruits of the urban renewal. Ironically, some of the elderly had been relocated so far away that they had to take a long travel to attend the party (LDC, 1997). Some other similar social activities include Lighting up Hope for Handicapped Children in January 1999, Elders and Children Joining Hands in Green Work in March 2000 and so forth.

However, with the lapse of time, Grand Millennium Plaza underwent the transformation of commercialization and consumerization intentionally promoted by the HKSAR government due to the implementation of Outside Seating Accommodation Policy in 2003. Since the Asian Financial Crisis in late 1997, Hong Kong had experienced a significant economic depression. With the outbreak of SARS in 2003, the recession had bottomed out. In this situation, the HKSAR government carried out a series of schemes to "promote the local community economy" in the 2003 Policy Address. One of the schemes was to license outside seating accommodation (OSA) in POSPD.

The transformation of commercialization and consumerization could be indeed looked upon as an encroachment of exclusive private domain on inclusive public domain. But the
phenomenon of privatization in POSPD promoted by the HKSAR government indeed contravened the Deed of Dedication the statutory plan. According to the Deed of Dedication of Grand Millennium Plaza issued on August 29 1999, the POSPD was designated as "public passage" and the private owners should keep and maintain the dedicated area free of any obstruction and permit all the members of the public to walk through at all times. In addition, according the draft Sai Ying Pun and Sheung Wan Outline Zoning Plan, a public open space of no less than 800 square meters at Queen's Road Central level and an open plaza of no less than 1,350 square meters were designated in the site of Grand Millennium Plaza. Obviously, the proposed OSA taking up part of the POSPD for the exclusive use by the applicant was against the existing legal documents and statutory plans.

In order to legitimize OSA policy, the HKSAR government had to resolve the legal issues above. What the government did was to refer to Section 34I of the Building Management Ordinance (Cap. 344) stipulating "no person may convert any part of the common parts of a building to his own use unless such conversion is approved by a resolution of the owner' committee (if any)." In accordance to this provision, with the consent of the owner's committee, part of the POSPD could be applied to be converted for private use. For POSPD, it undoubtedly meant that the power of applying for privatizing public spaces for private uses had been conferred upon private owners. It might be noted that the Building Management Ordinance (Cap. 344) should only be applicable to the common areas in a single building rather than the open spaces between buildings and hence the legal backing of OSA
policy did not hold water from this point of view. However, for the mission of promoting local community economy, the OSA policy was eventually justified and implemented.

The Food and Environmental Hygiene Department (FEHD) was entitled to take charge of the applications of OSA. After consulting relevant departments including the Lands Department, the Buildings Department, the Planning Department, the Transport Department, the Fire Services Department and the Home Affairs Department, FEHD finally issued "A Guide to Application for Outside Seating Accommodation" in 2003. According to the OSA guideline, "outside seating accommodation refers to any open area used for alfresco dining business, whether it is situated on Government land or within private property" (FEHD, 2003). The process of OSA application in detail can be seen in the following figure (Figure 36).
Figure 36. The process of OSA application

*Source: the website of FEHD*
In the case of Grand Millennium Plaza, in 2003, the private owner first issued a letter of consent for itself, with which the application for OSA could be permitted legally. Next, the applicant submitted a written application with the proposed plan showing the whole layout of the premises and the proposed OSA to FEHD. After the preliminary screening and interdepartmental consultation, an assessment of local public opinion was conducted. The public consultation was among the members of the Central and Western District Council committee, a consultative body on district administration and affairs under the supervision of the Home Affairs Bureau of the HKSAR government, rather than among the general public and, expectedly, there was no local objection. Eventually the OSA licensee in Grand Millennium Plaza was successful to receive a grant of approval from FEHD indicating the approval for inclusion of the OSA as part of the licensed premises and a short term waiver with 18-month term (starting from April 1 2003) from the Lands Department showing temporary change of land use for the OSA purpose in POSPD. For OSA license, FEHD charged the OSA licensee an additional license fee which was calculated according to the gross floor area of the licensed premises and, for the short-term waiver, the Lands Department charged the OSA licensee a rental fee representing the enhancement in the rental value of the land together with an administrative fee and a refundable deposit. The short-term waiver was renewable quarterly (The Development Bureau, 2009). By then, part of Grand Millennium Plaza had been commercialized and privatized, and the business hours in the OSA was confined to the period from 11am to 11pm every day (Figure 37).
Moreover, as an exemplary project of urban renewal which the government and LDC assiduously propagated, the experience from Grand Millennium Plaza was rapidly popularized in other POSPD throughout Hong Kong. According to the List of Licensed General Restaurant with Outside Seating Accommodation\(^9\) by FEHD as of October 23 2012, there are totally 184 OSA licensed restaurants throughout Hong Kong, many of which are in POSPD, such as IFC, Pacific Place and Times Square.

After the Times Square saga in 2008, a confusion and fighting between the Central and Western District Council and the Lands Department upon the sharing of benefits from local community economy happened. On July 17 2008, the Central and Western Council Committee held a meeting concerning the misuse of public open spaces in private properties. On January 15 2009, the council requested FEHD and the Lands Department to terminate the licenses and the waivers of OSA in six months in the meeting of Food, Environment, Hygiene and Works Committee. The first restaurant affected was Gaia Ristorante in the Grand

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Millennium Plaza, which was given a three-month grace period to comply with the ban. The high-end Italian restaurant had rented part of the plaza for OSA since 2004. According to the data by the Lands Department, Gaia Ristorante paid an additional annual fee of HK$ 180,000 to the Lands Department for operating OSA with the area of 40.52 square meters (about 1.2% of the Grand Millennium Plaza).

The reason for the decision that the council provided was that developers' profit-oriented activity of leasing public open spaces for commercial uses should be prohibited. As the chairman of the council's committee Chan Hok-Fung said, "Restaurants should not be allowed to profit from occupying public space. If we approve the case of the Italian restaurant, should we allow other restaurants as well?" However, we should not forget that it was the Central and Western District Council members who had no objection in the assessment of local public opinion and legitimized the application of OSA in Grand Millennium Plaza in 2003. Obviously, it was merely an altisonant excuse and the true cause was that the council members resented the fact that the rental fee of OSA was paid directly to the Lands Department without the council's initial knowledge and therefore the council felt a "loss of face" and used its position to settle scores (HKSAR Blog, 2009). The row amongst the departments involving the Lands Department and the District Council reflected the issue of lack of communication between government departments and district councils.

Inevitably, the ban decision met with strong opposition from the high-class catering restaurants. In a later council meeting on May 21 2009, the representatives of the Epicurean
Group and Igor’s Group, another two high-end catering companies, attended to show the support for Gaia Ristorante and argued that the decision would kill their business just like the smoking ban in public areas killing tobacco business. The site "ILoveHongKong.hk" started an online petition against the ban, garnering support from local restaurant owners. Under the pressure, after seeking advice from Secretary for Development Carrie Lam Cheng Yuet-Ngor, the councilors expressed the willingness to reconsider the decision and agreed to renew the short-term waiver of Gaia Ristorante of operating OSA to another three months. The future renewal was at the discretion of the Development Bureau. Meanwhile, they complained that the government had passed the buck to district councils on the use of public open space without providing proper guidelines for approvals. “We are being set up. We shouldn’t be the ones to make the decision,” the council chairman Chan Chit-Kwai said, urging the government to issue guidelines for their reference. The Development Bureau also announced that the application for using public open spaces as OSA would be considered on a case-by-case basis, taking account of lease conditions and views of relevant district councils, and the further developments of OSA would be monitored by the bureau in the future. Eventually, the Development Bureau and the Central and Western Council came to an agreement and the ban decision had been cancelled on May 25 2009. Since the row till now, Gaia Ristorante has been operating business in its OSA in Grand Millennium Plaza and the number of OSA in Hong Kong has increased (The Development Bureau, 2009; Central and Western District Council, 2008, 2009).
6.2 Case IV: Grand Promenade

Located at 38 Tai Hong Street, Sai Wan Ho in the Eastern District on Hong Kong Island, Grand Promenade is a luxury high-rise residential complex consisting of five towers, of which three are interconnected and contain 66 floors each with the height of 219 meters and two are separated and contain 63 floor each with the height of 213 meters (Figure 6.1). The project was developed by Henderson Land Development Co. Ltd. and its subsidiary company the Hongkong and Yaumati Ferry Co. Ltd.. The entire project includes 2,020 residential units, a multi-level parking garage, a podium garden, a clubhouse and a public transport terminus. Due to its advantageous geographical location with an ocean view, the average price is HK$ 117,882 (about US$ 15,200) per square meter as of April 2012\textsuperscript{10}. From the photos below (Figure 38), we can see that the development density of Grand Promenade is quite high. Having massive bulk, the project has a considerable negative effect on air circulation and hence is categorized as "Walled Buildings" by Green Sense, a non-profit grassroots organization in Hong Kong.

\textsuperscript{10} Data from GoHome.com.hk at http://news.gohome.com.hk/transaction-news/ad-4989/
As a piece of waterfront land reclaimed from the sea, the site of Grand Promenade was previously owned by the government and originally used as Sai Wan Ho Ferry Pier and a public transport terminus in the 1980s. In July 1992, the Government Property Agency recommended to sell the site for commercial or a multi-level parking use and to entrust the development of a new public transport terminus (PTT) and marine police operational area (MPOA) to the developer. In June 1996, the District Lands Office/Hong Kong East suggested a residential development above a new public transport terminus to maximize the development potential of the site, which received the support of the Transport Department. In August 1997, with the boom of real estate market bringing the heavy housing demand, the government decided to include the site in the list for housing development scheduled for disposal in 1999-2000. Subsequently, the Planning Department recommended to rezone the
site from "government, institution and community" to "residential, public transport terminus, community facilities and commercial" uses in the draft Quarry Bay Outline Zoning Plan (No. S/H21/9). In April 1998, the District Lands Office/Hong Kong East opposed the provision of community facilities use and argued that this would reduce the gross floor area for residential development and thus reduce land sale revenue. In November 1998, the proposal of rezoning was approved by the Town Planning Board. In November 1999, in response to the District Lands Office/Hong Kong East's inquiry about the drafting of the lease conditions, the Planning Department stipulated a minimum permissible domestic gross floor area as 80,000 square meters to accommodate 1,000 residential flats in the amended Quarry Bay Outline Zoning Plan (No. S/H21/9). On October 27 2000, the sale of the site by tender was gazetted and the reserve price of the site was assessed on the basis of five 41-stoery towers with 1,480 residential units with total domestic gross floor area of 107,950 square meters by the Lands Department. In January 2001, Henderson Land Development Co. Ltd. obtained the site as the highest bidder in the tender who paid the land premium of HK$ 2.43 billion for the total area of 12,200 square meters. As stipulated as the lease conditions, the developer was required to build a marine police operational area and a public transport terminus in the site on a reimbursement basis, which meant that the government would pay to the developer up to HK$ 29.3 million for the public transport terminus and up to HK$ 7.5 million for the marine police operational area after completion. In addition to the public facilities, the developer has also provided the POSPD with the total area of 2140 square meters at ground level, of which 1407 square meters are used as the public transport terminus and 733 square meters are used
as street widening and public passageway. The whole project was completed in 2005 (Figure 39, Figure 40).

Figure 39. The layout of Grand Promenade's dedicated public passageway

Data Source: The Buildings Department, HKSAR
Table XII
THE BUILDING RECORDS OF GRAND PROMENADE

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Area (by lease)</td>
<td>12200 m²</td>
</tr>
<tr>
<td>Class of Site</td>
<td>C</td>
</tr>
<tr>
<td>Permitted Plot Ratio (domestic)</td>
<td>10</td>
</tr>
<tr>
<td>Permitted Plot Ratio (non-domestic)</td>
<td>15</td>
</tr>
<tr>
<td>Actual Permitted Gross Floor Area (non-domestic)</td>
<td>2573.876 m²</td>
</tr>
<tr>
<td>Actual Permitted Gross Floor Area (domestic)</td>
<td>120279.8 m²</td>
</tr>
<tr>
<td>Dedicated Area for Public Passage</td>
<td>773.248 m²</td>
</tr>
<tr>
<td>Dedicated Area for Public Transport Terminus</td>
<td>1406.96 m²</td>
</tr>
<tr>
<td>Total Dedicated Area (street level)</td>
<td>2140.208 m²</td>
</tr>
<tr>
<td>Bonus Coefficient</td>
<td>5</td>
</tr>
<tr>
<td>Total Bonus Plot Ratio from the Dedicated Area</td>
<td>0.877</td>
</tr>
<tr>
<td>Total Bonus Gross Floor Area</td>
<td>10701.04 m²</td>
</tr>
<tr>
<td>Actual Gross Floor Area (non-domestic)</td>
<td>2573.876 m²</td>
</tr>
<tr>
<td>Actual Plot Ratio (non-domestic)</td>
<td>0.211</td>
</tr>
<tr>
<td>Permitted Plot Ratio (domestic)</td>
<td>9.859</td>
</tr>
<tr>
<td>Permitted Gross Floor Area (domestic)</td>
<td>120279.8 m²</td>
</tr>
<tr>
<td>Total Permissible Gross Floor Area (domestic)</td>
<td>130980.84 m²</td>
</tr>
<tr>
<td>Actual Built Gross Floor Area (domestic)</td>
<td>130980.73 m²</td>
</tr>
<tr>
<td>Percentage of Using Development Potential</td>
<td>100%</td>
</tr>
</tbody>
</table>

*Data Source: The Buildings Department’s BRAVO system*
From the building records (Table XII), it is clear that the developer obtain an extra domestic gross floor area of 10701.04 square meters in return for the dedication. The land premium that Henderson Land Development Co. Ltd. paid in the 2001 tender was HK$ 2,430,000,000 for the total area of 12,200 square meters. Therefore, the price of land in 2001 was about HK$ 199,180 per square meter. Based on the model of equivalent development rights (EDR), the EDR of Grand Promenade was HK$ 19,918 per square meter. The bonus coefficient was 5. Thus, the equivalent cost of the POSPD in Grand Promenade was HK$ 99,590 per square meter in 2005. The photos of POSPD indicates that the pavement without any public amenity and would not cost HK$ 99,590 per square meter. The developer had earned at least HK$ 200,000,000 (HK$ 99,590 x 2,140.208 m\(^2\)-actual construction cost) in the process of construction. Since the completion in 2005, the developer received the total extra domestic gross floor area of 10,701 square meters from the dedication. Using the average price as of April 2012 (HK$ 117,882 per square meter) for estimate, the total value of the extra domestic gross floor area was equal to HK$ 1,261,455,282. In fact, the considerable amount of profits from the extra domestic gross floor area was only part of the total extra profits in return for the dedicated area. According to the building records from the Building Department, the actual built domestic gross floor area in 2005 is 130,981 square meters with 2,020 residential units which has exceeded not only the original maximum domestic gross floor area of 85,720 square meters with 1,008 residential units in the Quarry Bay Outline Zoning Plan by the Planning Department in July 1998, but also the maximum domestic gross floor area requirement of 107,950 square meters with 1,480 residential units in the lease conditions prepared by the Lands Department in December 2000. The increase of
development density was so significant that the Audit Commission of the HKSAR government, the government's "value-for-money" watchdog, embarked on investigating the approval process of the building plan by the Buildings Department, which led to the resounding Grand Promenade Affair shocking the whole society of Hong Kong in 2005. Not only did the affair unveil how the developer maximized its profits through dedication, but also it triggered a great discussion about the issue of government-business collusion. Next, the Grand Promenade Affair and its lingering influence will be introduced in detail.

On October 22 2005, the Audit Commission published its investigation report revealing how the development density was increased step by step through the dedication policy (Audit Commission, 2005). According to the official report, there were three main factors contributing to the great increase of the development density in the site: 1) reclassification of the site from Class B to Class C, 2) the exclusion of the PTT from the gross floor area calculation and 3) the granting of bonus areas. Figure 40 below is a map showing the locations between the parts of different land uses in the site.
First was the reclassification of the site. In January 1999, after conducting as site inspection, the Buildings Department originally classified the site as Class B because Areas I & II in Figure 41 had been designated as "open space" in the draft Outline Zoning Plan (No.
S/H21/10) which could not be acceptable as street for site classification purpose. In accordance to Section 18A of the Building (Planning) Regulations, a site of Class B means "a corner site that abut on 2 specified streets neither of which is less than 4.5 m wide." For the Class B site with the height limit of over 61 meters, the maximum plot ratio permitted for domestic development is 9. In September 1999, the District Lands Office/Hong Kong East requested the Buildings Department to reclassify the site from Class B to Class C in order to maximize the development potential and the land revenue. A site of Class C means "a corner site that abut on 3 specified streets neither of which is less than 4.5 m wide" and the maximum plot ratio permitted for domestic development is 10. The Buildings Department agreed to upgrade the site from Class B to Class C, if Area III with the width of 4.5 meter, the length of at least 60% of the boundary abutted on the street and the area of 194 square meters in the site was designated as a street under Section 2 of the Buildings Ordinance (Cap. 123) and deducted from the site area in plot ratio and site coverage calculations. In December 1999, the Lands Department incorporated the designation of Area III as a public passage free of construction in the lease conditions. When assessing the land sale price for the proposed tender in December 2000, the Lands Department deducted Area III from the site area in plot ratio and site coverage calculations. In January 2001, the site was sold to Henderson Land Development Co. Ltd. at the premium of HK$ 2.43 billion. However, in March 2001 after obtaining the site, the developer insisted that Area II should be considered as a street for qualifying the site's status of Class C and hence Area III should not be exerted from the site area for plot ratio calculation. Surprisingly, the Building Authority accepted the developer's request at the conference on August 1 2001 and approved the building plans with the site's
status of Class C and without excluding Area III from the site area in the plot ratio calculation on September 1 2001. This means that the developer got an extra gross floor area of about 1,940 square meters from Area III with the area of 194 square meters.

Second was the exclusion of the PTT from the gross floor area calculation. In November 1999, when preparing the lease conditions of the site, the Buildings Department advised the Lands Department that the proposed PTT and MPOA should be included in the gross floor area calculation under Section 23(3)(a) of the Building (Planning) Regulations. However, for some unknown reason, such important requirement had not been incorporated into the lease conditions of the site. In February 2001, only one month after the tender, Henderson Land Development Co. Ltd. asked the Building Authority to exempt the government accommodation from the gross floor area calculation on the grounds of the absence of the requirement in the lease conditions. In the subsequent submission of building plans, the developer did not include the PTT in the gross floor area in the plans. The reasons it gave was that the PTT solely used for parking, loading and unloading could be disregarded in the gross floor area calculation under Section 23(3)(b) of the Building (Planning) Regulations and the PTT occupied "the most valuable ground floor space" which could be otherwise used to generate considerable profits for the developer. At the expanded Building Authority conference on August 1 2001, the District Planning Office/Hong Kong argued against the exemption of the PTT by saying that the exclusion of the PTT would inevitably increase the development density which would not generate any benefit to the public and would have negative visual impact. The District Lands Office/Hong Kong East also opposed the exclusion
by saying that when assessing the reserve price of the site the PTT had been included in the
gross floor area calculation. Two university professors were also invited to attend the
conference as independent observers. One was Patrick Lau Sau-Shing who was the former
President of the Hong Kong Institute of Architects, the former Director of Architecture
Department at the University of Hong Kong and the later legislator in the functional
constituency of architectural, surveying and planning since 2004. The other was Alex Lui
Chun-Wan, a professor of Architecture Department at the Chinese University of Hong Kong
and the former non-official member of Town Planning Board. But both of them had no
written records indicating free of conflict of interest. In the conference, they supported the
exclusion of the PTT by arguing that the developer should deserve the benefit of doubt due to
the confusing lease conditions. Due to the divergence of views, the decision of the Buildings
Authority was deferred. At the later Building Authority conference on October 22 2001, the
District Planning Office/Hong Kong insisted on the same counterview. But the Buildings
Department argued that PTT fitted in with the ambit of floor space for parking, loading and
unloading which could be exempted from the gross floor area calculation under Section
23(3)(b) of the Building (Planning) Regulations and the exclusion of the PTT would not have
any adverse effect on the public interest. Eventually, in accordance to Section 42 of the
Buildings Ordinance, the Buildings Department decided to exercise its discretionary power to
exempt areas dedicated for public use from the gross floor area calculation. From the
exclusion of the PPT from the gross floor area calculation, the developer got an extra gross
floor area of about 7,297 square meters and, according to the economic assessment, this
brought the extra profit of about HK$ 125,000,000 to Henderson Land Development Co. Ltd.
Third was the granting of bonus areas. Figure 42 shows the four parts of dedicated areas for bonus plot ratio. Area D1 at the southeastern boundary of the site is 108 square meters for the purpose of public passage. Areas D2 at the southern boundary of the site is 625 square
meters for the purpose of street widening. Area D4 inside the site is 1,407 square meters for
the purpose of the PTT extended area. At the expanded Building Authority conference on
August 1 2001, the developer said that because the reserved area for the MPOA stipulated in
the lease conditions was not large enough to accommodate the facility technically, the PTT
had to be extended to the reserved areas on the ground floor (Area D4 in Figure 6.25). In
addition, the developer proposed to dedicated the non-building area (Area III in Figure 6.24).
In return for the dedication, the developer requested the Building Authority to grant bonus
gross floor areas as the compensation. The District Lands Office/Hong Kong East opposed
the developer's proposal of dedication of Area D4 and Area III by arguing these were not
required as well as necessary. For Area D4, the reserved area for the MPOA in the lease
conditions could meet its technical requirements and the government had the authority to
make amendment of the layout of the government accommodation without compensation
payable to the developer under the lease conditions. For Area III, the lease had already
designated Area III as a right-of-way at all times. The only dedicated area which the Lands
Department did not oppose was Area D2. At the meeting, the Building Authority held the
opinion that only a portion of Area III, or Area D1, fronting the proposed access to the PTT
could be rewarded and the rest of the developer's proposal was accepted. In despite of
dissidence, the Building Authority exert its discretionary authority again to approve the
building plans and granted bonus areas to the developer on September 1 2001. However, the
Lands Department disapproved the building plans as well as the dedication proposal and felt
surprised with the decision of the Building Authority arguing that the grant of bonus areas
"could mean a loss of revenue" to the government. At the Building Authority conference on
April 23 2002, the Building Authority decided to uphold the previous decision of approval of the building plans. In fact, it was the developer rather than the government that required a larger MPOA and actively proposed to dedicated so-called "the most valuable ground floor space" by the developer previously for the extended area of the PTT. From this, we can see that extra bonus floor areas were much more attractive to the developer than the valuable ground floor space. The total dedicated areas are 2,140 square meters and the Building Authority has granted five times bonus areas, or totally about 10,700 square meters whose value could be about HK$ 1,261,337,400 as of the average sale price in April 2012 (HK$ 117,882 per square meter).

On November 17 2005, Ta Kung Pao, Ming Pao and Hong Kong Economic Times reported the Audit Commission's report in detail revealing the whole approval procedure of Grand Promenade and arising wide public concern on whether the then Director of the Buildings Department Leung Chin-Man had abused the discretionary power of exemption and granting bonus. Subsequently, the then Secretary for Housing, Planning and Lands Michael Suen Ming-Yeung said that the government had established a three-member Independent Committee of Inquiry on the Sai Wan Ho Development, headed by Court of Final Appeal judge Mr. Justice Barry Mortimer, for further investigation. Meanwhile, Leung Chin-Man stated that what he did in the case of Grand Promenade was disinterested and believed the report by the special group would prove his innocence in Ming Pao. On November 23 2005, Henderson Land Development Co. Ltd. stated that the whole procedure of application for building plans approval was completely lawful in Oriental Daily (Legislative Council, 2008).
On November 24 2005, the Public Accounts Committee of the Legislative Council held a hearing upon the Grand Promenade saga and invited Michael Suen Ming-Yeung and Leung Chin-Man for inquiry. On November 28 2005, about 100 professionals in the fields of architecture, surveying and planning, including the then President of Hong Kong Housing Society Lee Chung-Hei and the then CEO of The Link Real Estate Investment Trust Nicholas Robert Sallnow-Smith, wrote articles in the press to heap praise on Leung Chin-Man for his enterprising spirit. On the same day, Leung Chin-Man applied to the High Court for judicial review complaining that the Audit Commission did not provide him with the opportunity of response in the investigation and the report confounded his roles before and after the land sale and tarnished his public image. Meanwhile he announced that he would reject to be present at the following hearings of the Public Accounts Committee. Until his superior Michael Suen Ming-Yeung commanded him to attend, he had to be present at the next hearing but still rejected to answer any question. On December 9 2005, Ta Kung Pao reported that Leung Chin-Man once said that there was not internal guidelines of the exercise of discretionary power at the hearing back to December 1. But at the hearing on December 9, he refuted his previous point arguing that the exercise of discretionary power should "conform to the public interest", "respect other government departments' opinions" and "assure fair competition between developers." Some legislators cast doubt on the legitimacy of Leung's exercise of discretionary power in accordance to the above principles. As they questioned, Leung Chin-Man intentionally kept the opposing people out of the Building Authority conferences. For instance, the representatives of the Lands Department who expressed opposing views in the first conference did not attend the second one. Leung explained that he asked his secretary
to send an invitation letter to the Lands Department while the Lands Department later denied to receive it. On February 15 2006, the Public Accounts Committee of the Legislative Council publish the investigation report announcing that the decision of significantly increasing development density after land sale was unfair to other developers in the tender and, as for the conduct of abusing discretionary power, the committee felt "unacceptable" and "grave dismay" (Sinn, 2006; Legislative Council, 2008).

In sharp contrast to the report by the Legislative Council, the government-appointed Independent Committee of Inquiry on the Sai Wan Ho Development published its investigation report on May 9 2006 concluding that, because the decision of Leung Chin-Man was made after the land sale, it had no negative effect on the land revenue of the government. In addition, the report argued that, although the exercise of discretionary power might be problematic, Leung Chin-Man should not take all the blame (Independent Committee, 2006). On the same day, Leung Chin-Man happily accepted the conclusion of the report by the Independent Committee praising its objectiveness and impartiality. Michael Suen Ming-Yeung also expressed his agreement with the conclusion of the report. Henderson Land Development Co. Ltd. announced in Sing Tao Daily that the report reflected the truth of the Grand Promenade saga and the controversy should end here. On May 11 2006, the then Chief Secretary Rafael Hui Si-Yan said that the government need not choose among the two reports, while lawmakers voted unanimously for urging the government to adopt the report by the Public Accounts Committee of the Legislative Council. On May 12 2006, the then Chairman of the Public Accounts Committee Philip Wong rejected Hui's announcement and expressed
strong discontent about the conduct of the government in Wenwei Po (Hong Kong). He thought accepting both reports was "senseless" and "impossible" as they were "wildly different" (The Standard, 2006). On May 25 2006, Leung Chin-Man decided to cancel the application for judicial review (Legislative Council, 2008). The investigations upon the Grand Promenade Affair temporarily calmed down till two years later.

On August 2 2008, Apple Daily and Ming Pao reported that Leung Chin-Man was named Deputy Managing Director and Executive Director of New World China Land Ltd. Co. on August 1 2008 with a HK$3.12 million pay packet plus a generous bonus (Apple Daily, 2008; Ming Pao, 2008b). The news stirred the Hong Kong society and aroused wide suspicion among members of the public that the well-paid job offer was a quid pro quo for the favors Leung allegedly granted to its parent company, New World Development Co. Ltd., in 2004 when Leung as the then Director of Housing sold a disused but never previously occupied Private Sector Participation Scheme project The Hung Hom Peninsula project to New World Development Co. Ltd. and Sun Hung Kai Properties Ltd. at less than half of the original asking price. Certainly, the news also rekindled the debate of government-business collusion and the Grand Promenade saga. In accordance with the procedural rules set by the Civil Service Bureau which was responsible for vetting the appointments of former civil servants against potential conflicts of interest, civil servants of Leung's grade were subject to a 12-month sterilization period and required government approval to take up private sector posts within three years of leaving. From the retirement in November 2005 to the new appointment in August 2008, it was apparent that Leung Chi-Wan did not meet the
requirements of the procedural rules but his application to take up the job was approved by the then Secretary for the Civil Service Denise Yue Chung-Yee, which seriously undermined the credibility of Yue herself and the Civil Service Bureau. Many critics regarded the incident as a proof that there was collusion between the government and big business. On August 15 2005, the Civil Service Bureau admitted that it had not considered Leung’s role in the Hung Hom Peninsula affair when approving his appointment and the then Chief Executive Donald Tsang Yam-Kuen asked Denise Yue Chung-Yee to reassess the approval, and submit a report to him. Under great pressure from the society, New World China Land Ltd. Co. announced that Leung had resigned from his post on August 16 2008.
VII. URBAN REGIME VS. ANTI-GROWTH COALITION

7.1 The Development Regime based on Land Interest

As Harvey Molotch (1976: 309-310) argued, "any given locality is an aggregate of land-based interest," which is true in Hong Kong. As mentioned in Chapter Four, the land-interest-based urban coalition mainly consists of the land-revenue-oriented core government, the quasi-governmental organizations taking on outsourced public functions, a group of powerful property conglomerates and banking giants and the new class. In the following part, I will analyze how the urban coalition runs to increase the common land-based interest and how different members of the coalition collaborate with each other to achieve the goal.

7.1.1 The Government and The Real Estate Giants

As the ultimate landlord of all the land in Hong Kong, the Hong Kong government is the core stakeholder of land-based interest. In order to retain the status of a free port, the government cannot levy a tax on import and land revenue serves as one of the main government revenue sources. Land revenue mainly comes from land sales, lease modifications, property taxes, stamp duties, profits taxes from private developers and so forth. Between 1970 and 1996, land revenue accounted for approximately 33% of the government's annual revenue on average and if profits taxes from private developers and taxes on mortgage portfolio profits are added, it could be up to 45% (Brown et al., 2002).
Reliance on land revenue had its origins in colonial times when most oversea colonies of the British Empire received government receipts from leasing land to sustain themselves. Therefore, how to secure and increase land revenue has always been one of the government's greatest concerns. In my interviews with some government officials, "fully utilize the development potential of land" is one of the most frequently heard words. In order to achieve the goal, the government has been pursuing the so-called "high-land-price policy", an undeclared policy that past and present governments have quietly embraced, especially since the 1970s. Through intentionally controlling and adjusting the annual land sales in response to real estate market, the government collects land premiums as high as possible from the highest bidders at auctions and tenders, which is believed to be the most cost-efficient way to capture land value. According to the land sale records from the Lands Department, when the economy started to recover and the need of land increased significantly in the late 1970s, the government deliberately limited the land sale in the urban area to only 50,000 square meters in 1976, 63,317 square meters in 1977, 46,145 square meters in 1978 and 48,240 square meters in 1979 in order to increase market hunger. The average land price skyrocketed from HK$ 8,729 per square meter in 1976 to HK$ 46,145 per square meter in 1978. In 1980 and 1981, the government suddenly increased the land supply and maximized land premiums up to a unprecedented level: HK$ 10.77 billion in 1980 and HK$ 9 billion in 1981. Another example to illustrate the intentional high-land-price policy by the government is the adoption of Land Sale List Program in 2004. After the Asian financial crisis and the avian influenza in 1997, the economy experienced severe economic recession and the land price plunged. The government kept decreasing the annual land sale in order to bounce the land price. The
outbreak of SARS in 2003 further aggravated the plight of real estate market. In 2004, the government decided to terminate the regular land sale program and to implement the land application list program in which the land in the land bank list had to be applied by private developers to be sold at auctions and tenders. The new program significantly decreased land supplies and hence increased land prices. If there were no global financial crisis in 2008, land prices would still keep at a high level (Figure 43).

![Figure 43. The change of land sale between 1985 and 2012](image)

*Data Source: the website of the Lands Department, HKSAR*

The high-land-price policy has to be supported by private developers, especially the privileged property conglomerates, because they contribute to the majority of land revenue in
terms of land premiums and relevant taxes. Under the current land system and policy over-relying on land receipts, the government and the leading private developers form an interest alliance based on land value, which has been the chief contributor to the creation of property market oligopolies. Apparently, the new land application list program is more beneficial to the leading private developers and further consolidates the property market oligopolies because middle and small private developers are much more vulnerable to the decrease of land supplies and the increase of land prices. Public auctions and tenders are the only sources for middle and small developers to obtain land while the real estate magnates dominating the private market have huge private land banks. For example, as of 2009, Sun Hung Kai Properties Ltd. owned a land bank comprising 3.89 million square meters of developable floor area and 223 hectares of agricultural land. Henderson Land Development Co. Ltd. held 1.83 million square meters of developable floor area and 305 hectares of agricultural land. Cheung Kong (Holdings) Ltd. also announced in its 2009 annual report that it had sufficient land reserves for the development in the next five or six years. The leading private developers have taken advantage of the new program and the portion of lease modification premiums in total land revenue has kept increasing rapidly from 28% in 2008, through 53% in 2009, to 59% in 2010 (Poon, 2005; 2010). Although the implementation of the new program in 2004 as a response of the then real estate market crisis is understandable from the government's perspective, keeping the program being implemented till today, even when the property market starts to recover, reflects the government's reluctant attitude of doing harm to the interest of the real estate giants.
In my opinion, to some extent, the relationship between the government and private developers in the urban regime of Hong Kong is analogical to the emperor and private tax collectors in the tax farming system, in which the responsibility for tax revenue collection is contracted out to private tax collectors. Tax collectors bid at auctions for the contract rights to collect a particular tax and they are responsible for any loss. Although considered effective and efficient for tax revenue collection, the tax farming system suffers from a tendency of the private tax collectors to abuse the taxpayers for collection. Throughout history, such system can be seen in Ancient Roman, Ancient Egypt, Song Dynasty in Ancient China, the Great Britain and so forth. The publicans of the Roman Empire are well-known as some of the most abusive tax collectors.

Outsourcing public functions like tax collection is in compliance with the philosophy of laissez-faire held by the Hong Kong government. Under the high-land-price policy in Hong Kong, the government is the biggest beneficiary, which amasses huge wealth by monopolizing land supplies and manipulating land prices for the purpose of maximizing land revenue. According to the statistical data of Hong Kong Monetary Authority, the government owns $298 billion in foreign-exchange reserves as of September 2012 ranking the No. 8 affluent government worldwide in 2012, more than Germany's $262 billion. With the substantial incomes, the civil servants in Hong Kong enjoy really well-paid salaries plus good pensions, life-time medical insurance for themselves and their families and exclusive government public housing. After paying the high premiums to the government at auctions or tenders, private developers have to transfer the costs to the home buyers or small business
owners after skimming off their fat profits. From the arguments in previous chapters, we have learnt that the real estate development is the most profitable industry in Hong Kong, which has generated some of the richest billionaires in the world. In this way, high land premiums and high profits have contributed significantly to severely unaffordable housing price that is often referred to as a "hidden tax." On the basis of data from the 2012 Blue Book of Hong Kong, the price-to-income ratio (PIR) of Hong Kong's private residential properties in 2011 is 22.72, the highest among major Asian countries or cities (Table XIII).

<table>
<thead>
<tr>
<th>City</th>
<th>PIR</th>
<th>Homeownership Rate</th>
<th>City</th>
<th>PIR</th>
<th>Homeownership Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hong Kong</td>
<td>22.72</td>
<td>52%</td>
<td>Singapore</td>
<td>14.35</td>
<td>89%</td>
</tr>
<tr>
<td>Shanghai</td>
<td>20.68</td>
<td>80%</td>
<td>Tokyo</td>
<td>11.64</td>
<td>45%</td>
</tr>
<tr>
<td>Seoul</td>
<td>16.29</td>
<td>52%</td>
<td>Taipei</td>
<td>11.50</td>
<td>82%</td>
</tr>
<tr>
<td>Bangkok</td>
<td>15.96</td>
<td>56%</td>
<td>Kuala Lumpur</td>
<td>11.27</td>
<td>80%</td>
</tr>
</tbody>
</table>

7.1.2 Why POSPD matters for the Development Regime?

The interest analysis of the development regime above has indicated the sharing interest based on land between the government and the leading private developers. On the one hand, for the purpose of securing and maintaining land revenue, the government encourages high-density development in that density is directly related to the land premiums at auctions.
or tenders as well as relevant taxes. As Cuthbert (1995: 298) once criticized, "the government has relied upon land sales and taxes as a major source of revenue: hence it has always opposed any action which would slow down accumulation from land development. Concomitantly, the Hong Kong government has adopted a high land price policy which has resulted in the highest urban densities in earth." On the other hand, stimulated by high land costs and high housing prices, private developers try their best to take full advantage of land development potential in practice. In Chapter Six, it is apparent that the percentage of using development potential in every case is almost 100%. When doing design the priority of architects and urban designers in Hong Kong is not how to polish design schemes but how to use up every square inch of permitted gross floor area. All in all, development density is the central concern of both the government and private developers. Here comes the next question: why POSPD matters for the both?

First, from the government's perspective, POSPD policy is an effective way to take into account both public interest and land revenue. One of the major effects of the government's high-land-price policy is to price itself out of the land market. The high land price significantly increases the opportunity cost of providing open spaces by the government itself. In this situation, the government sometimes feels reluctant to accommodate its standards for open spaces and to devote the valuable land in urban areas for purposes other than the creation of exchange values, which literally leads to the deficiency of open spaces in many central urban areas like Mong Kok, Wan Chai, Western District, Yau Ma Tei and so forth, as introduced in Chapter Five. In accord with the Hong Kong Planning Standard and Guidelines,
open space is classified into two types, district open space and local open space, and the standard for open space is 1 square meter per capita for each type. Because POSPD is counted in local open space, like some other public functions, the construction of local open spaces has been outsourced to private sector and POSPD policy has become an alternative for the government to build open spaces without public investment.

In addition, POSPD is an effective tool of increasing development density and hence increasing land premiums. In accord with Section 18A of the Building (Planning) Regulations, there are three types of developable sites based on the consideration of traffic. Each type has different permitted plot ratio and permitted site coverage. Class A site means "a site that abuts on one specified street not less than 4.5 m wide or on more than one such street." Class B site means "a corner site that abuts on two specified streets neither of which is less than 4.5 m wide." Class C site means "a corner site that abuts on three specified streets none of which is less than 4.5 m wide." Also, for Class B, the boundary of the sites abuts on each of the two streets must be at least 40 percent and, for Class C, the boundary of the sites abuts on each of the three streets must be at least 60 percent. Different type has different permitted plot ratio and permitted site coverage meaning that Type C permits the most dense development while Type A permits the least (Table XIV). The rationale underneath is that more dense development needs better transport capability. Under the regulations, when preparing the lease documents for the land on sale, the government can upgrade the proposed site through designating part of the site as non-building area mandatorily in the lease conditions, and hence increase the permitted density as well as land premiums accordingly.
### Table XIV

SITE COVERAGE AND PLOT RATIO FOR DIFFERENT TYPES OF SITES

<table>
<thead>
<tr>
<th>Building Height</th>
<th>Domestic Buildings</th>
<th></th>
<th>Non-domestic Buildings</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Site Coverage (%)</td>
<td>Plot Ratio</td>
<td>Site Coverage (%)</td>
<td>Plot Ratio</td>
</tr>
<tr>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>A</td>
</tr>
<tr>
<td>&lt;15m</td>
<td>66.6</td>
<td>75</td>
<td>80</td>
<td>3.3</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>5</td>
</tr>
<tr>
<td>15-18m</td>
<td>60</td>
<td>67</td>
<td>72</td>
<td>3.6</td>
</tr>
<tr>
<td></td>
<td>97.5</td>
<td>97.5</td>
<td>97.5</td>
<td>5.8</td>
</tr>
<tr>
<td>18-21m</td>
<td>56</td>
<td>62</td>
<td>67</td>
<td>3.9</td>
</tr>
<tr>
<td></td>
<td>95</td>
<td>95</td>
<td>95</td>
<td>6.7</td>
</tr>
<tr>
<td>21-24m</td>
<td>52</td>
<td>58</td>
<td>6</td>
<td>4.2</td>
</tr>
<tr>
<td></td>
<td>92</td>
<td>92</td>
<td>92</td>
<td>7.4</td>
</tr>
<tr>
<td>24-27m</td>
<td>49</td>
<td>55</td>
<td>59</td>
<td>4.4</td>
</tr>
<tr>
<td></td>
<td>89</td>
<td>90</td>
<td>90</td>
<td>8.0</td>
</tr>
<tr>
<td>27-30m</td>
<td>46</td>
<td>52</td>
<td>55</td>
<td>4.6</td>
</tr>
<tr>
<td></td>
<td>85</td>
<td>87</td>
<td>88</td>
<td>8.5</td>
</tr>
<tr>
<td>30-36m</td>
<td>42</td>
<td>47.5</td>
<td>50</td>
<td>5.0</td>
</tr>
<tr>
<td></td>
<td>80</td>
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<td>9.5</td>
</tr>
<tr>
<td>36-43m</td>
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<td>44</td>
<td>47</td>
<td>5.4</td>
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<tr>
<td></td>
<td>75</td>
<td>77.5</td>
<td>80</td>
<td>10.5</td>
</tr>
<tr>
<td>43-49m</td>
<td>37</td>
<td>41</td>
<td>44</td>
<td>5.9</td>
</tr>
<tr>
<td></td>
<td>69</td>
<td>72.5</td>
<td>75</td>
<td>11.0</td>
</tr>
<tr>
<td>49-55m</td>
<td>35</td>
<td>39</td>
<td>42</td>
<td>6.3</td>
</tr>
<tr>
<td></td>
<td>64</td>
<td>67.5</td>
<td>70</td>
<td>11.5</td>
</tr>
<tr>
<td>55-61m</td>
<td>34</td>
<td>38</td>
<td>41</td>
<td>6.8</td>
</tr>
<tr>
<td></td>
<td>60</td>
<td>62.5</td>
<td>65</td>
<td>12.2</td>
</tr>
<tr>
<td>&gt;61m</td>
<td>33.33</td>
<td>37.5</td>
<td>40</td>
<td>8.0</td>
</tr>
<tr>
<td></td>
<td>60</td>
<td>62.5</td>
<td>65</td>
<td>15</td>
</tr>
</tbody>
</table>

*Source: The Building (Planning) Regulations*

![Podium Site Coverage 66.6% Plot Ratio 8](image1.png)  
Podium Site Coverage = 66.6%  
Plot Ratio = 8

![Podium Site Coverage 75% Plot Ratio 9](image2.png)  
Podium Site Coverage = 75%  
Plot Ratio = 9

**Figure 44. Upgrading class C site to class B site**

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For private developers, although there is no bonus for the dedication required as the lease conditions in most cases and the land premium is higher, the upgrading of the site is still embraced because not only can more floor areas be built due to the higher permitted plot ratio, but also higher site coverage is permitted. It is attractive to private developers since most of the development projects, no matter domestic or non-domestic, are mixed-use with commercial podiums which provide the most valuable street-level commercial spaces. Undoubtedly, the increase of site coverage can accommodate more street-level commercial spaces. For example, if part of a Class A site for domestic uses with the building height of over 61 meters is designated as non-building area qualifying for a passageway with the width of over 4.5 meter, the site will be upgraded to Class C site, permitted plot ratio will increase from 8 to 9 and the permitted site coverage for the podium under 15 meters will increase from 66.6% to 75% (Figure 44). Grand Promenade in Chapter Six is just the case. Furthermore, for many lots of land under private control, private developers can apply for dedicating part of their sites for public uses and get munificent rewards in return. First is upgrading the sites if their proposed dedicated areas are approved to be qualified for streets. Second, as mentioned in Chapter Five, the bonus plot ratio will be granted. According to PNAP 233, the maximum bonus plot ratio is "five times for dedicated area at ground level and two times for areas at other floor levels" and the particular plot ratio bonus value which might be different from case to case should be assessed on the basis of "the proportion of traffic generated by the public and the users of the building." However, in studying the particular cases, I found that all of the particular cases built by the leading private developers did not have any assessment of the proportion of pedestrian traffic and were granted the maximum plot ratio while many
small developers only got the exemption of the dedicated area from the total gross floor area in return for street widenings and corner street widenings. Thus, I might come to a conclusion that the grant of bonus is more beneficial to the leading private developers.

7.1.3 How Policy is channeled into Pro-Large-Developer Development?

From the general statistical analysis, we have learnt that the majority of POSPD (74%) are smaller than 50 square meters, which can hardly accommodate any social activities other than circulation. However, when analyzing the characteristics of POSPD development chronologically, I find that there exists an overall trend that the percentage of small POSPD has been decreasing in the recent decades. Figure 44 shows the changes of the percentages of POSPD smaller than 100 square meters and larger than 500 square meters built from the 1970s to the 2010s. It is clear that since about 1987 till now, the percentage of the POSPD smaller than 100 square meters was generally decreasing significantly from over 90% to below 50% while that of the POSPD larger than 500 square meters kept increasing from below 5% up to over 20%.

In fact, what has led to the development trend is intentionally guided by the government's policies of prompting comprehensive development since the late 1970s. During post-war period, the urban development in Hong Kong was characterized by sporadic high-rise projects on small sites and narrow streets. The highly congested built environment shaped a unique way of public life in Hong Kong, centering on street spaces. For quite a long
time, Dai Pai Dong ("大牌檔" in Traditional Chinese, a kind of sidewalk snack booth) and Tai Tat Dei ("大笪地" in Traditional Chinese, a kind of street market and open-air night club) had been the main places of public life for working class, not only raising many grassroots members but also prospering native culture. Admittedly, the piecemeal small-scale pencil development with high density had strong negative effects on urban built environment, such as the insufficiency of public open spaces or community facilities and the intense congestion.

Figure 45. Development trend of POSPD from 1970s to 2010s

*Data Source: the Buildings Department and the Lands Department, HKSAR*
In order to figure these issues out, the government initiated the scheme of comprehensive development and redevelopment through introducing Comprehensive Development Area (CDA) into the Outline Zoning Plan (OZP) in 1976. As stated in Chapters Three and Five, once designated as CDA zone, the entire zone has to be developed or redeveloped on a comprehensive basis by a single development agency in accordance with an approved Master Layout Plan (MLP) by the Town Planning Board. As the Schedule of Uses and Explanatory Statement in OZP states, "this zone is intended for comprehensive development/redevelopment of the area for residential and/or commercial uses with the provision of open space and other supporting facilities." Although the intention of designating CDA zone is literally on the basis of public interest, the government's priority is to maximize development intensity and land revenue through optimizing development pattern. In my interviews, Mr. Ling Kar-Kan, Deputy Director of the Planning Department, and Mr. Lawrence Chau Yat-Cheung, Senior Town Planner of the Planning Department, both mentioned that the fundamental concern of implementing CDA for the government is to make the most of the development potential through land agglomeration and it is believed that the comprehensive development would allow flexibility for private developers to achieve the most profitable land pattern as well as provide necessary public amenities. To some extent, I do consent to the necessity of land agglomeration in improving built environment and, from the result of Figure 45, I would say that the implementation of CDA policy has indeed alleviated overcrowding and provide some open spaces that otherwise cannot be built in older urban areas. However, the problem is that "there is no hard and fast rule to determine whether a site is sizable enough to warrant comprehensive development or redevelopment" (Town
Planning Board, 1999). In this situation, CDA tends to become larger and larger, since the government believes that the larger the site, the better the opportunity for the optimization of development potential, and the more land revenue it can generate.

In addition, large private developers are more than welcome to embrace CDA policy because it is beneficial to them in practice for the following three main reasons. First, due to the high land premium, only large developers have the capability to afford comprehensive development while small private developers are ruled out of competition. Second, larger sites means more gross floor areas and thus more profits. Third, larger sites means more flexibility and capacity of dedicating more land to get more extra bonus gross floor area and more extra profits in return. From this point, the two dominating members in the development regime come to an agreement that CDA policy is based on mutual benefit. In my interview, Mr. Ling Kar-Kan, echoed such point of view by saying that "Today, neither the government nor large private developers can be satisfied by small parcels of land anymore. That is the essential reason why CDA policy has been implemented."

The designation of CDA is usually the result of rezoning requests from various development agencies, including private developers and quasi-governmental organizations. For large sites under single ownership, private developers often directly get involved in the application of rezoning from original land use to CDA after land acquisition. For a bunch of small sites under multiple ownership, there are two ways for private developers to do. First is to purchase multiple land titles piece by piece until private developers acquire the entire site
and then apply for rezoning to CDA. But the process is quite time-consuming in most cases. Second is to collaborate with quasi-governmental organizations like URA (or LDC) and MTR. Co. Ltd.. In the following part, some evidences that illustrate how the government intentionally channels CDA zoning into pro-large-developer development are elaborated in detail.

a) The CDA applications with larger sites are easier to be approved by the TPB.

Despite the statement by the Town Planning Board that "each site should be considered on its individual merits," there is solid evidence that the CDA applications with larger area are easier to be approved by the Town Planning Board than those with smaller area (Town Planning Board, 1999). According to a relevant research, there are 994 CDA application records in total from January 1 1980 to August 31 2005 from the database of the Planning Department, of which 837 applications were approved by the Town Planning Board. The overall approval rate was 84.2%. When sorting by proposed gross floor area, it is obvious that the approval rate increase with the increase of proposed gross floor area (Table XV) (Ng, 2006). For the CDA applications with the proposed GFA smaller than 5,000 square meters, only 74.1% had been approved while for the counterparts with the proposed GFA larger than 50,000 square meters, 91% had been approved. In addition, when comparing the results of several CDA applications at different development scales in the same locations, the same pattern can be seen that the approved CDA usually have the largest site area with the largest proposed gross floor area (Table XVI).
Table XV
CDA APPLICATIONS RECORDS (1980-2005)

<table>
<thead>
<tr>
<th>Proposed GFA (m²)</th>
<th>Approvals</th>
<th>Total</th>
<th>Approval Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; 5,000</td>
<td>86</td>
<td>116</td>
<td>74.1%</td>
</tr>
<tr>
<td>5,000 to 50,000</td>
<td>160</td>
<td>183</td>
<td>87.4%</td>
</tr>
<tr>
<td>&gt; 50,000</td>
<td>417</td>
<td>458</td>
<td>91.0%</td>
</tr>
<tr>
<td>N/A</td>
<td>174</td>
<td>237</td>
<td>73.4%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>837</strong></td>
<td><strong>994</strong></td>
<td><strong>84.2%</strong></td>
</tr>
</tbody>
</table>

*Data Source: the website of the Planning Department*

Table XVI
CDA APPLICATIONS AT DIFFERENT SCALES IN THE SAME LOCATIONS

<table>
<thead>
<tr>
<th>Ref.</th>
<th>Case No.</th>
<th>Address</th>
<th>Site Area</th>
<th>Proposed GFA</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a</td>
<td>A/H01/051</td>
<td>Catchick St., Kennedy Town</td>
<td>6,072 m²</td>
<td>70,094 m²</td>
<td>Approved with conditions</td>
</tr>
<tr>
<td>1b</td>
<td>A/H01/014</td>
<td></td>
<td>358 m²</td>
<td>2,997 m²</td>
<td>Rejected</td>
</tr>
<tr>
<td>1c</td>
<td>A/H01/048</td>
<td></td>
<td>340 m²</td>
<td>4,246 m²</td>
<td>Rejected</td>
</tr>
<tr>
<td>2a</td>
<td>A/H05/292</td>
<td>Wan Chai Rd., Wan Chai</td>
<td>6,478 m²</td>
<td>71,474 m²</td>
<td>Approved with conditions</td>
</tr>
<tr>
<td>2b</td>
<td>A/H05/279</td>
<td></td>
<td>269 m²</td>
<td>4,033 m²</td>
<td>Rejected</td>
</tr>
<tr>
<td>3a</td>
<td>A/K03/337</td>
<td>Reclamation St., Mong Kok</td>
<td>15,900 m²</td>
<td>169,545 m²</td>
<td>Approved with conditions</td>
</tr>
<tr>
<td>3b</td>
<td>A/K03/240</td>
<td></td>
<td>363 m²</td>
<td>5,816 m²</td>
<td>Rejected</td>
</tr>
<tr>
<td>3c</td>
<td>A/K03/229</td>
<td></td>
<td>132 m²</td>
<td>101 m²</td>
<td>Rejected</td>
</tr>
<tr>
<td>4a</td>
<td>A/YLPS/012</td>
<td>Hung Shui Kiu, Yuen Long</td>
<td>36,300 m²</td>
<td>113,260 m²</td>
<td>Approved with conditions</td>
</tr>
<tr>
<td>4b</td>
<td>A/YLPS/050</td>
<td></td>
<td>560 m²</td>
<td>765 m²</td>
<td>Rejected</td>
</tr>
<tr>
<td>4c</td>
<td>A/YLPS/219</td>
<td></td>
<td>198.8 m²</td>
<td>198.8 m²</td>
<td>Rejected</td>
</tr>
</tbody>
</table>

*Data Source: the website of the Planning Department*

From the analyses above, we may safely conclude that maximizing the development potential is the initial consideration of the government in the process of approving CDA application because more development potential means more land revenue. In other words, the implementation of CDA policy is mainly motivated by land revenue. Also, CDA zoning is
more beneficial to large developers since development projects with larger sites and more gross floor areas need more investment and only those large developers have enough economic strength to handle comprehensive development, who thus have the advantages of having higher approval rate of CDA applications from the Town Planning Board.

b) Large developers enjoy more bonus gross floor area.

Logically, since large-scale CDA applications are easier to be approved, large developers are easier to get larger CDA sites and hence they are more capable to dedicate more areas for public use and gain more bonus gross floor area in return, which is true in practice as well. Here, I extract the records of the development projects with the dedicated areas larger than 500 square meters from the POSPD list from the Buildings Department. From Table XVII, there are 17 projects with the dedicated areas of more than 1,000 square meters, of which 6 projects were developed by the four leading real estate giants and 14 was developed by large private developers. For the total 30 projects with the dedicated areas larger than 500 square meters, Hongkong Land has developed the most, totally 6 projects, all of which are footbridge connections. The following is Cheung Kong (Holdings) Ltd. with 4 projects. Sun Hung Kai Properties Ltd., New World Development Co. Ltd., The Wharf (Holdings) Ltd., Swire Properties Ltd. and HSBC Bank all developed 2 projects each. Henderson Land Development Co. Ltd. and Sino Group developed 1 projects each. As quasi-government originsations, URA (or the former LDC) got involved in 3 projects and MTR Corporation Ltd. in 2 projects.
In terms of the percentages of the dedicated areas of the total dedicated areas, Hongkong Land accounts for the most, or 19%. The following are Cheung Kong (Holdings) Ltd. for 14%, Sun Hung Kai Properties Ltd. for 13%, The Wharf for 10%, Swire Properties for 7%, New World Development Co. Ltd. for 5% and Henderson Land Development Co. Ltd. for 4%. More dedication means more bonus gross floor area and more development right. This is the reason why some projects with a large amount of dedicated area mentioned in Table 7.5 come out at the top of the list of Hong Kong's tallest buildings, such as Central Plaza (No. 3 with the height of 374 meters), The Center (No. 5 with the height of 346 meters), K11 (No. 11 with the height of 261 meters) and Grand Millennium Plaza (No. 20 with the height of 228 meters). In most cases, private developers embrace the side effect of increasing building height from dedication since landmark skyscrapers can strongly display corporate power.

c) Quasi-governmental organizations are pro-large-developer.

URA and its predecessor LDC are the primary quasi-governmental organizations to facilitate CDA redevelopment projects. As Tony Eason, the then Secretary for Planning, Environment and Lands, acknowledged, LDC was created to "fund and implement redevelopment schemes on a larger scale than previously possible" (Eason, 1992). Before the establishment of LDC in 1988, little government intervention in urban redevelopment occurred and the private sector was the predominating driving force in Hong Kong. However, even though LDC was established afterwards, the concept was still consistent with Hong Kong's prevalent belief of laissez-faire by contracting out the task of implementation to a
specialist quasi-governmental organization dominated by private-sector development interests.

As introduced in Chapter Four, LDC was expected to conduct its business based on prudent commercial principles. Although receiving a low-interest loan of HK$ 100 million as the initial capital, LDC did not receive enough financial support compared with its draconian legal power under the Crown Lands Resumption Ordinance and the later Lands Resumption Ordinance, which was hungered for by the real estate giants with significant capital. Therefore, it was quite logical that LDC became allies with the leading private developers from the very beginning. LDC sought development partners through a process of competitive bidding and eventually four powerful private developers like Cheung Kong (Holdings) Ltd., Sun Hung Kai Properties Ltd., New World Development Co. Ltd. and Great Eagle Holdings Ltd., won and signed Letters of Intent and Heads of Agreement with LDC. The total initial private investment was approximately HK$ 1.2 billion, 12 times the loan from the government (Adams et al., 2001). In 1988, LDC announced its first eight CDA redevelopment projects, including The Center and Grand Millennium Plaza, of which 4 were with New World Development Co. Ltd., 2 were with Sun Hung Kai Properties Ltd. and 2 were with Cheung Kong (Holdings) Ltd and Great Eagle Holdings Ltd. each. However, compared with URA, LDC's legal power was restricted since it was required to take all reasonable steps to acquire land by negotiation with the property owners in terms of compensation and rehousing before its resumption request was approved, and it could not ask the government to exert the power of land resumption until its CDA schemes were approved under the Town Planning
Ordinance. In addition, LDC had to pay the land premiums of the redevelopment sites to the
government like private developers. For example, the total land premiums for The Center and
Grand Millennium Plaza were totally HK$ 2.9 billion (Adams et al., 2001). Due to the
restrictions, LDC was criticized by both the government and private partners for its
inefficiency of implementing CDA redevelopment projects and a lengthy process of policy
review was conducted by the government between 1992 and 1995. In 1999, Green Paper on
urban renewal was published recommending the transformation of LDC into a more powerful
agency equipped with greater legal powers and resources in order to overcome the restriction
and increase efficiency.

In 2000, URA was established to replace LDC to accelerate CDA redevelopment process.
As mentioned in Chapter Four, URA has much more power than LDC in terms of land
resumption. It has the capability of requesting the government to exert early land resumption
and enjoys the waiver of land premiums and beneficial adjustments to normal plot ratios
which is a huge saving in redevelopment cost. Since then, the process of land acquisition has
been significantly accelerated. Although URA has more power and resources, it still inherits
LDC's policy of public-private partnership. Because of its legal power, it is usually easier and
more efficient for URA to acquire valuable large-scale sites than private developers and hence
private developers prefer to collaborate with URA. The policy of choosing the highest bidders
as collaborators leads to the same alliance between URA and leading private developers.
According to URA's data statistics, there are 29 tenders of redevelopment projects by URA
with the total site area of around 120,000 square meters as of November 2012, of which 16
with the area of approximately 84,077 square meters are shared by four leading developers: Cheung Kong (Holdings) Ltd., Sun Hung Kai Properties Ltd., Sino Group and New World Development Co. Ltd. (Ming Pao, 2012b). Thus, URA is often criticized as a profit-making land collector for large private developers.
Table XVII
DEVELOPMENTS WITH A DEDICATED AREA OF MORE THAN 500 M$^2$

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Built Time</th>
<th>Dedicated Area (m$^2$)</th>
<th>Developer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Plaza</td>
<td>1992</td>
<td>6,928</td>
<td>Sun Hung Kai &amp; Sino Group</td>
</tr>
<tr>
<td>Citibank Plaza</td>
<td>1992</td>
<td>6,032</td>
<td>Great Eagle &amp; Kerry Properties</td>
</tr>
<tr>
<td>The Center</td>
<td>1998</td>
<td>4,427</td>
<td>Cheung Kong &amp; LDC</td>
</tr>
<tr>
<td>Times Square</td>
<td>1994</td>
<td>4,366</td>
<td>The Wharf</td>
</tr>
<tr>
<td>The Landmark</td>
<td>1980</td>
<td>4,226</td>
<td>Hongkong Land</td>
</tr>
<tr>
<td>HSBC Headquarters</td>
<td>1985</td>
<td>3,192</td>
<td>HSBC Bank</td>
</tr>
<tr>
<td>Jardine House</td>
<td>1973</td>
<td>3,158</td>
<td>Hongkong Land</td>
</tr>
<tr>
<td>Grand Millennium Plaza</td>
<td>1997</td>
<td>2,568</td>
<td>New World Development &amp; LDC</td>
</tr>
<tr>
<td>Three Pacific Place</td>
<td>2001</td>
<td>2,196</td>
<td>Swire Properties</td>
</tr>
<tr>
<td>Grand Promenade</td>
<td>2004</td>
<td>2,140</td>
<td>Henderson Land Development</td>
</tr>
<tr>
<td>Devon House (Phase 1) &amp; Cambridge House (Phase 2)</td>
<td>2003</td>
<td>2,117</td>
<td>Swire Properties</td>
</tr>
<tr>
<td>Great Eagle Center &amp; Harbor Center</td>
<td>1983</td>
<td>1,920</td>
<td>Cheung Kong</td>
</tr>
<tr>
<td>The Gateway Tower 1 &amp; 2</td>
<td>1999</td>
<td>1,689</td>
<td>The Wharf</td>
</tr>
<tr>
<td>AIA Tower</td>
<td>2002</td>
<td>1,596</td>
<td>AIG</td>
</tr>
<tr>
<td>8 Clear Water Bay Road</td>
<td>2002</td>
<td>1,474</td>
<td>MTR &amp; Chun Wo Development</td>
</tr>
<tr>
<td>Alexandra House</td>
<td>1982</td>
<td>1,461</td>
<td>Hongkong Land</td>
</tr>
<tr>
<td>World Wide House</td>
<td>1981</td>
<td>1,266</td>
<td>Cheung Kong</td>
</tr>
<tr>
<td>Chater House</td>
<td>2002</td>
<td>959</td>
<td>Hongkong Land</td>
</tr>
<tr>
<td>World Trade Center</td>
<td>1975</td>
<td>854</td>
<td>Hongkong Land</td>
</tr>
<tr>
<td>1 High Street</td>
<td>2006</td>
<td>776</td>
<td>N/A</td>
</tr>
<tr>
<td>Tsuen Wan Center</td>
<td>1980</td>
<td>767</td>
<td>Sun Hung Kai</td>
</tr>
<tr>
<td>Hang Seng Bank Building</td>
<td>1991</td>
<td>764</td>
<td>HSBC Bank</td>
</tr>
<tr>
<td>The Galleria</td>
<td>1991</td>
<td>762</td>
<td>Hongkong Land</td>
</tr>
<tr>
<td>Admiralty Center</td>
<td>1980</td>
<td>731</td>
<td>MTR &amp; Cheung Kong</td>
</tr>
<tr>
<td>Central Tower</td>
<td>1998</td>
<td>660</td>
<td>N/A</td>
</tr>
<tr>
<td>CDW Building</td>
<td>2004</td>
<td>659</td>
<td>N/A</td>
</tr>
<tr>
<td>The Royal Garden Hotel</td>
<td>1981</td>
<td>648</td>
<td>N/A</td>
</tr>
<tr>
<td>K11</td>
<td>2008</td>
<td>608</td>
<td>New World Development &amp; URA</td>
</tr>
<tr>
<td>Golden Fair Mansion</td>
<td>2003</td>
<td>563</td>
<td>N/A</td>
</tr>
<tr>
<td>Entertainment Building</td>
<td>1993</td>
<td>522</td>
<td>Chinese Estates</td>
</tr>
</tbody>
</table>

*Data Source: The Buildings Department, HKSAR*
d) Increase the legal power of private developers to acquire land.

In addition to the CDA redevelopment projects led by quasi-governmental organizations, private developers still play a significant role in the redevelopment areas with small sites under multiple ownership. Because most buildings in Hong Kong are held in undivided shares or by strata titles, private developers could only agglomerate land through purchasing and assembling all titles piece by piece in a redevelopment site of any significance in the past. As Yeh (1990: 374) pointed out, "considerable time and effort have to be spent on lengthy negotiations in order to secure a sufficient number of small lots for assembly into a larger site suitable for the implementation of a redevelopment scheme." The situation did not change until 1999 when the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) was passed by the Legislative Council. The ordinance was to accelerate private land acquisition through empowering private developers to overcome the issue of "missing owners" and owners who hold out in order to demand a "ransom price" for their outstanding units. In accord with Section 3(1) of the ordinance, a person or persons must own not less than 90% of the undivided shares in a lot before an application can be made to the Lands Tribunal for an order for compulsory sale of all the undivided shares in the lot. In other words, as long as the private developers have purchased at least 90% of the undivided land titles, they could acquire the entire property via a Compulsory Sale Order. An owner whose unit is sold pursuant to a Compulsory Sale Order will be entitled to a pro rata share of the sale proceeds which would reflect the redevelopment value of the old building.
In 2010, highly controversial as it was, the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice 2010 was eventually passed by the Legislative Council led by the functional constituencies. According to the notice, the compulsory sale application threshold for three classes of lots has been lowered from 90% to 80%. The three classes of lots are as follows. First is a lot with each of the units on the lot representing more than 10% of all the undivided shares in the lot. In such a case the building should have less than 10 units. Second, the building is more than 50 years old. Third, the building is an industrial building which is more than 30 years old and it lies within a non-industrial zone under a draft or approved Outline Zoning Plan prepared under the Town planning Ordinance.

If the promulgation of the Land (Compulsory Sale for Redevelopment) Ordinance in 1999 was somewhat tenable considering the practical difficulties of assembling all titles in urban renewal, the decision of lowering the compulsory sale threshold by the government in 2010 was to grant franchise to private developers in land acquisition. The influence was quite substantial. For example, there are 21 cases of compulsory sale for redevelopment in 2010. But the number in 2011 increases to 46, while there are already 42 cases in the first half of 2012, of which 31 fall into the three classes of lots with the threshold of 80% (Ming Pao, 2012b). One of the leading private developers, Henderson Land Development Co. Ltd., is the main beneficiary of the policy of compulsory sale, most of whose redevelopment projects rely on private land acquisition in recent years. Facing the increasing power of private developers, small property owners are vulnerable in most cases. Obviously, the government has significantly empowered private developers with the legal power of land resumption that is supposed to be in the hand of public authorities based on public interest.
7.1.4 Banking Giants and Real Estate Giants

The interrelationship of interest between the government and the real estate giants has been elaborated above. In this part, the symbiotic relation between the real estate giants and the banking giants will be explored to illustrate how banking giants assist the real estate giants monopolize property market. Although the real estate development is the most profitable industry in Hong Kong which has enriched several real estate giants with fabulous wealth, the high land price and comprehensive development promoted by the government compel them to rely on the loans from the banking giants, while the banking giants also rely heavily on the interest paid by real estate giants to secure their profits.

Different from the United States, Hong Kong has a high rate of saving. According to the data from Hong Kong Monetary Authority, the average rate of saving in 2011 was approximately 25% but the savings deposit rates on deposits of less than HK$100,000 was only 0.01%, which provided banks with abundant almost cost-free capital sources. With the huge amount of money, the banking giants often play a crucial role to determine who will monopolize property market via loans and interest rates especially in the current global economy recession. Because of the predominating positions and the pro-large-developer policies by the government, the real estate giants tend to get much more financial support from the banking giants through more loans and more preferential interest rates. For instance, Henderson Land Development Co. Ltd. got a loan of HK$ 16.75 billion from the banking group mainly consisting of the banking giants with the loan interest rate of as low as 0.965% in June 2011, while K. Wah International Holdings, a middle-size private developer, only got
a loan of HK$ 1.47 billion with the loan interest rate of 1.48% in the same period of time. The
different amounts of loans and interest rates leads to the huge difference in development costs
which usually makes the real estate giants much easier to obtain highly profitable large-scale
parcels of land in urban areas than ordinary private developers. Based on an article in Hong
Kong Economic Journal (2011), the average percentage of the paid loan interests in the total
development costs has decreased from over 26% in 1997 to less than 5% in 2011, meaning
that private developers pay much less interests for the loans than they did over ten years ago.
In sharp contrast to the low interest rates enjoyed by the real estate giants, HSBC's average
mortgage interest rate for individual home buyers in 2011 was 2.9%, almost three times the
interest rates for the real estate giants, while the interest rate of student loans reached up to 4%
(Figure 46).

The data from the Hong Kong Monthly Digest of Statistics shows that, the loan lent to
private developers was HK$ 912 billion in the 4th quarter of 2011, accounting for 27.1% of
the total loans which was the largest portion among all economic sectors. The second largest
economic sector attracting capital from banks was individual mortgage loan to purchase
residential properties, which was HK$ 850 billion accounting for 25.2% (Figure 47). This
means that over half of the total loans from banks flows into real estate market. On the one
hand, through low interest loans, the banking giants and the real estate giants have established
a mutually beneficial relationship to prompt property development. On the other hand,
through the big difference of interest rates between saving and mortgage, the wealth is
transferred from property buyers to the bank-developer coalition based on common interests.
Figure 46. Difference of interest rates between developers and home buyers

Figure 47. Loans and advances by economic sectors in 4th Quarter 2011

*Data Source: The Census and Statistics Department, HKSAR*
7.1.5 How the Development Regime Runs

After the interest analysis of the government, the real estate giants and the banking giants above, in this part, the social eco-chain of different members inside and outside the urban regime and the different roles they play in the POSPD development will be summarized (Figure 48).

![Diagram: Development Regime vs. Anti-Growth Coalition](image)

Figure 48. The development regime vs. the anti-growth coalition
As we can see in Figure 48, there are five main members in the development regime: the government, quasi-governmental organizations, real estate giants, banking giants and new class.

First, the government plays a leading role in the development regime. To some extent, it was the land system over-relying on land receipts that created the development regime based on land interests. For the purpose of maximizing land revenue, the government carries out the high-land-price policy. For the purpose of securing land revenue sources, some pro-large-developer policies have been implemented, such as CDA policy. In addition to land premium from private developers, the government also gets involved in urban development and redevelopment indirectly via quasi-governmental organizations like URA and MTR Corporation Ltd.. The government empowers the quasi-governmental organizations with the legal power under the Lands Resumption Ordinance and the quasi-governmental organizations turn in a large amount of profits to the government annually in return. From this point, the quasi-governmental organizations can be regarded as the government's tool to take some profit-oriented activities that may not be appropriate for itself to do directly. In the interviews, both Mr. Ling Kar-Kan and Mr. Lawrence C. H. Yau mentioned that one of the original purposes to establish LDC was to create "a buffer zone" between the government and the grassroots. Because land resumption was a highly controversial issue that could easily trigger the grassroots' discontent at that time, LDC could distract the discontent from the government.
Second, as the main contributors to the government's land revenue, the real estate giants are the profit-making machine of the development regime transforming land value into economic value through property development. The government grants franchise to private developers to speed up the process, such as lowering the compulsory sale application threshold. Also, the real estate giants collaborate with the quasi-governmental organizations and capitalize CDA projects. The collaboration is essentially a coalition between power and money. URA or MTR Corporation Ltd. is mainly responsible for land acquisition. After that, the highest bidder at public auctions or tenders becomes the collaborator in the proposed CDA project.

Third, the banking giants play the role of the main capital sources for the urban coalition. As mentioned before, over half of the loans are lent to either private developers or individual home buyers, meaning that the profits of banks depend heavily on property market. Thus, for more secure and profitable return on investment, the banking giants provide low-interest loan to the real estate giants to help them monopolize property market.

Last but not the least, as the servomechanism of the urban regime, the persons of the new class are employed by the government, the real estate giants and the banking giants to provide professional services and consultation. Due to different employment relationship, the new class is by no means monolithic and different fractions of the new class are subject to different interest groups in the urban regime. The absence of universal suffrage effectively allocates considerable power to the state bureaucracy and the liberation of the new class from
the imposition of electoral politics renders it semi-autonomous agencies. Since 1985, the new class has been granted direct representation as "a functional constituency" on the Legislative Council to exert direct political influence on urban affairs. Meanwhile, the members of the new class may take more than one positions in the urban regime and the employment relationship is changeable across different interest groups. It is very common to see the former senior civil servants in the government work in the leading private developers after retirement today. Leung Chin-Man is an example. Because of his prominent position in the government, Leung's appointment controversy attracted lots of public concern. But for some civil servants without that high positions, their appointments will not attract so much attention. Due to the situation that "the first half of life depends on the government and the second half depends on private sectors," the incumbent senior civil servants often feel reluctant to be against the interests of the leading private developers. A recent controversial case regarding the new class is Lawrence C. H. Yau's editing Wikipedia.11

7.2 The Emerging Grassroots Anti-growth Coalition

In Figure 47, we can see that there is an emerging anti-growth coalition in today's Hong Kong society. In despite of limited power in terms of resources and political influence compared with the powerful development regime, the anti-growth coalition is growing rapidly especially after the handover in 1997. In this section, the political circumstance and the

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11 In 2012, using the online account named "Qshshq", Director of Corporate Communications of URA Mr. Lawrence C. H. Yau was reported by Apple Daily to edit the content related to URA and the Development Bureau by deleting negative comments and adding some advertising information. Later, Yau admitted his editing behavior but argued that he was not deliberately distort the truth. The editing contents have been deleted by Wikipedia. Yau was satirized as "the most expensive 50 Cent Party" by the press.
reasons of the emergence of the anti-growth coalition will be analyzed. In addition, why
POSPD matters for the coalition and interest demands will be elaborated as well.

7.2.1 Hong Kong's Political Spectrum: Pro-Growth vs. Anti-Growth Coalitions

In order to have a clear understanding of where the anti-growth coalition emerged, we
should start from the political spectrum of Hong Kong. Hong Kong's political circumstance is
very complicated and the situation of parties with various of political opinions stands in great
numbers. Generally speaking, the political power can be classified into four categories in a
sequence of political inclination from left-wing to right wing: Communist Party of Hong
Kong (CPHK), the Pro-Establishment Camp, the Pan-Democracy Camp and the New Social
Movement Camp (Figure 49).

First, CPHK is the most left political power in Hong Kong, representing the interest of
the Chinese Communist Party (CCP) and the central government from the Mainland China in
most cases. During the second Civil War (1945-1949), the Hong Kong Branch of Xinhua
News Agency was opened in 1947, symbolizing the beginning of CPHK in Hong Kong. In
1948, Hong Kong Federation of Trade Unions (FTU) was established in 1948. Supported by
the Chinese Communist Party, FTU consists of a variety of labor unions across industries. In
1967, influenced by the Cultural Revolution, Leftist riots against colonial rule led by CPHK
erupted resulting in the fear of the Left in Hong Kong's society. Since then, CPHK went
underground. In 1970s, some left-wing student movements centralized around the University
of Hong Kong happened occasionally. In the Transitional Period, CPHK adopted the United Front Policy to unify and foster pro-Beijing political power. In 2000, Xinhua News Agency Hong Kong Branch was renamed Liaison Office of the Central People's Government. In 2012, Leung Chun-Ying was elected as the Chief Executive who was broadly suspected as an underground Party member.
Figure 49. Political spectrum in Hong Kong
Second, the Pro-Establishment Camp, or Pro-Beijing Camp, mainly refers to the parties and political organizations who support the policies and views of the central government and the political system of Hong Kong. Most of the members in the camp have vested interests in the existing development regime. The camp mainly resulted from the United Front Policy of CPP and CPHK in the Transitional Period. After the Sino-British Joint Declaration in 1984, a group of pro-Beijing businessmen and elites formed several new political parties, including...
Liberal Party and Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). Although the Pro-Establishment Camp was defeated by the Pan-Democracy Camp in the Legislative Council elections in 1991 and 1995, the central government denied to honor it after the handover, arguing that the electoral reform introduced by Chris Patten had violated the Sino-British Joint Declaration. Since 1997, more new political parties and groups have been founded, such as New People's Party. Taking advantage of the support from the central government and the functional constituencies, the Pro-Establishment Camp have never lost being the majority in the Legislative Council. Currently, the Pro-Establishment Camp holds the majority in the Legislative Council, 43 out of the total 70 seats (Figure 50).

Third, as the main rival of the Pro-Establishment Camp, the Pan-Democracy Camp refers to the parties and local political groups who are discontent with the existing political system and make effort to promote democracy movement. Pan-Democrats are known to criticize the HKSAR government as well as the central government for the authoritarian rule and to advocate a faster pace of democratization and implementation of universal suffrage. The camp could be traced back to the right-wing student movements centralized around the Chinese University of Hong Kong in the 1970s. In the Transitional Period, the Pan-Democracy Camp grew rapidly with the establishment of parties and organizations, such Association for Promoting Democracy and Association for Democracy and People's Livelihood. In the 1989 Tiananmen Square Protests, the camp established a solid foundation and received considerable support at grass root level. In the first direct election of the Legislative Council in 1991, some parties and groups were integrated into the United
Democrats of Hong Kong, who won a historical landslide victory in the election, taking 17 out of 18 geographical constituency seats and controlled nearly half of the seat for the council. After the handover, all the Pan-Democrats except for the members of the Association for Democracy and People's Livelihood denied to join the provisional Legislative Council by the central government and thus were ousted from the territory's legislature until 1998. However, due to proportional representation compounded with the restoration of corporate votes in the functional constituencies, the Pan-Democracy Camp has never been holding the majority in the Legislative Council since 1998. Currently, the camp hold 27 out of the total 70 seats in the Legislative Council (Figure 49). In Hong Kong, the camp is often labeled as an "opposition camp", because their political concerns like freedom of speech and press contradict with the political stance of the central government.

Last but not the least, the New Social Movement Camp is a new right-wing political camp primarily consisting of rightist youth, many of whom were born in the 1980s. Different from the Pan-Democracy Camp, the New Social Movement Camp holds more radical and ideal political views to challenge the existing political system and urban regime in Hong Kong. The birth of the camp could be traced back to the Great Parade on July 1 2003. On that day, about 5 million people marched on the streets spontaneously to oppose the legislation of the Article 23 of the Basic Law. On August 10 2003, 7.1 People Pile was established and named after the Great Parade, which is like a small political forum formed by a group of

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12 According to the Article 23, "the Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies."
young people mainly in their 20s to 30s to extend people's power. The group filed three candidates in the 2003 District Council elections but all of them were defeated. In 2004, the Independent Media of Hong Kong (Inmediahk) was established as an internet-based grassroots media specializing in social issues, current affair commentaries and citizen reportage. In 2010, Left 21 was founded as a civic group with the aim of promoting and creating discussion on left-wing anti-capitalistic thoughts. In 2011, Land Justice League was established for the purpose of organizing and mobilize the residents and farmers to protect their properties and farmland. Since 2003, the new camp was very active in organizing a series of grassroots campaigns, such as protecting Star Ferry Pier in 2006 and protecting Queen's Pier in 2007. They were also deeply involved in some controversial issues related to POSPD in the recent years like the Grand Promenade Affair in 2005, the Times Square Affair in 2008 and the Occupy Central in 2011.

Broadly speaking, on the basis of the analysis of the political spectrum, the first two camps, CPHK and the Pro-Establishment, support the existing urban regime in which they have vested interests, while the last two camps, the Pan-Democracy and the New Social Movement, belong to the anti-growth coalition in Hong Kong's society. However, the 2010 rapprochement between Beijing and the Democratic Party led to internal rifts within the Pan-Democracy Camp and the formation of new parties and groups, some of whom turned to further right and joined the New Social Movement Camp, such as People Power. The New Social Movement Camp also felt discontent with the comprise and long-time inefficiency of the Pan-Democracy Camp in the process of democratization and hence preferred to promote
democratic development through direct mass street actions rather than indirect appeal to the public. For this reason, we can see that the New Social Movement Camp is usually more active as the anti-growth coalition in the production of POSPD development, as shown in the case studies in Chapter Six. Therefore, the New Social Movement Camp will be elaborated in detail in the following part in terms of the reasons why the camp appeared and why POSPD matters for the camp.

7.2.2 Why did the New Social Movement Camp Emerged?

As mentioned above, the New Social Movement Camp mainly consists of young people who are discontent with the current status quo of Hong Kong and the “post-80s generation” has become more politically active, getting involved in many social issues and affairs. The continuing tussle between the government-developer urban regime based on the common interest of land and an emerging social movement camp for a fairer society has become a new political phenomenon in the recent years. As to the question why young people throw themselves into social movements, the reasons are shown as below.

The civic activists in social movements include among their ranks a high proportion of well-educated university students and young professionals mainly in their 20s to 30s. Different from the older generations like their fathers and grandfathers, the young people spend most of their adulthood in the post-colonial period and thus have a stronger native consciousness and more enthusiasm in participating in discussing and handling local affairs.
This is the intrinsic cause of the emergence of the New Social Movement Camp. But more important is the external circumstances that have drawn them to democratic politicians.

From Figure 51, we can see that, in recent decades, the GDP per capita of Hong Kong people keeps increasing from $13,790 in 1980 to $44,805 in 2011. Meanwhile, although there was a slight decrease between 1995 and 2000 due to the influence of the Asian Financial Crisis in 1997, the ranking of GDP per capita continues going up from 36th to 9th in the world. Correct as it seems to say that Hong Kong has stepped in the group of the wealthiest countries and regions worldwide and the living standards of the people has been elevated significantly. However, that is only part of the story. From Figure 52, we can see the rapid growth of Gini coefficient from 0.408 in 1992 to 0.537 in 2010, meaning a widening gap between the rich and poor. If we also take a glance at the increasing number of billionaires as mentioned in Chapter Four, the whole story is that the middle class in Hong Kong has been shrinking significantly in the past decades and the lost candidates of the middle class are hundreds of thousands of well-educated young people. This explains why more and more unsatisfied youths crusade in social movements.
Figure 51. Ranking of GDP per capita of Hong Kong in the world (1980-2011)

*Data Source: United Nation Development Programme 2012*

Figure 52. Change of Gini coefficient in Hong Kong (1992-2010)

*Data Source: The Census and Statistics Department, HKSAR*
The factors that have contributed to the shrinking middle class is the high-land-price policy and resultant unaffordable housing price driven by the government-developer urban regime. Although the Hong Kong government provides public housings to low income people, the threshold of the maximum income level is set too low to include the majority of the well-educated young people who cannot afford to buy properties in private market. So they are called "sandwich class" suffering from skyrocketing housing price. As of 2012, approximately 30% of the families in Hong Kong fall into the "sandwich class" (Sit, 2012). The high housing price not only influences the living standard but also the income level of Hong Kong people. Compared with residential units, the rental level for commercial space has been increasing even more rapidly. The data from the Census and Statistics Department shows that the rental indices of private retail spaces has grown from 74.6 in 2003 to 135.7 in 2009, taking the average rental level in 1999 as 100. The heavy burden of rental squeezes the majority of profits out of many small business owners' pockets and even forces them out of business in some cases. For example, if you take a dinner in a local restaurant in Hong Kong, about 50% to 60% of what you pay goes into the pocket of the property owner (Poon, 2010). The “post-80s generation” attributes their plight to the monopoly of the large developers. A relevant research shows that, in the late 1990s, 61% of the newly-built premises were developed by the top five private developers, 55% by the top four and 46% by the top three. From this perspective, political debates between the urban regime and the anti-growth coalition led by the "post-80s generation" are between “haves” and “have-nots.” The root of the “anti-wealthy” emotion which is now becoming more prevalent among Hong Kong people, particularly among younger generations. Wealth is concentrated by the few richest
people as they have massive real estate businesses, and they diversify into other businesses, which make them even more powerful. Most of the markets they are in are of an oligopoly market structure, which left consumers with little choice but to pay. The emergence of young social activists was because of the difference between expectation and reality. Trans-sectoral oligopoly by large developers has reduced the development opportunities of many post-80s youths who are well-educated and have high expectations. In June 2009, the student union of the Chinese University of Hong Kong published an online declaration named "For the future of our society: a declaration to all Hong Kong people" which summarized the political ideology of the young generation for a fairer society against the traditional laissez-faire ideology of the Hong Kong government. It argued that the laissez-faire ideology of government intervention minimum led to the over-emphasis on economic efficiency and neglection of social equity, and outsourcing public functions and privatizing public amenities generated the government-developer coalition which hindered the measures of promote social equity.

7.2.3 Why POSPD matters for the Anti-growth Coalition?

Although the conflicts between the urban regime and the anti-growth coalition led by the post-80s generation have become increasingly polarized with more and more groups and individuals voicing out their discontent, in sharp contrast to the powerful government-developer urban regime, the anti-growth is still weak and the resources it controls is quite limited. Despite the supports from the grassroots, Land Justice League is always

facing the issue of inadequate fund and the current office is on the second floor of a small hardware store which is sponsored by the small business owner. Under this circumstance, the emerging anti-growth coalition cannot afford to publicize their political ideas on TV or in newspapers, and internet and urban public spaces become the main forums and media for civic discussion and propaganda, or so-called "public sphere" by Habermas, because both of them are free of charge.

The new social media means, such as SMS, Twitter and Facebook, have been increasingly used to spread messages and rally people. Like the founder of Inmediahk Oiwan Lam said, "as a citizen media website, Inmediahk wants the articles to reach as many people as possible. Creative Commons helps us to distribute our works." For example, as of August 2011, there are totally 3,673,600 Facebook accounts in Hong Kong (Sit, 2012). The internet becomes an effective tool with the advantage of wide spread. In spite of the advantage, internet has a relatively poor coverage of older generations like the post-50s and -60s. Therefore, as to the anti-growth coalition, urban public spaces still play an irreplaceable role for wider propaganda and more effective social mobilization. However, unlike the internet with little control, Hong Kong has traditions of social control, surveillance and policing over urban public spaces since the very early years of the colony, which have always been of paramount importance in the maintenance of social stability. Back to the 19th Century, the early rules of urban public spaces were based on racial discrimination. The rules of urban public spaces in the later period of 20th Century were still strict. For example, the Public Order Ordinance (Cap. 245) enacted in 1967 is still in effect for the purpose of maintaining
public order through the control of assembly, procession, and demonstration, limiting people's freedom of expression. As Section 18 stipulates, "when 3 or more persons, assembled together, conduct themselves in a disorderly, intimidating, insulting or provocative manner intended or likely to cause any person reasonably to fear that the persons so assembled will commit a breach of the peace, or will by such conduct provoke other persons to commit a breach of the peace, they are an unlawful assembly" and "any person who takes part in an assembly and shall be liable on conviction on indictment, to imprisonment for 5 years and on summary conviction, to a fine of $5,000 and to imprisonment for 3 years." In 2005 WTO conference, the Hong Kong Police referred to the Ordinance to arrest nearly a thousand protesting South Korean farmers in Hong Kong, although no one could successfully be convicted afterwards.

The control on POSPD is even stricter than ordinary urban public spaces because the government cedes the administrative authority to private developers via the Deed of Dedication which stipulates "the owner reserves the full right to make rules or by-laws from time to time for regulating the public use of the said dedicated area for purposes of pedestrian passage and passive recreation substantially in accordance with the terms of this Deed of Dedication." The case studies in Chapter Six reflects the use of POSPD is subject to the discretionary power of the private management and the business mode of the development. The activities of public users are limited to the activities which the property management regarded as "proper manner." As long as treated as "improper manner" by private managers, public activities cannot be conducted and the ultimate power of interpretation of the
appropriateness is in the hand of private developers. In some cases like Times Square, even sitting and standing are not treated as "proper manner". The priority of private managers to manage POSPD is minimizing responsibility and free of trouble. So enriching public life is not their concern. Besides, public users are always encouraged to consume in POSPD, such as Times Square Piazza and Grand Millennium Plaza, and the activities that may hinder profit-making will be regarded as "improper manner." Especially, public assembly, demonstration and speech that can happen in other public spaces like Victoria Park are not tolerated in many POSPD. As an assistant property manager of the Center said there were occasional protests against URA in the POSPD and their action was to "politely invite the protestors to stand outside of the boundary of the dedicated public space onto the government pavement" and to "explain to them that this was due to avoid any disturbance to the tenants" (Too, 2007). Under the private surveillance and control by security guards, using POSPD as a place for civic discussion and social mobilization is significantly restricted. The function of POSPD can be changed occasionally but subject to the discretionary power of private developers instead of public users and in most cases the direction of change is towards consumption. For instance, in the cases of Times Square Piazza and Grand Millennium Plaza, the private developers hold a variety of activities to promote consumption, such as outdoor cafe areas and restaurants.

As to the government, on the one hand, the activities of privatization and commercialization are encouraged and legitimized by the government in the name of promoting economic development. Just take a glance at the process of legitimizing OSA
policy in the case of Grand Millennium Plaza. On the other hand, the private developers are empowered by the government to exert social control and surveillance over public activities in POSPD on behalf of the government, particularly political and social movements. The different attitudes towards the cases of Times Square and HSBC Headquarters can vividly illustrate the situation. The lawsuit against Times Square Ltd. for leasing the POSPD and violating the Deed of Dedication has been pending for three years without the result of judgment since 2008. By contrast, the lawsuit against the protestors of Occupy the Central for illegally occupying in the private property took only two months for the private management company to get an injunction of compelling the protestors to leave.

From the analysis above, I can come to the conclusion that, as the main place for wider propaganda and more effective social mobilization, POSPD plays a significant role for the emerging anti-growth coalition. However, the private social control and social surveillance over such space on behalf of the government inevitably collide with the anti-growth coalition. This is the reason underneath why the interest conflict between the development regime and the anti-growth coalition has become more and more apparent in recent years.

7.3 Findings and Suggestions

7.3.1 Findings

Hong Kong government has been renowned for its ideology of laissez-faire in the world and "big market, small government" is always the golden rule long-held by the government,
stressing limiting the functions of government and divesting functions to private sector. Furthermore, a philosophy named "positive non-interventionism" was developed in the 1970s in the Hong Kong context, arguing that the role of government was to step back from free-market economic development and to serve for private sector's profit-making via careful intervention only when necessary. In terms of governmental functions, the prevailing belief is that government should only undertake the functions that are absolutely necessary and that its main role is to facilitate and regulate the free market in ways that will promote economic prosperity. So entrenched is the view that economic efficiency is the priority of the Hong Kong government while social equity is usually sacrificed. Following minimalist principles, the non-core governmental functions are divested to private sector. In the colonial period, the control over the private companies or organizations that took public functions was usually quite loose unless their conducts of public functions were believed to threaten political stability. After the handover, the first two Chief Executives, Tung Chee-Hwa and Donald Tsang Yam-Kuen, held the belief that government could benefit from more private sector involvement in the provision of public goods and services. Additionally, the turn-down of economic atmosphere resulted in the revenue decline and budget deficit. Under this background, the delivery of public goods and services by private sector has been even more emphasized by post-1997 government and the growth of outsourcing has been accelerated. Thus, POSPD policy becomes increasingly prevalent for the government as an alternative to build public open spaces. The monopolistic nature of the local economy in Hong Kong is projected into the POSPD development. In order to secure and maximize land revenue, CDA policy has been implemented by the government to promote urban development in a
comprehensive basis, which is believed to have more capacity to provide more gross floor areas and more POSPD. Although the policy seems a reasonable remedy for the typical "pencil development" in Hong Kong, the practical result shows that private real estate giants do benefit much more than ordinary private developers from the policy which is what the pro-large-developer regime really wants to see. In practice, CDA policy not only consolidates the monopoly of real estate giants in private property development but also concentrates the production of social spaces in urban areas into the hands of a few powerful conglomerates.

From the government's perspective, there are several benefits from doing so. First, due to the skyrocketing land price, the opportunity cost of providing open spaces by the government itself is quite high. POSPD development can make the government maximize land revenue by selling as much land as possible, meanwhile, public open spaces can be built in private development to meet the requirements of local open spaces in the Hong Kong Planning Standard and Guidelines (HKPSG) without using government land. Second, the government can save public expenditure for constructing public open spaces which accords with "value for money", the central plank in the government's financial practices, because any increase of public expenditure is regarded as a prelude of increasing taxation which is opposed by the local business community. Third, the Hong Kong government has a long-time tradition of social control and surveillance over urban public spaces for the sake of political stability. POSPD development blurs the ownership of urban public spaces via public-private partnership and outsources the authority and responsibility of social control and surveillance to private sector via the Deed of Dedication. In POSPD, security guards replace policemen to
exert the power of social control and surveillance that used to be in the hand of public authority. The advantage of contracting out the power of administration in POSPD to private sector is to create a "buffer zone" between the government and the public in social control and surveillance.

Private developers, especially large private developers, also embrace the mode of POSPD development in that they can get paid for the dedicated areas with bonus plot ratio and bonus site coverage. Under high housing price, the bonuses meaning a huge amount of extra profits are very attractive to private developers. Influenced by the ideology of the Hong Kong government overemphasizing economic efficiency over social equity, the narrow definition of POSPD as "public passageway" leads to the loose requirements of spatial quality, of which private developers can take advantage to minimize the costs of constructing and maintaining POSPD. Because pedestrian traffic is the priority of concern, any obstacle and activity that may block the traffic will not be allowed and hence the majority of the existing POSPD in Hong Kong are barren and inhuman public corridors where people cannot reasonably expect to undertake other lawful public activities. In addition, private developers get empowered with the administration authority of POSPD. On behalf of the government, private developers not only conduct social control and surveillance with discretionary power of formulating and explaining relevant administration regulations, but also have capability to commercialize the dedicated public spaces for profit-making after receiving payback.
From the public's perspective, CDA policy encourages large-scale development and redevelopment projects in urban areas via the integration of small parcels of land into large sites. Although this is a reasonable and effective way to avoid "pencil development" and provide public open spaces in private development, it is almost undeniable from the statistical analysis that the policy is more beneficial to large developers than to small developers. In practice, the main issue of the policy in terms of public space production is that the mode of comprehensive development erases streets as well as street life from the modern urban fabric. As mentioned previously, streets were the container of diverse public life and colorful native culture in Hong Kong throughout the history and, traditionally, streets played a central role in Hong Kong people's public life. The CDA development transforms the traditional street space into POSPD, which is a type of ambiguous public domain under private control. For the purpose of better private control and surveillance, POSPD are usually in the forms of internalization and segregation. For example, many large POSPD especially in the MTR projects are built intentionally on the podiums, several floors above ground, which are very difficult for the public to access from ground. The examples of podium POSPD include, but not limited to, IFC and Metro Harbor View. Even the POSPD at street level have the issue of commercialization and privatization, which has been discussed before. Thus, although the number of local open spaces on paper increases, the public feels that urban open spaces are disappearing in reality and that is one of the reasons why the conflicts between anti-growth coalition and the development regime has become increasingly prevalent recently.
At the last part of the finding summary, here I would like to answer the research questions brought forward in Chapter One as follows.

a) POSPD Production: *How well is the trade-off between public and private in terms of equity?*

From the analysis based on the model of equivalent development rights in all the case studies, we can see the huge difference between the extra profits and the actual costs. Without exception, all the private developer tried their best to use up the permitted floor areas as well as the bonus floor areas because they knew that would bring them a huge amount of money in return for dedication. Thus, I may say that the trade-off between public and private is not fair and private developers get much more than they deserve. Additionally, it is obvious that large developers have more chances to dedicate more and hence get more bonus in return via CDA policy. This means that not only is the tradeoff unfair but also the distribution of bonuses among private developers is unfair.

b) POSPD Consumption: *How well POSPD policy serves civic society?*

On the one hand, from the analysis of relevant policies, the POSPD policy is pedestrian-traffic-oriented rather than public-life-oriented. Thus, the priority of the POSPD is to ensure pedestrian flow and any public activities that may hinder it will not be allowed. From this point, we may say that POSPD policy improves the pedestrian environment in dense urban areas, but it does not diversify and vitalize public life. On the other hand, the government empowers private developer to exert social control and social surveillance on
POSPD. This has led to the situation that the conflicts between public and private in POSPD has become more and more prevalent in recent years. Therefore, I may safely conclude that POSPD policy does not serve well civic society.

c) The Why Questions

The logic model in Chapter One illustrates the ideal roles of the government, private sector and the public in the incentive production of urban public spaces (Figure 1). On behalf of public interests, the government administers and supervises the process of incentive production. Private developers are driven by rewards to produce public spaces in private developments. The public has the freedom to conduct lawful activities in the resultant public spaces. The ideal theoretical model is based on a significant foundation: democratic society.

However, Hong Kong has never been a fully democratic society due to the absence of universal suffrage. In the current political system, the majority of the functional constituencies, especially those have corporate voting, are viewed by younger social activists as a prop for business interest, rather than for public interest, and the whole system is seen to be not only pro-government but also pro-business which would make pro-government and -business policies and pose an obstacle to those that might hurt the common interests. While the New Social Movement Camp's discontent with functional elections is growing driven by a sense of social injustice, the pro-business elites in the urban regime are galvanizing to ensure their retention. For instance, the chairman of the Hong Kong General Chamber of Commerce, Anthony Wu, has argued to turn functional constituencies into nomination bodies for
selection of the Legislative Councilor candidates and then let the public vote, which will entrench functional constituencies and bestow on them a spurious democratic flavor.

In addition, unlike the United States, the Hong Kong government owns all the land and hence it becomes the core stakeholder of land interest, over-relying on land revenue and relevant taxes. For the purpose of securing and maximizing the income from land, the government prefers to ally with the strongest private partners. This well explains the dominance of politically well-connected real estate tycoons in Hong Kong. Because of the high-land-price policy and CDA policy, smaller property developers are effectively excluded from profiting from Hong Kong property market in meaningful ways. As a result, the riches inevitably get even richer, and it is absolutely no surprise that the riches will get more powerful over time, making acquisitions of companies that are outside of their core businesses and build up their commercial empires. Under this circumstance, POSPD policy has been transformed from public-interest-oriented to profit-oriented. In other words, POSPD policy has been utilized as a tool to increase development potential and the resultant profits.

To sum up, there does exist a government-developer urban regime, which is different from government officials' self-serving collusion with businessmen, as we may often hear from the complaints of some Hong Kong people. In my opinion, there are two main differences between the two. First, the government-developer urban regime is based on the common vested interests while the officials' self-serving collusion with businessmen is based on personal interests. Second, the common vested interests have been institutionalized and
legalized in the current political and legal systems, such as the election system of functional constituencies and the pro-large-developer CDA and POSPD policies, while the personal interests are under the table. So the former is legal and the latter is illegal. In fact, Hong Kong is a place well regulated by various laws and ordinances and the Independent Commission Against Corruption (ICAC) is very famous with its efficiency of cleaning up endemic corruption within the government. A famous example is the investigation of the collusion between the former Chief Secretary for Administration Rafael Hui Si-Yan and the co-chairs of Sun Hung Kai Properties Ltd. Thomas Kwok and Raymond Kwok in 2012. Another example is the investigation of Leung Chin-Man in the case of Grand Promenade, as introduced in Chapter Six. Thus, the government officials' self-serving collusion with businessmen is restricted and prohibited and relevant persons involved will be sentenced to legal punishment because this may hurt the overall vested establishment interests. On the contrary, the government-developer urban regime can make efforts to pursue the institutionalized and legalized common vested interests via policymaking in a public manner. This is reflected in the Hong Kong government's ideology of laissez-faire, overemphasizing economic efficiency over social equity, as well as relevant policies, such as positive non-interventionism.

7.3.2 Suggestions

Compared with New York's experience, the issues of POSPD in Hong Kong can be attributed to the reasons not only in the higher dimension of political system, but also the
reasons in the lower dimensions of policy and management. Thus, there are several suggestions at different dimensions, although some would be difficult to be implemented in the short term under the current circumstance.

a) Political System Dimension

Unlike New York City, Hong Kong is not a fully democratic society. Lack of universal suffrage makes the grassroots watchdog organizations in Hong Kong not capable of exerting the supervision and the political influence as efficient and powerful as their counterparts in New York City do in the process of implementing incentive zoning. In the Legislative Council which takes charge of enacting ordinances and regulations, the functional constituency system gives a minority of elites in the urban regime too much political power and influence. The right of corporations and legal entities to vote further strengthens the privilege of the elites over the grassroots since it gives some individuals multiple votes. This has led to the reluctance of amending the relevant pro-developer POSPD policies when the discontent from the grassroots became increasingly prevalent. Thus, progress toward democracy has to be made in steps and the government should be on the side of the public rather than of large private developers. The main arbitrator of POSPD policy is the Buildings Department having the discretionary power to exempt areas dedicated for public use from the gross floor area calculation and to grant bonus areas by approving building plans that exceed the permitted plot ratio. Thus the department should be based on the public interest and the decision making process should stress openness and transparency, and trans-departmental collaboration within the government and public participation should be institutionalized. The
Pan-Democracy Camp has appealed to the government that the functional constituencies should be abolished and the seats from direct election should be increased, which will better reflect the voices from ordinary people. But such influential political reform has inevitably met great difficulties from the vested interest groups in the current urban regime and there is still a long way to go.

b) Policy Dimension

In the policy dimension, the POSPD policy in Hong Kong is an adaption from incentive zoning policy originated from New York City at the early of the 20th Century. But in the context of Hong Kong, the public-interest-based policy has been transformed into profit-based policy. The major issue in POSPD policy has to do with the definition of public space. According to Section 22(1) of the Building (Planning) Regulation which governs public passage to all public spaces including public square, plaza and garden. The reason underneath is over-emphasis on efficiency while neglecting equity resulting from the ideology of laissez-faire held by the government and POSPD becomes pedestrian-traffic-oriented. The narrow definition of POSPD creates a fundamental conflict in terms of interpretation and application. POSPD solely for circulation is not adequate as social activities and becomes the excuses for private developers to produce POSPD only meeting the minimum requirements. The absence of necessary public amenities makes POSPD unusable for public activities and social interactions. The current bonus plot ratio regulations are too simple and loose, not considering the influences of spatial types, locations and spatial designs on the costs. Besides, by comparing the policy between Hong Kong and New York City, Hong Kong's POSPD
policy lacks a clear and adequate policy regulating the space construction, operation, as well as empowering on enforcement. Within POSPD framework, it lacks flexible modification arrangement as operating in New York City's policy. As a result, the space design and operation cannot keep pace with the change of surrounding. In addition, although I admit the necessity and rationality of implementing CDA policy to provide POSPD, the development scale is set too large, erasing streets and internalizing urban public spaces.

Thus, here I have several suggestions for the Hong Kong POSPD policy. First is redefining spatial types of POSPD. The current regulation in Hong Kong is defined with a single major purpose, but no system of spatial types is established to differentiate the qualities. The system of spatial types in New York City can be used as references to help redefining spatial types and reconsidering the standard of spaces with bonus plot ratios. According to New York City's experience, different types of POSPD should be set up with specific requirements as well as plot ratio bonuses according to the usage and cost. For instance, spatial types used for leisure and entertainment, such as plaza and garden, require detailed guidelines of more public amenities and better spatial quality and hence should receive higher bonus, while circulation spaces like street widening require fewer public amenities and the bonus should be lower. Second, the scales of CDA development as well as the resultant POSPD should be diversified. Considering the Hong Kong people's traditional custom of using street space for public life, small-scale POSPD with sufficient public amenities for better accommodating Dai Pai Dong and Tai Tat Dei might be intentionally encouraged where appropriate and in accord with environment and hygienic standards.
c) Management Dimension

As Németh (2009) argued, the management of POSPD is essential to the usage of the public. There are several problems regarding POSPD management. First, the legal basis for effective POSPD management, which foundation is stipulated expressly in provision of Government Lease or Government Grant, are brief and vague on the delineation of rights and obligation, powers and responsibilities, on both parts of private managers and public users. Under this ambiguity and vagueness in delineation of rights and obligation, the legal foundation for setting by laws and rules for POSPD by private owners are questionable. Another dimension into the characteristic of POSPD management is its differentiation of those from publicly owned open spaces ran by government. In both spaces, the Public Health and Municipal Services Ordinance (Cap. 132) by government and by-laws and rules by private managers shares the common clauses of “use restriction” for public users in majority of provisions; yet due to the different roles between the two, their execution is substantially different. Certain clauses reflect the owners’ high alertness on legal compliance and management issues. Permission mechanism is another significant dimension to enhance the POSPD use. It has been more common in New York privately owner public space than in Hong Kong POSPD to have community and commercial activities and amenities. The reasons behind is the lack of a broad legal framework and a series of legal modification actions that support to integrate the vetting procedures of different departments and community boards. This integration is also significant as it makes the application more clear and foreseeable. In the case of Hong Kong, lack of such clear application procedure and vague delineation
between public and private realm give rise to grey area for unauthorized commercial amenities.

For remedy, despite of the administration effort to delineate the permission procedure, the recently established guideline is inefficient to establish clear and foreseeable permission procedures for such provision. In my opinion, the public function like POSPD management should not be outsourced completely to private developers if possible. Actually, the Leisure and Cultural Services Department takes charge of managing and maintaining all publicly owned public spaces like Hong Kong Park and Victoria Park. I suggest that the department should extend its administrative authority to POSPD using the uniform administration rules to avoid the conflicts between private discretionary control over POSPD and the public users. The government can levy administration fee upon the extra income from the bonus floor area which will be used to hire personnel to maintain the POSPD. In this way the government can not only ensure the publicness of POSPD but also use private capital to build and maintain public open spaces without spending public funding.
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