



Ordinance for tree management: Consideration and way forward

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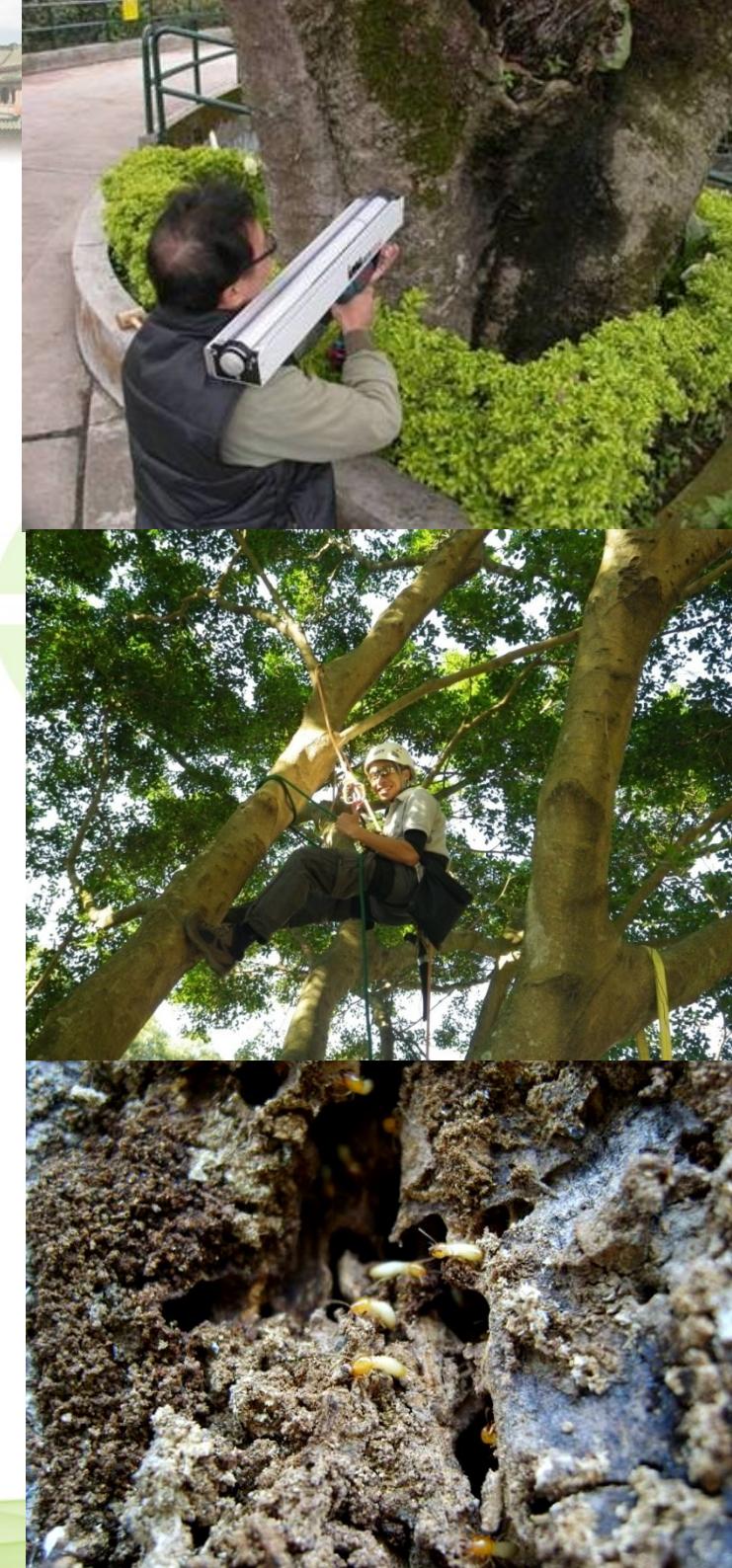
Why Tree Ordinance is needed?

- Tree provides social, environmental, economic and physiological benefits to the community.
- But, poor managed tree in urban area can also be a nuisance or even hazard
- Tree Ordinance can promote and regulate the planting, long term care, maintenance and protection of trees.
- Always being requested during special tree case happened!



What is Tree Ordinances

- Key vision: to build a healthy and sustainable urban forest
- It defines **how to manage and care for public and/or privately owned trees and demonstrates commitment to the urban forest.**
- It also defines authority, describes the required conditions or actions, establishes penalties and enforcement requirements.
- Always works with a set of guidelines.





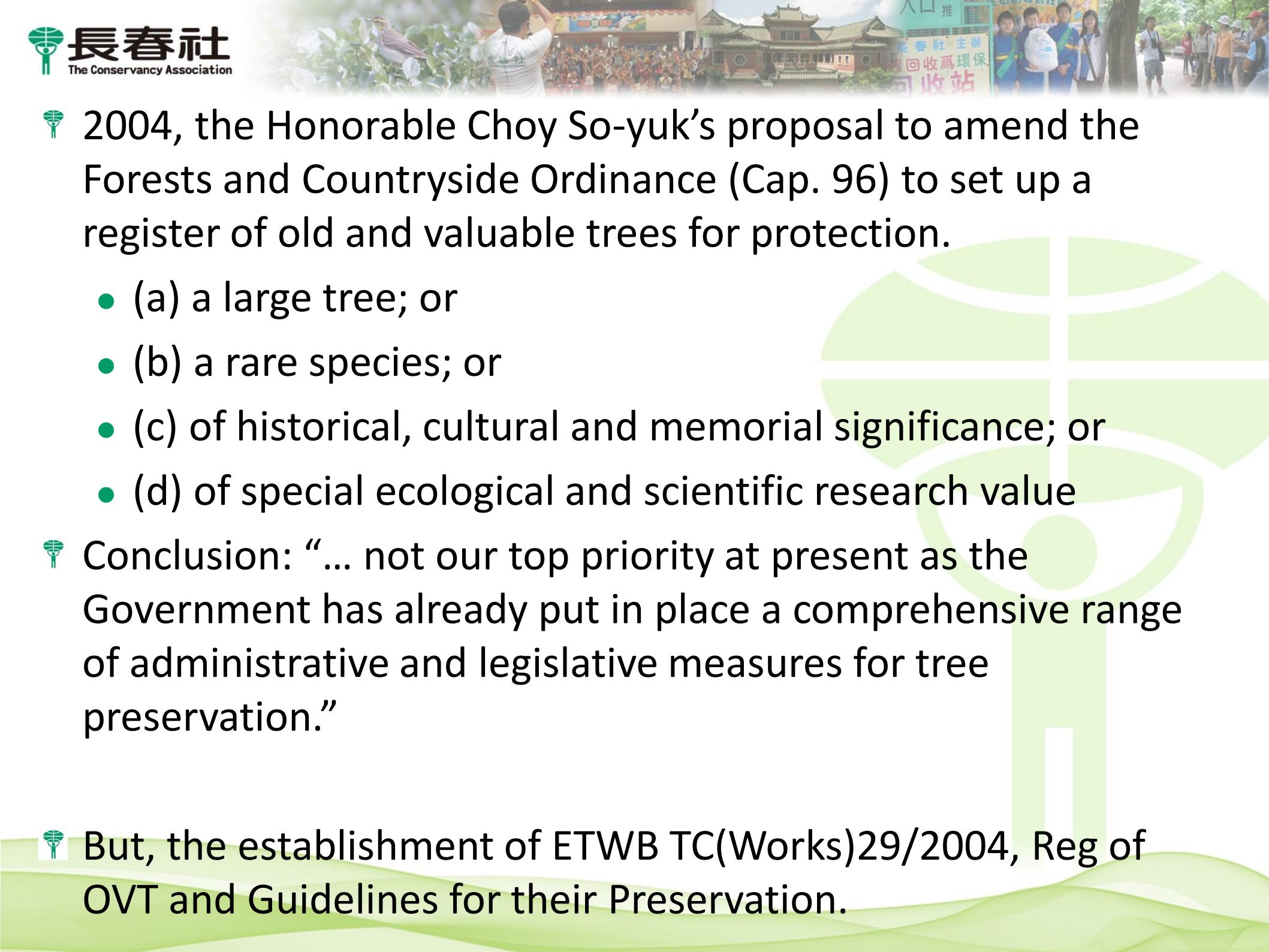
Legislation of Hong Kong

- † **Ordinances**(條例): Laws enacted by Legislative Council (LegCo), primary legislation.
- † **Subsidiary legislation**(附屬法): Laws made under delegated by LegCo, e.g., rules (規則), bylaw (附例), orders(命令) etc., secondary legislation
- † Every Ordinance starts with a “**Bill**”, which needs to be passed by LegCo and signed by the Chief Executive, and then being gazette.
- † **Public Bills**(公共法案)/ **Private Bills**(私人法案) for entirely new law (New Principle Ordinance) or for amendment (Amending Ordinance)
- † **Government Bills**: approved by Executive Council first



Development of “Tree Ordinance” in HK

- 2001年 5月 23日 立法會會議席上 蔡素玉議員就就 “保護古樹名木” 提出的議案 議案措辭 議案措辭
- “鑑於目前政府未**有一套有效的措施**保護樹木，以致本港各種樹木，例如特老和 特大、稀有和珍貴、具有歷史價值和重要意義的樹木，可能基於發展或其他理由 而遭摧毀、損害或移去，本會促請政府提出更有效的措施，切實保護及保留上述古樹名木。”
- 議案的議題付諸表決，並獲得通過。



- 2004, the Honorable Choy So-yuk's proposal to amend the Forests and Countryside Ordinance (Cap. 96) to set up a register of old and valuable trees for protection.
 - (a) a large tree; or
 - (b) a rare species; or
 - (c) of historical, cultural and memorial significance; or
 - (d) of special ecological and scientific research value
- Conclusion: "... not our top priority at present as the Government has already put in place a comprehensive range of administrative and legislative measures for tree preservation."
- But, the establishment of ETWB TC(Works)29/2004, Reg of OVT and Guidelines for their Preservation.

Tree ordinance campaign, 10,000 supporting signatures (2005)





- 2006, 蔡素玉議員的條例草案旨在修訂《林區及郊區條例》（第 96 章）（“條例”），為保護古樹（樹齡達 100 年或超過 100 年且具有保護價值的樹木）及名木（大樹、屬稀有品種的樹木、有重大歷史、文化 或紀念意義的樹木、具有特殊生態或科學研究價值的樹木，以及若干其他指明且具有保護價值的樹木）制定條文
- 裁定條例草案涉及《議事規則》第51(3) 及(4)條所指的政府運作及政府政策。蔡素玉議員不可提交該條例草案。

- After the Stanley fatal tree accident in Aug 2008:
- June 2009, “Report of the Task Force on Tree Management” was released and tree related legislation in HK was reviewed.
- Conclusion: “... there is no need to introduce any legislative change at this stage and efforts should instead be channeled to the administrative means”



Stanley fatal tree accident (Apple Daily)





2011年6月15日立法會會議上陳淑莊議員“完善樹木管理制度”動議的議案

- “...研究訂立專門的樹木管理法例，建立全面的法律框架，制訂各項樹木護養及管理政策和措施，以確保樹木得到全面及適切的保護...”

發展局局長林鄭月娥在立法會會議上：

- “第一，對於要研究成立樹木法，我今日的立場是清晰的，我再讀一次我的立場，我會**認真考慮開始研究立法這個課題**。事實上是有少許改變，因為我覺得施政不外乎要因時制宜，作為問責官員，我要不斷審視最新情況而作出積極回應。”

Latest development/ views

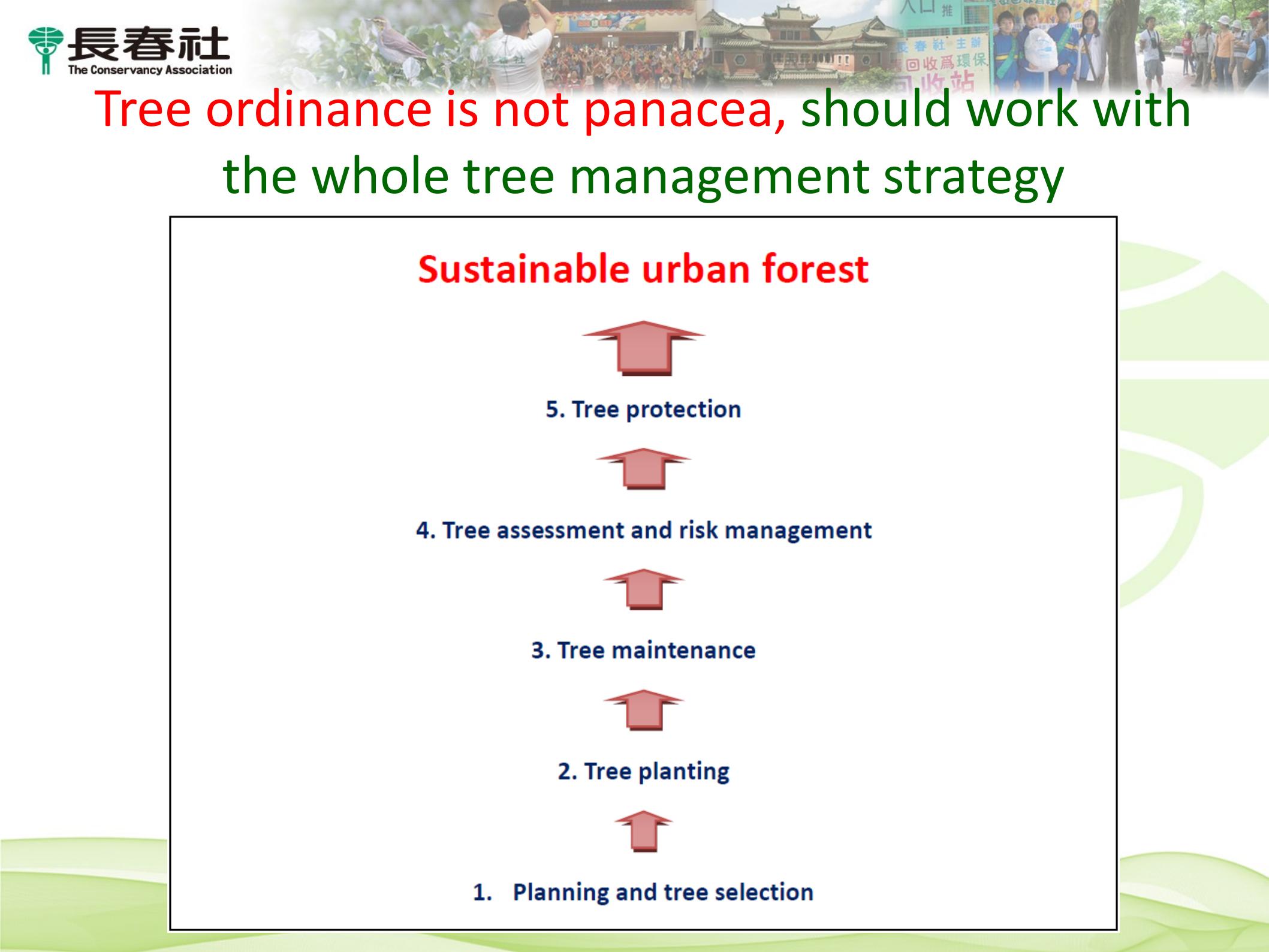
2014年9月7日發展局局長隨筆

“...有部分人士倡議訂立樹木法，**政府對此持審慎開放態度**，會聽取不同持份者的意見。其中關於進一步規管私人土地內樹木的護養工作，影響深遠，必須謹慎研究...”





- ¶ In the past, the key discusses of tree ordinance was mainly about tree protection/ conservation.
- ¶ However, some proposals or drafts of ordinance were focused on the whole tree management system.
 - Prof Jim (2002) and Tanya Chan (2011)
- ¶ After the fatal accident in August 2014, voice urges for more on proper tree management in private area.
- ¶ Recent announcement by Ombudsman:
 - “...並沒有規定土地的使用者或業權人須妥善保養及護理樹木，更沒有賦予政府權力飭令有關人士修剪或移除危樹...”



Tree ordinance is not panacea, should work with the whole tree management strategy

Sustainable urban forest





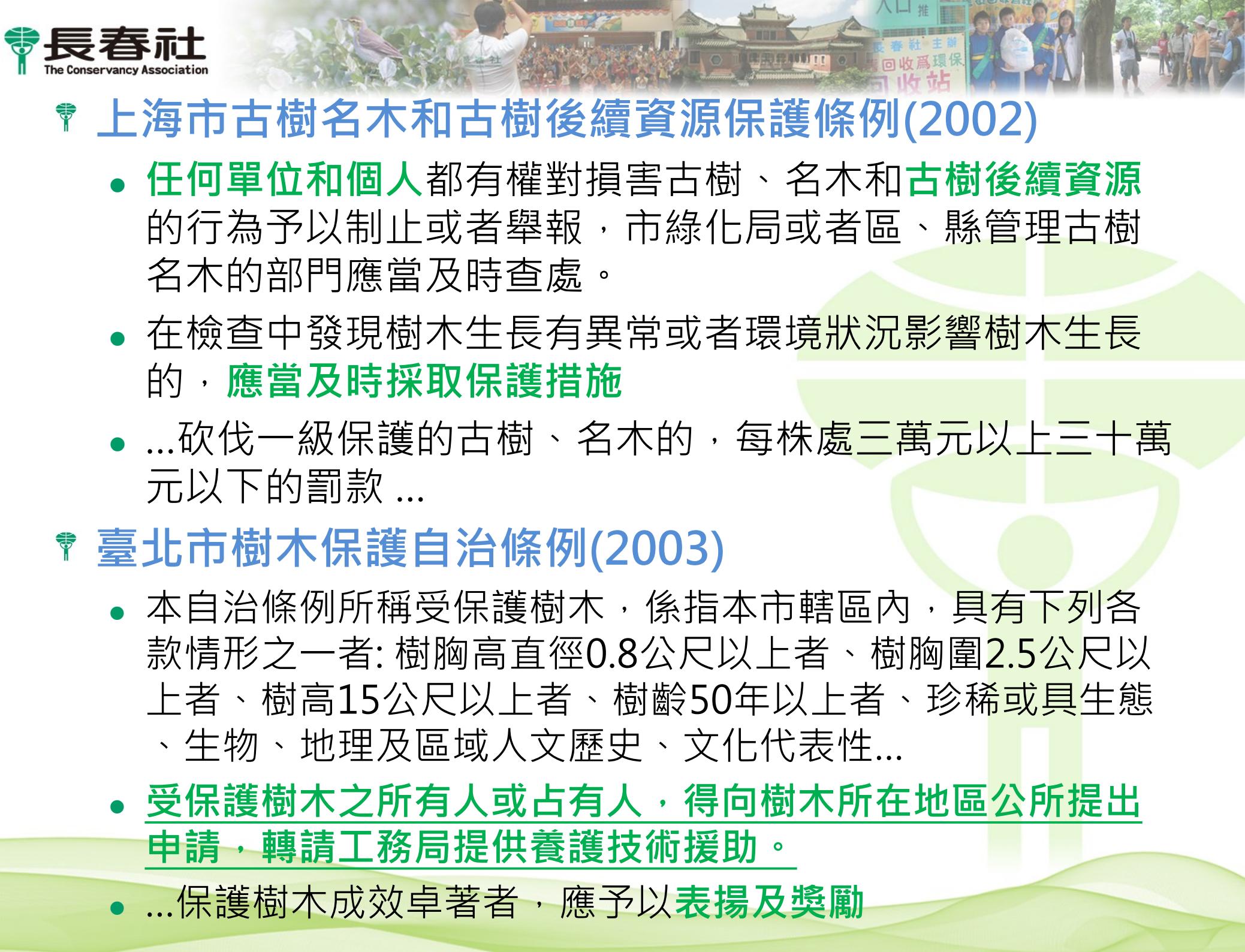
Examples from other countries/ cities

中医 Street Tree Ordinance 2004 (City of Visalia):

- The purpose is to promote and regulate the planting, long term care, maintenance, and protection of **street trees within the city**.
- ... no person shall top any street tree or other tree located on public property.

中医 Tree Preservation bylaw 2006 (City of Brampton):

- Under *Municipal Act, 2001*
- This by-law applies to all **private property** within the City of Brampton...
- No person shall cause or permit the injuring or destruction of a tree growing on private property ...



上海市古樹名木和古樹後續資源保護條例(2002)

- 任何單位和個人都有權對損害古樹、名木和古樹後續資源的行為予以制止或者舉報，市綠化局或者區、縣管理古樹名木的部門應當及時查處。
- 在檢查中發現樹木生長有異常或者環境狀況影響樹木生長的，應當及時採取保護措施
- ...砍伐一級保護的古樹、名木的，每株處三萬元以上三十萬元以下的罰款 ...

臺北市樹木保護自治條例(2003)

- 本自治條例所稱受保護樹木，係指本市轄區內，具有下列各款情形之一者：樹胸高直徑0.8公尺以上者、樹胸圍2.5公尺以上者、樹高15公尺以上者、樹齡50年以上者、珍稀或具生態、生物、地理及區域人文歷史、文化代表性...
- 受保護樹木之所有人或占有人，得向樹木所在地區公所提出申請，轉請工務局提供養護技術援助。
- ...保護樹木成效卓著者，應予以表揚及獎勵



Parks and Trees Act (Singapore, 2005)

- for the planting, maintenance and conservation of trees and plants within national parks, nature reserves, tree conservation areas, heritage road green buffers and other specified areas ...
- Tree Conservation Area: No cutting or damaging of tree having girth of more than one meter growing on
 - (a) any tree conservation area; or
 - (b) any vacant land (whether within or outside a tree conservation area).
- *The Commissioner may, by a maintenance notice, require the occupier of the premises ... to carry out such works ... as he thinks fit to be carried out for the proper maintenance of the planting area ...*

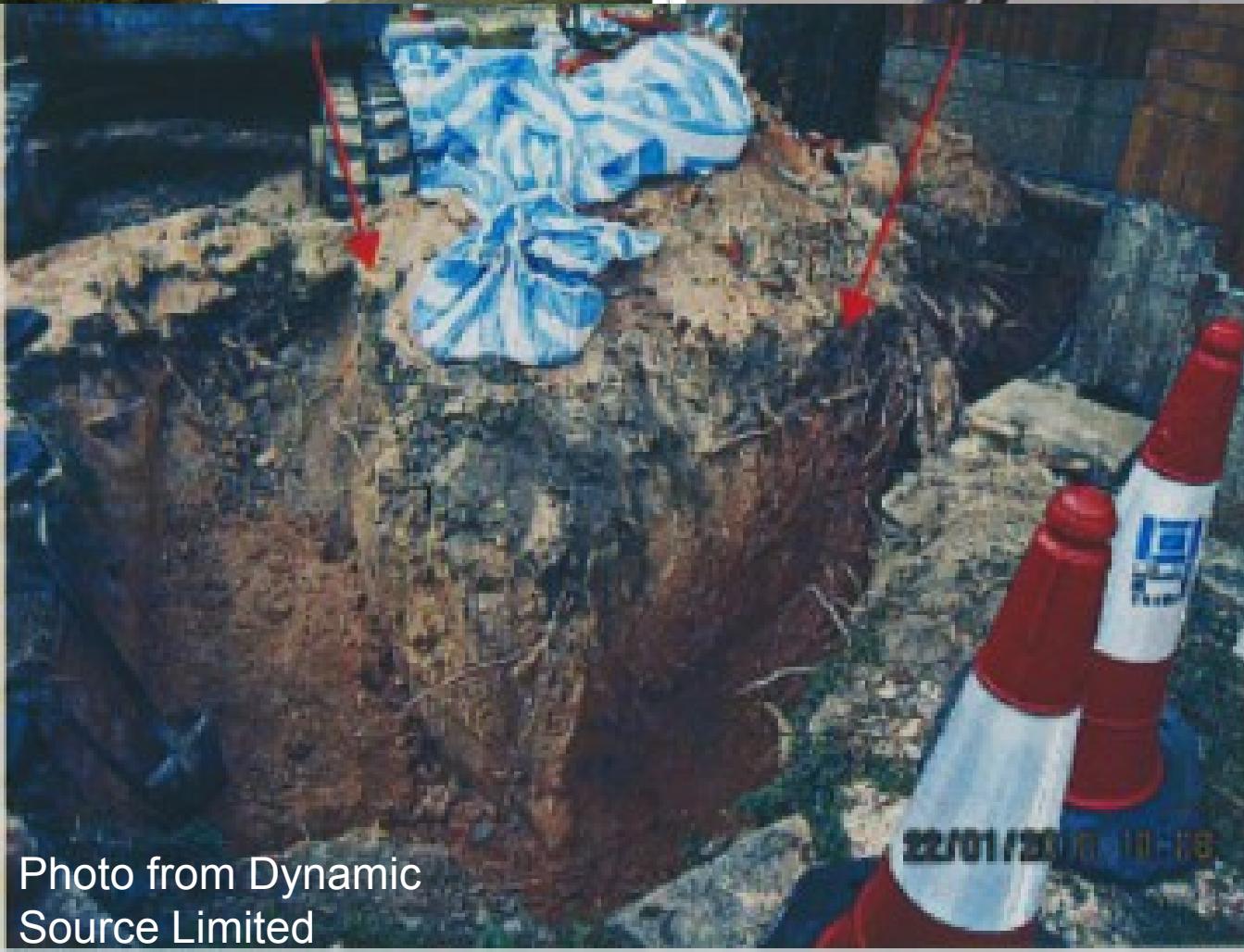


Way forward

- ⌚ Simply adopting a Tree Ordinance from other Country/ Countries?
- ⌚ **This is totally wrong!!** ,there is no substitute for community interaction and a patient, thorough approach to tree ordinance development.¹
- ⌚ Every community with there only demand and expectation on the OWN tree ordinance.
- ⌚ An unique Tree ordinance has to be developed for different places.



Tree removal in

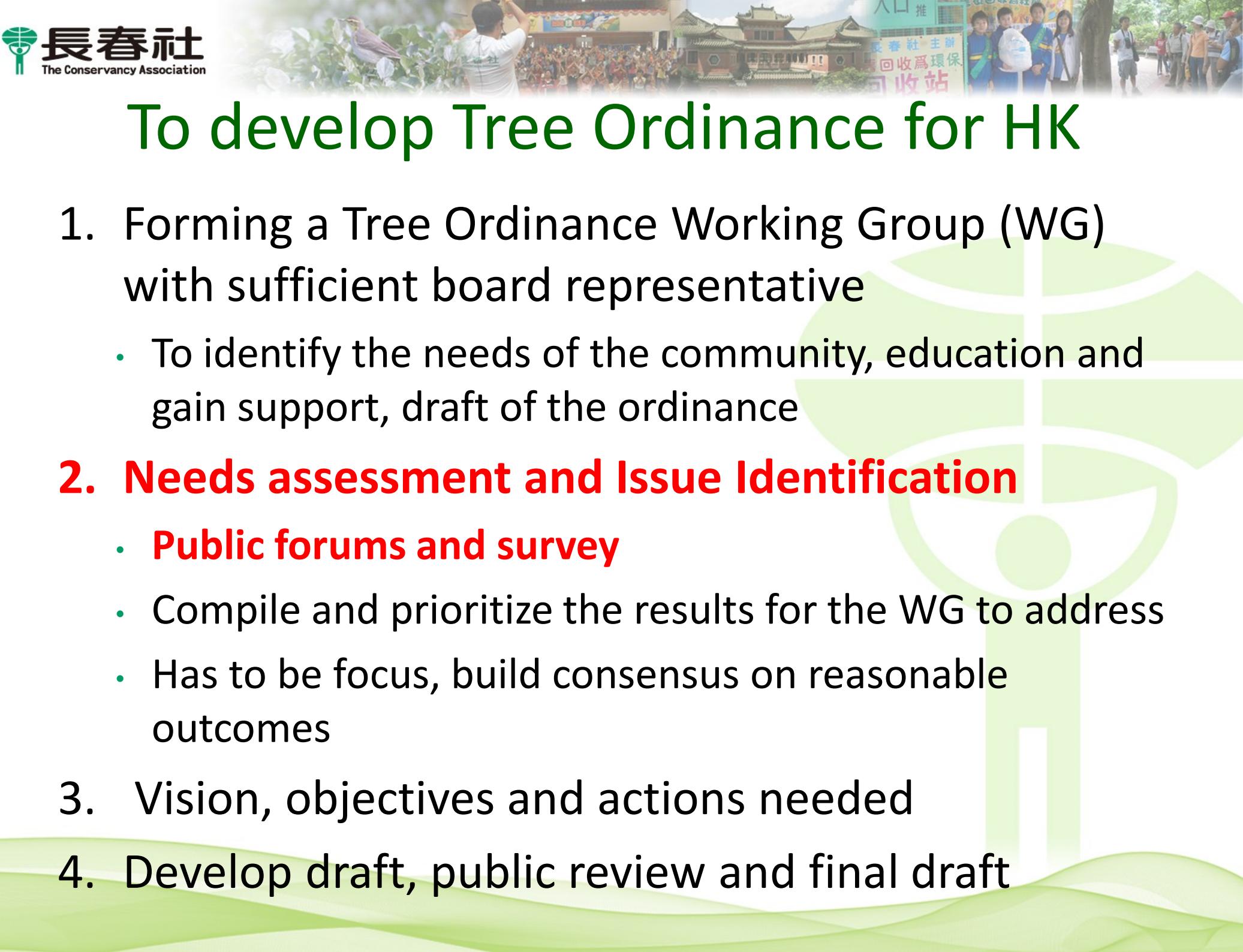


Tree damage in private land
Just outside declared monument





Recent topping of 60 mature tree at Ma On Shan



To develop Tree Ordinance for HK

1. Forming a Tree Ordinance Working Group (WG) with sufficient board representative
 - To identify the needs of the community, education and gain support, draft of the ordinance
2. **Needs assessment and Issue Identification**
 - **Public forums and survey**
 - Compile and prioritize the results for the WG to address
 - Has to be focus, build consensus on reasonable outcomes
3. Vision, objectives and actions needed
4. Develop draft, public review and final draft

Summary

- 🕒 Discussion on tree ordinance in HK for over 10 years
- 🕒 Consolidate the review, consultation and draft works.
- 🕒 There has NO SHORT CUT.
- 🕒 Involving the entire community.
- 🕒 Tree Ordinance cannot replace doing good arboricultural works!





Q&A

The Conservancy Association: www.cahk.org.hk