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Judge rules non-profit organisation can afford to challenge rezoning plan at harbourfront
A High Court judge yesterday refused to grant a protective costs order to an urban-planning pressure group to challenge the government's use of a piece of harbourfront land.

Mr Justice Thomas Au Hing-cheung said he failed to see how the group could not pay the costs.

Designing Hong Kong Limited previously asked the court to order that the group would pay no more than HK\$10,000 legal costs even if they lost the case.

But the judge wrote, "as a matter of public interest, the protective costs order is to be granted to litigants (providing that they also satisfy the other relevant principles) who are genuinely unable to bear the costs of the respondent".

Referring to the company's registry information, the judge found Designing Hong Kong was registered as a non-profit organisation and the three founding directors, namely Markus Shaw, Peter HK Wong and Johannes Zimmerman, lived in "relatively prestigious addresses".

He said the court was unable to assess whether there were legitimate or reasonable reasons why the directors were unable or not willing to fund the litigation.

The judge said if the order was granted to the group, "it would be easy for any resourceful litigants (who would not be able to obtain legal aid given their financial position) to simply set up a corporate vehicle to pursue a public interest litigation in order to obtain a protective costs order.

"That cannot be right as a matter of principle," he said.

The group sought a judicial review in May last year to challenge the Town Planning Board's decision to take away a 150-metre harbourfront strip from Central for military use. They said the decision was unreasonable as the land was for public use.

But the group later found it would have to bear several million dollars in legal costs if they lost the case. They claimed the amount was more than they could afford.

The board decided in February last year to rezone the middle 150 metres of the promenade, stretching back 20 metres, for military use.

The group maintained the military could still use the area without the need for rezoning.

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