

J. Y. Interpretation No.93 (December 6, 1961) *

ISSUE: Is a light and portable track continuously attached to the land for certain economic purposes considered as a real property?

RELEVANT LAWS:

Article 66, Paragraph 1, of the Civil Code (民法第六十六條第一項) .

KEYWORDS:

Light rail (輕便軌道) , immovable property (不動產) .**

HOLDING: A light rail that is adjacent to contiguous plots of land and has some kind of economic purpose is considered to be immovable property, unless it is used for some temporary purpose.

REASONING: Pursuant to Article 66, Paragraph 1, of the Civil Code, “a fixed object” refers to something that is not a component of contiguous plots of land and is continuously adjacent to such land, has some kind of economic purpose

解釋文：輕便軌道除係臨時敷設者外，凡繼續附著於土地而達其一定經濟上之目的者，應認為不動產。

解釋理由書：查民法第六十六條第一項所謂定著物指非土地之構成分，繼續附著於土地而達一定經濟上目的不易移動其所在之物而言，輕便軌道除係臨時敷設者外，其敷設出於繼續性者，縱有改建情事，有如房屋等，亦不

* Translated by Lawrence L. C. Lee.

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and is not easily moved. Unless it is used for some temporary purpose, a light rail should be continuously adjacent to land. Even if a structure is built on a light rail (such as a house), the light rail does not lose its nature of a fixed object. Thus, a light rail should be considered as immovable property.

Justice Shi-Ding Chin filed dissenting opinion.

Justice Fan-Kang Tseng filed dissenting opinion.

失其為定著物之性質，故應認為不動產。

本號解釋金大法官世鼎、曾大法官繁康分別提出不同意見書。