

測 量 師 導 報

# SURVEYING

VOLUME 7 ISSUE 3, MARCH 1998

## 10 out of 20 Seats in the Subsector Election Snapped Up by Surveyors

Reported by Eddie Lai, BSc  
AHKIS ARICS

Voters in the Architectural, Surveying and Planning Subsector said yes to the surveying profession resulting in 10 of the 20 seats being won by members of the HKIS at the Election Committee Subsector Elections held on April 2, 1998.

The two polling stations allocated for the Subsector were open for 15 hours from 7:30am, and up to the closing time a total of 973 voters had cast their ballots, representing a turnout rate of 30.25%.

The winning candidates will each be given a seat in the 800-member Election Committee, who will return 10 members in the three-part elections for the first Legislative Council on May 24, 1998.

"I am very satisfied with the result. This is an indication that our profession is beginning to



show unity. It is encouraging to see that other professions in the Subsector are also showing their support to us", said the President.

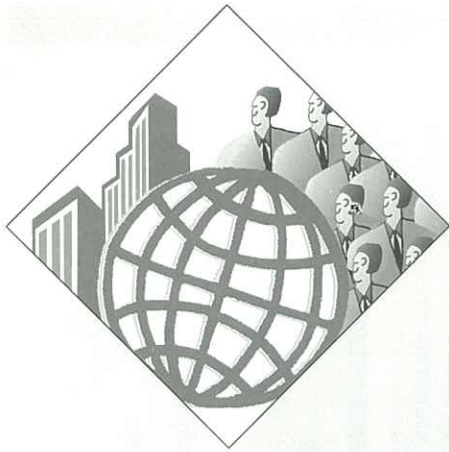
The Institute plans to hold a forum before the May 24th election, to allow the 10 successful candidates admitted to the Election Committee to get together and to answer any queries that members may have.

The publication date of this edition of SURVEYING has been postponed to April 1998 in order to cover the Election results.



### The 10 HKIS members elected are:

Candidate No.	Name	Division	No. of votes
2	LIU King Tong	GPD	304
6	LAU Shiu Kwan Francis	GPD	369
8	LEE Tsung Hei David Chris	BSD	523
21	LAU Ping Cheung Kaizer	QSD	486
22	TSANG Ching Lun Edwin	GPD	377
23	YIP Moon Wah Stephen	GPD	323
25	Charles Nicholas BROOKE	GPD	520
27	WONG San	BSD	332
29	LEUNG Shou Chun	LSD	278
30	CHAN Tung Ngok Tony	GPD	313



SURVEYING is the newsletter of the HKIS. It is distributed to members, students and friends of the surveying profession free of charge. Anyone wishing to receive a copy may contact the office of the Institute.

#### HKIS EXECUTIVE COMMITTEE 1997/98

President	T N Wong - 黃天元 FHKIS, FRICS, RPS (LS)
Senior Vice-President	Samson Wong - 黃山 FHKIS, FRICS, ACIArb, AP, RPS (BS)
Junior Vice-President	S.C. Liu - 廖錫昌 MBA, FHIS, FRICS
Honorary Secretary	Winnie Shiu - 蕭慧儀 AHKIS, ARICS, RPS (LS)
Honorary Treasurer	Graham Heath - 許高賢 FHKIS, FRICS
Chairman, Education and Membership	Adrian Smith - 施雅俊 MED, FHKIS, FRICS, RPS (QS)
Immediate Past President	P C Lau - 劉炳章 MSc, FHKIS, FRICS, ACIArb, AP, RPS (QS)
Chairman, Quantity Surveying Division	Eric Y M CHUNG - 鍾耀明 BSc (Hons), DipLaw, AHKIS, FRICS, ACIArb, RPS (QS), Barrister-at-Law
Chairman, General Practice Division	Tony Tse - 謝偉銓 FHKIS, FRICS, RPS (GP)
Chairman, Land Surveying Division	K.L. Mok - 莫景良 FHKIS, FRICS
Chairman, Building Surveying Division	Kenneth J K CHAN - 陳佐堅 FHKIS, FRICS, ACIArb RPS (BS)
Chairman, Junior Organisation	Andy WONG - 王建業 AHKIS, ARICS, RPS(BS)
SECRETARIAT Secretary-General	Eddie S K Lai - 黎兆堅 BSc, AHKIS, ARICS

#### Editorial Contributions

Surveying encourages article queries and submissions. Article submissions should include both hard (printed) copy and a diskette in Word format. Contributions should reach the editor at the office of the Institute one month before the publication date.

#### Information & Contents

No part of this newsletter may be reproduced without the permission of the Institute. Contents of the newsletter do not necessarily reflect the views or opinions of the Hong Kong Institute of Surveyors and no liability is accepted in relation thereto.

#### Advertising

All advertisements and small ads are welcome. SURVEYING is reaching over 4,500 readers. For detailed information & advertising rates, please contact Ms Margaret Yung of the Secretariat office at 25263679 OR Mr. Charles Yiu of Corporate Culture at 2802 6949.

#### The Hong Kong Institute of Surveyors

1934 Swire House, Chater Road, Central, Hong Kong.  
Tel: 2526 3679 Fax: 2868 4612  
<http://www.hkis.org.hk>



## Message from the President



### Education and Professional Standard

At the last General Council meeting, members expressed their concern on the falling standard of presentation and language skills possessed by our younger members. We must address these problems seriously. If unattended, these members could bring the Institute into disrepute.

I think the distinctive roles played by the education providers and the Institute could help to alleviate our concern.

#### 1. Education Providers

##### Secondary schools-

a. Intensive English language training must be implemented in all secondary schools. This is an international language and is not merely a language for surveying.

b. Career masters should be invited to promote the surveying profession amongst their brightest students to ensure only the best would join our profession.

##### Universities-

a. The universities should only admit those who could demonstrate a good knowledge of the English language.

b. The Institute should be given the opportunities to play an active role in the various academic advisory committees to ensure the voice of practitioners is to be heard.

c. Closer liaison between surveying undergraduates and the industry should be maintained.

#### 2. The Institute

a. APC supervisors must themselves possess sufficient post qualification experience. In addition, supervisors must report back to the divisional APC personnel concerning the candidate's performance on a regular basis.

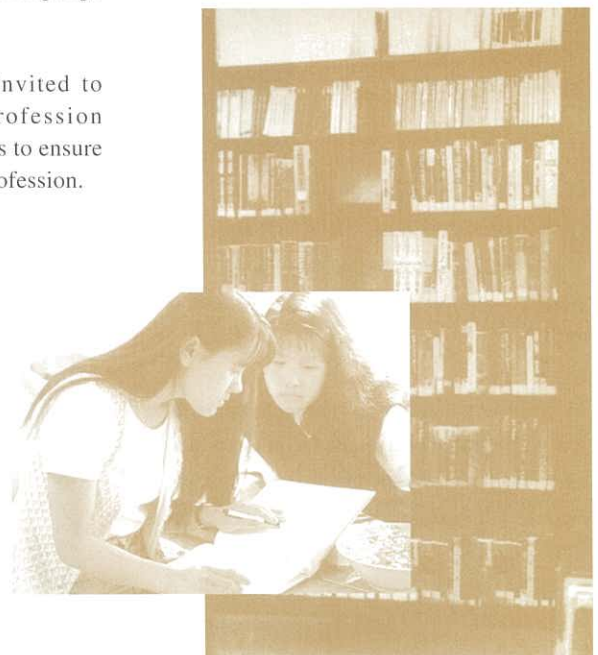
b. More APC workshops and seminars to be organised.

c. The duration for maintaining the APC diaries to be extended.

d. Offering prizes to the best candidates.

e. Seminars on professional ethics and how to maintain professional standard be given to newly qualified members.

f. Members should be given every encouragement to participate in regional and international seminars and conferences. Papers have to be presented rather than just listening to others. Draw the attention of our overseas counterparts and lend their ears to you.





## FACULTY OF ARCHITECTURE

### Opportunities for Higher Degrees by Research

The Faculty of Architecture invites applications for admission to MPhil or PhD studies by research in architecture, real estate and construction and urban planning. The principal areas of studies available are:

**Department of Architecture** (<http://arch.hku.hk/>)

Architectural theory, with particular attention to traditional Chinese vernacular architecture; Computers in design, including collaborative design, computer-aided design, multimedia in design, virtual reality; Construction and technology, acoustics, energy efficient design, solar energy, fire safety; History of architecture, particularly the architecture and urban development of coastal cities in China; High density urban development; Housing, with particular attention to high density and public housing; Landscape architecture; Professional practice, process and management; Urban design

**Department of Real Estate and Construction** (<http://hkusury2.hku.hk/>)

Urban Land Economics; Real Estate Investment; Real Estate Finance; Regional Economics; Law and the Real Estate Industry; the Structure of Real Estate and Construction Industries in South East Asia; International Investment Flows in Real Estate and Construction; Housing Reform in China; Urban Renewal; Urban Finance; Construction Economics; Project, Property and Maintenance Management; Safety on Construction Sites; Construction Information Management

**Centre of Urban Planning and Environmental Management** (<http://www.hku.hk/cupem/>)

Regional and urban development issues in China; Urban transport policy and planning; Economic and spatial development in the Pearl River Delta; Environmental policy in Hong Kong and Asia; Environmental impact assessment; Housing policy; Urban redevelopment; Development of Land Information and Geographic Information System; Sustainable Development; Planning Theory

Applicants should possess good honours degrees. Postgraduate Studentships (currently \$177,000 p.a.) are available to qualified candidates who wish to study on a full-time basis.

Further information and application forms are available from the Academic Services Enquiry Office, Room UG-05, Knowles Building, The University of Hong Kong, Pokfulam (Tel: 2859 2433 Fax: 2540 1405). Interested applicants can also visit <http://www.hku.hk> in the internet for information on the University of Hong Kong, or contact the following for further advice on research possibilities:

Department of Architecture

Mr T Kvan

Tel: 28597957 Fax : 25596484

Department of Real Estate and Construction

Professor A Walker

Tel: 28592128 Fax: 25599457

Centre of Urban Planning and Environmental Management

Professor Anthony G O Yeh

Tel: 28592726 Fax: 25590468

## GOVERNMENT CIRCULARS

The following are available for inspection at the Secretariat Office.

### Buildings Department

Practice Note for Authorised Persons and Registered Structural Engineers

PN 82 Gas Water Heaters (Building (Planning) Regulation 35A) - Replacement to page 1 (rectification to para 4)  
PN 71 Demolition Works - Measures for Public Safety

Practice Note for Registered Contractors

PN 6 Demolition Works

### Lands Department

Notice of Removal of Legal Advisory and Conveyancing Office (LACO)

NPGO. 20/F LACO/HQ  
Enquiry Tel No. 2231 3740 Fax No. 2845 1017  
Date of Removal - 21st March 1998

Relocation of Lands Department

The Lands Department Headquarters is now situated at 18/F-24/F North Point Government Offices, 333 Java Road, North Point, Hong Kong (with effect from 21st March 1998)

A list of the new telephone numbers of the senior directorate staff is available for inspection from the HKIS office

Practice Note for Authorised Persons, Surveyors and Registered Structural Engineers

APRSE 1/98 Accountable and Non-accountable GFA under Lease

**Limited copies are available from the Secretariat Office**

### Planning Department

Hong Kong Planning Standards and Guidelines (HKPSG)

Chapter 6 Retail Facilities (revised)  
Chapter 8 Internal Transport Facilities (replacement sections)

### Works Bureau

WBTC No. 2/98 Administration of the Lists of Approved Contractors  
Automatic Suspension for Non-Submission of Accounts  
WBTC No. 3/98 Works Bureau Library of Standard Special Conditions of Contract for use with G.C.G. for Building Works and Civil Engineering Works 1993 Editions and Electrical & Mechanical Engineering Works 1994 Edition

### Electrical & Mechanical Services Department (EMSD)

The 1998 edition of "Code of Practice for Energy Efficiency of Lighting Installations" and "Code of Practice for Energy Efficiency of Air Conditioning Installations" have been published recently by EMSD

**Limited copies are available from the Secretariat Office on a first come first served basis or may be purchased from Government Publications Sales Centre soon**

# NEWS FROM THE SECRETARIAT

## List of Independent Expert Witnesses (Building Planning and Site Supervision of Building Works) for Litigation in Building and Construction Industry Cases


The following is a proposal by the Building Surveying Division for setting up a List of Independent Expert Witnesses for Litigation in Building and Construction Industry Cases requested by the Buildings Department. General Council is to endorse the list subject to amendments.

### 1.0 Reference Framework

- 1.1 The List of Independent Expert Witnesses which the Buildings Department required are confined to expertise in the areas of building planning and site supervision of building works.
  - 1.2 The List will be used for reference by the Department of Justice for appointment of expert witness in litigation cases. Professionals on the List will be free to accept or decline the appointment as he (or she) wish when approached by the Department of Justice.
  - 1.3 The expert witness appointed will be expected to study the assigned case materials, documents and evidence available, hold conference with counsel, prepare his/ her expert witness statement/ reports, to draw his/ her own conclusion and to give evidence in Court as to the causation of the incident.
  - 1.4 The remuneration of the expert witness appointed is negotiable with the Department of Justice and will be paid by the Government of the Hong Kong Special Administrative Region. The remuneration will be assessed on an hourly basis, currently in the region of around \$2,000.00 per hour.
- ### 2.0 Proposals
- 2.1 A master list of Independent Expert Witnesses for the aforesaid purpose shall be drawn up and maintained by HKIS.
  - 2.2 General Council shall have the final and conclusive power to include or not to include any members onto the List.
  - 2.3 The List, including relating details therein where appropriate, shall be made available to third parties whom have expressed, in writing, an intention to appoint a member of the Institute as an expert witness in building and construction industry cases.

- 2.4 Though not mandatory, members of the Institute acting as expert witness are strongly urged to observe the appropriate hourly rates applicable to his/ her grade and class of membership as published in the latest editions of the Scale of Professional Charges for surveying practices.

### 3.0 Criteria for Listing

- 3.1 Currently a Registered Professional Surveyor.
- 3.2 A Fellow member of the Hong Kong Institute of Surveyors or Associates with 7 years post qualification experience as a Professional and/ or Chartered Surveyor.
- 3.3 The past 3 years preceding inclusion shall be practicing in Hong Kong or mainly in Hong Kong.
- 3.4 Knowledge of litigation proceedings and/ or laws relating to evidence. 

## PUPILS WANTED

- 1) Qualification : Newly Qualified BS and BS APC Candidates
- 2) Duties : To assist (and eventually to lead) as and where required.
- 3) Expectations : Hard Working and Eager to Learn
- 4) Supervision : Hands On Training
- 5) Remuneration : Reasonable BUT NOT exceeding Market Rate
- 6) Prospect : To Be Determined
- 7) Application : In Own Hand Writing and submit to:-



**Mr. David CHAN** of  
**Wellgo Archdecor Consultancy Limited**  
Room 2116, Asian House  
No. 1 Hennessy Road  
Wanchai  
Hong Kong



# BUILDING SURVEYING

## News from the Building Surveying Division

By Kenneth J K Chan, Chairman

### Recruitment of Volunteer Building Surveyors for Building Management Resources Centres

The first Building Management Resources Centre is due to be set up in April this year. It is located at G/F to 2/F, AZETC House, 2 Mau Lam Street, Yaumatei, Kowloon and the opening hours to be manned by Professionals are on Mondays and Fridays between 6:30 p.m. to 10:00 p.m.. Government will try to give one-week notice on the specific issue and the date of the appointment to meet the public. Government will arrange Professional Indemnity Insurance up to HK\$10M per claim for members providing professional advice to the public in the BMRC. Finally a token fee will be given to cover travelling expenses. **Please call our co-ordinator Mr Benson Wong at 2840 1022 to register your interest.**

### List of Firms Providing Building Surveying Services

Your Council distributed a questionnaire in February to all BS Members to solicit members' response to the drawing up of a list of firms providing Building Surveying services. Based upon the responses received, the Council has been able to put together a list of 28 firms which will be available for inspection by the public requiring Building Surveying services. The firms are:

AlphaShiled Building Consultants Ltd  
Calibre Consulting Ltd  
Cheerful Land Company Ltd  
Chesterton Petty Ltd  
Chesterton Petty Ltd - Building Consultancy Division  
City University of H.K. - Estate Management Office  
Collier Jardine Project & Building Consultancy Ltd  
Crow Maunsell Surveyors Ltd  
Danny Kwok & Associates

David C Lee Surveyors Ltd  
FPD Building and Project Services Ltd  
Harbour City Management Ltd  
John Y.H. His & Associates  
Jones Lang Wootton  
L C Surveyors Ltd  
Lee & Mark Associates Architects & Surveyors Ltd  
McDonald's Restaurant (Hong Kong) Ltd  
Multiple Surveyors Ltd  
Prudential Surveyors International Ltd  
R Cheng Property Consultants Ltd  
Raymond Chan Surveyors Ltd  
Samson Wong & Associates  
S.L.J.V.  
Swire Properties Ltd - CityPlaza Management Office  
TMK & Associates Architects & Surveyors Ltd  
Vigers Hong Kong Ltd  
Wellgo Archdecor Consultancy Ltd

The above list will be updated on a regular basis and members' advice on inclusion and omission are welcomed. Any proposed changes to the list should be addressed to the Secretariat giving details of the name of the Company, address, telephone number, facsimile number and contact person in both English and Chinese.

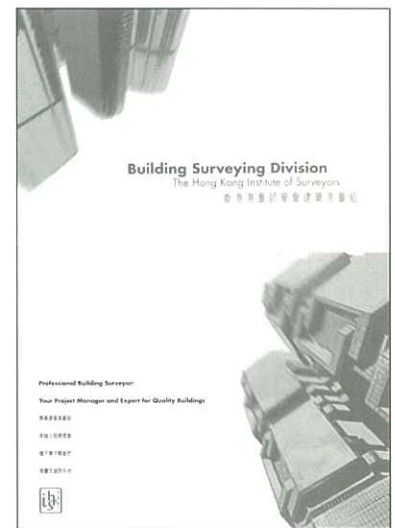
### List of Independent Expert Witnesses for Litigation in Building and Construction Industry Cases

The General Council has approved the proposal by the BSD for the setting up of a List of Independent Expert Witnesses for Litigation in Building and Construction Industry Cases requested by the Buildings Department. The expertise required is confined in the areas of building planning and site supervision of building works. Members will be advised of the details for inclusion.

### Conditions of Engagement for Building Surveying Services

The General Council has approved the Conditions of Engagement for Building

Surveying Services promulgated by the BSD Council. The Conditions will be published both in English and Chinese. The Chinese version is a translated one. The BSD will also publish a standard Agreement for the Engagement of Building Surveyors and Professional Charges to complete our publication of the promotional Building Surveying Services brochure.



### Construction Standards Committee of the Works Bureau

Members are requested to notify Augustine K M CHOW of any inconsistencies or inadequacies of existing construction standards encountered. As a representative of the HKIS on the Construction Standards Committee of the Works Bureau, Mr Chow will report to the Committee of all these inconsistencies or inadequacies for follow-up action.

**Mr Chow can be contacted at telephone number 2839 7608 or such information can be faxed to his office at 2882 2432.**



# GENERAL PRACTICE



## News from the General Practice Surveying Division

By Tony Tse, Chairman

### Assessment of Professional Competence - April 1998

The next APC will be held in April. Like previously, it comprises two main components, i.e.

- i) the oral assessment including a presentation and interview
- ii) the written assessment which will take a different form

The written assessment is scheduled to be conducted in the morning on 20 April 1998. Candidates will be given questions to answer on that date. These questions will not be made known in advance but candidates will be advised the professional areas in which the questions are set about 1-2 weeks before the Assessment. A limited choice questions would be given. There will be about 36 candidates sitting for the Assessment. Good luck to all of them!

### Contracting Out of Valuation Work for Post 10 Years HOS/PSPS Flats

For the purpose of compiling a shortlist of the surveying firms which are eligible for the work, the Housing Department will place advertisements inviting interested parties to express their interest to provide the valuation services to the Housing Authority in a number of local newspapers starting 20 March 1998. All surveying firms with General Practice Surveyors, holding Associate Memberships of the Hong Kong Institute of Surveyors, may express their interest by providing basic information on a prescribed registration form obtainable from the Home Ownership Scheme Section, 1/F, Block 1, Housing Authority Headquarters, 33 Fat Kwong Street, Homantin, Kowloon. Divisional Council will continue to discuss with Housing Department of the issue and shall inform Members of the progress in due course.

### Contacts with Mainland China

A valuation seminar which is jointly organised by the Guang Dong Institute of Real Estate Appraisers (廣東省房地產估價師學會) and the Divisional Council will be held in mid June 1998. There will be a full day seminar and 2 days site visits for the representatives of 廣東省房地產估價師學會. Divisional Council has agreed that the full day seminar will be a CPD Event and sponsorship from commercial entities to the seminar would be accepted.

### Land (Compulsory Sale for Redevelopment) Bill

The Local Affairs Committee of GP Division has discussed the Bills and a written submission was made to the LegCo, and on 19 February 1998, representatives from the Divisional Council attended a meeting of the LegCo Committee to elaborate our comments on the bill. The following is a brief summary :-

- (i) The Hong Kong Institute of Surveyors generally agree with the spirit of the proposed legislation.
- (ii) The Bill appears to provide a mechanism to deal with the interest in a single lot only and should therefore be widened to cover buildings erected on more than one lot.
- (iii) There would be buildings of which each unit of undivided shares is in excess of 10% of the total undivided shares. For such cases it is proposed clear majority shares e.g. 2 shares out of 3 shares or 3 shares out of 4 shares would be suffice for application of the legislation.
- (iv) The Bill should also cater for extinguishment of rights not in the form of undivided shares.
- (v) To ensure standard of the valuation, report should be certified by a General Practice Surveyor who is a Registered Professional Surveyor.
- (vi) To ensure that the minority owners are treated fairly, they should be encouraged to employ experts for advice and assistance. Reasonable professional fees so incurred, should be reimbursed to them by the majority owner who initiates the compulsory sale or the successful purchaser.

### Building Management Resources Centre (BMRC)

Government has agreed, through Homes Affairs Department, to set up Building Management Resources Centres. The first Centre will be at Mau Lam Street, Yaumatei, scheduled to be opened within the next few weeks. Enquiries from the public on building management issues will be welcomed at the Centre. "Specialist Sessions" to be held in the evenings will be arranged by the Home Affairs Department with representatives from HKIS and other Institutes including the Law Society, HKAA and HK Association of Property Management Companies to answer enquiries and provide guidance. Mr. Stephen Yip, your past Divisional Chairman will lead a group of surveyors to provide services to the Centre on a voluntary basis. Some members may be approached to provide assistance in the matter.

### Lands Department Practice Note - Accountable and Non-accountable GFA under Lease

A new Practice Note No. APRSE 1/98 relating to accountable and non-accountable GFA under lease has been issued by the Lands Department in January 1998.

The Practice Note announces the Lands Department's practice in GFA accountability under the lease. Generally, any building or buildings erected or to be erected within a lot must be measured for GFA unless exempted by the lease. If a right is reserved in the lease for the Director of Lands to exempt certain facilities from GFA calculations, Lands Department is normally prepared to follow the Building Authority's ruling.

Some of the key elements in a building where exemption from GFA is given are identified in the Practice Note.

**Limited copies of the Practice Note are available from the HKIS Secretariat Office.**





## News from the Land Surveying Division

### Chairman

By *K L Mok*

### Belated News

The "Land Survey (Disciplinary Procedure) Regulation" in connection with Part V of the Land Survey Ordinance as a subsidiary legislation became effective on 20 June 1997. This was announced in the Land Survey Authority Circular No. 3/97 issued on 27 June 1997, which was omitted by the Council. Authorised Land Surveyors and our professional colleagues working for the District Survey Offices were issued copies. Other members can inspect this circular at the HKIS Secretariat.

The three ALS nominated by HKIS who were subsequently appointed by the HKSAR Chief Executive as the members of the Disciplinary Board Panel are:

Mr. Gorden Alfred ANDERSSEND  
Mr. LEUNG Shou-chun  
Mr. LAU Se-yau Andrew

### The Land Boundary Survey Regulation and the LSD Regulation

The final draft of both regulations have been dispatched to members of the Land Surveying Division. These have also been submitted to the General Council for comments and are to be endorsed in the next General Council Meeting in June. I would like all LSD members to read through these two regulations and provide your comments. The LSD Council will then finalise these two regulations and forward them to the EGM in JUNE.

### Visit of the Directors of Shenzhen Institute of Surveying and Mapping

Five directors of Shenzhen Institute of Surveying and Mapping visited Hong Kong

between 9th to 13th March. Mr. T H CHAN, Mr. Jacky TULL and Mr. Ted CHAN arranged a tour for our Mainland counterparts to Ting Kau Bridge Site. Mr. K L CHOW, Project Land Surveyor presented a detailed introduction on the construction of the bridge and arranged an onsite visit of the bridge. The hosts and the guests then had a roasted geese lunch at Sham Tseng. They also visited the office of HKIS at Swire House where Mr. T H CHAN gave a brief introduction of our institute and division. It is proposed that we will arrange a visit to Shenzhen Institute later this year.



### Divisional Education Committee

By *L F Kwan Secretary/LSDEC*

### Volunteer External Supervisor Scheme

It appears that many members are not aware of the Volunteer External Supervisor Scheme which has been in operation for quite some time.

According to the Rules and Guides to the APC, all APC candidates are required to work under the proper supervision of a Supervisor, who must be a corporate member of the HKIS (LS Division) of at least 2 years standing and supervising not more than 2 candidates at any one time. For candidates working in organisations which do not have such a Supervisor, they may with the written consent of the employer, seek for themselves or apply to this Institute for a Volunteer External Supervisor. Currently, the pool of Volunteer External Supervisor consists of the following members:

Mr. WONG Thien-nyen  
Mr. MOK King-leung  
Mr. TSOI Cheong-wai  
Mr. CHU Siu-ki

Please give me a call if you are interested to join in this pool. There are many potential

APC candidates who will need your valuable advice and support.

### Examination for Overseas Professional Land Surveyors

Congratulations to Mr. TANG Hong-wai Conrad, who passed the above examination held in October last year.

The above examination has been set up particularly for members of our Recognised Overseas Professional Land Surveying Institutions (ROPLSI), which comprises professional surveying institutions of Australia, Canada, New Zealand and South Africa. The list of ROPLSI is published in the document "Degrees and Diplomas Accredited by the HKIS". Members of the ROPLSI who have acquired one year's local surveying experience in Hong Kong and successfully passed in this examination are eligible to apply for election to corporate membership of this Institute.

The next examination will be held in June. Those who wish to sit for this examination are required to submit their applications before May 1998.



### LSD Secretariat

By *W F Yik*

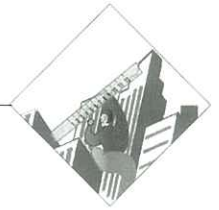
### Land Surveyors' Lunch

This year's Land Surveyors' Lunch will be held in the Kowloon Club on 1 May 1998. It will certainly be a good opportunity for all members to meet up with each other. I do hope all LSD members would actively participate in this joyful event.

Details of this Land Surveyors' Lunch will be announced before end of March.



# QUANTITY SURVEYING



Mr. P. C. Lau - Immediate Past President of HKIS  
Mr. Andy Wong - Chairman of Junior Organisation

## 8th Education and Career Expo

On 19-22.2.98 the 8th Education and Careers Expo was held in the Hong Kong Convention and Exhibition Centre. HKIS, as usual, also set up a booth in the exhibition.

In the afternoon of 21.2.98 Mr. Mok K L, Chairman of LSD, delivered a talk in the Careers Seminar of the Surveying Profession. The seminar was well attended. I would like to take this opportunity to thank 11 members who availed themselves to represent LSD to man the booth of HKIS during the exhibition period.

## LSD CPD Event

Mr. K M TSANG, Chief Engineer of the Transport Department, has been invited to deliver a CPD talk about the electronic road pricing technology for Hong Kong.

Details of this event are :-

Date : 16 April 1998

Time : 6:30 - 7:30 p.m.

Venue : Rm. 603, Hong Kong Convention & Exhibition Centre  
No. 1 Harbour Road, Wan Chai  
Hong Kong.

Fee : HK\$100



## News from the Quantity Surveying Division

By T T Cheung, Vice Chairman

### APC 1998

Starting from this year, HKIS will run its own APC, independent of the RICS. Those who pass the HKIS APC will be conferred with the RICS Chartered title in accordance with the terms of the Affiliation Agreement between the two institutes.

The date of the examination has been set on 31st August and 1st September 1998. The format of the test will be changed. The entire APC will be conducted in an examination hall environment for 2 days with 2 questions on each day. There will be **no** "preliminary test" paper and civil engineering option paper this year. A professional interview will be conducted for those candidates who pass the written questions and/or recommended by the assessors.

Application forms for the APC 1998 will be available for collection from the HKIS office, starting from the first week of May. When making an application, candidates must submit a "Record of Experience" and a record of the 40 hours (minimum) of pre-qualification structured learning. If the Institute considers that the candidate's experience is inadequate, the applications may be rejected. Applications must be submitted **between 1st June to 15th June 1998**. Late applications will **NOT** be considered.

A new QSD (HKIS) APC Guide and Rules has been published and all APC students will have received a copy in mid-March. Intended candidates should read it carefully before they submit their applications for final assessment.

### Education

The fact that there will be over 500 candidates sitting for this year's APC is a problem for the QSD. Certainly the Institute would not like to see this number growing year by year but would like to see these candidates pass the examination and become professional quantity surveyors to serve the great demand from the industry. The three years training is not sufficient without the support from the universities. The QSD has for the past two years received numerous feedback from the industry as to what they expect from university graduates. Therefore, the QSD will put more effort into the education matter in the future with an aim to narrow the gap between the universities and the industry. members' views are welcomed. The QSD representatives on the HKIS Board of Education are T T Cheung and David Brechin.

### International Relations

Regular visits with our PRC counterpart will be an ongoing activity this year in order to keep them up-to-date of our development, and to assist and influence them in shaping up their education and professional training/examination policies.

Reciprocal recognition with AIQS is agreeable in principle subject to detailed terms on training and APC assessment.

Relations with PAQS and ICEC are so far so good.

### New SMM

The progress is satisfactory. Only 3 trades, Plasterer, Painter and Glazier, are still under preparation.





# JUNIOR ORGANISATION

## News from the Junior Organisation

By *Andy Wong, Chairman*

### 8th Education and Careers Expo

The 8th Education and Careers Expo, an annual event jointly organised by the Labour Department and the Hong Kong Trade Development Council, was held between 19th and 22nd February 1998 at the Hong Kong Convention and Exhibition Centre. The HKIS was one of the exhibitors and a organising committee was formed under the Junior Organisation to take up the design and management of the display booth for this event as in the past few years.

The main theme of our booth design this year was an aerial photo showing

the developments of Tin Shui Wai area. Various contributions from surveyors throughout the development process were introduced by small photographs and simple descriptions. An attractive lighting box indicating the career paths on becoming professional surveyors was also installed. Two types of souvenirs, an A4 size plastic folder and a calendar keyring, both bearing the name and logo of HKIS, were distributed to the students and working youths visiting our booth. We received a financial sponsorship totalling \$32,000 from 14 surveying firms for this event.

We were pleased to have the Chairman/Senior Member of four divisions deliver a career seminar - "The Surveying Profession" during the exhibition - to introduce the job nature of surveyors to the general public. The audiences were very interested in our profession and asked many questions such as the career prospects and employment opportunities etc. The positive response from the audiences was a great encouragement to us.



**Mr. Jeff Lam**  
-Senior Member of GP Division



**Mr. Eric Chung**  
- Chairman of QS Division



**Mr. Kenneth Chan**  
- Chairman of BS Division



**Mr. K. L. Mok**  
- Chairman of LS Division

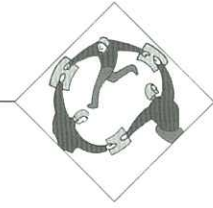


**Mr. Samson Wong** - Senior Vice President of HKIS  
**Mr. Andy Wong** - Chairman of Junior Organisation  
**Mr. Albert So** - Senior Member of GP Division



(From the left)  
**Mr. K. C. Tang** - Valuation Surveyor of Rating & Valuation  
**Mr. T. N. Wong** - President of HKIS  
**Mr. Andy Wong** - Chairman of Junior Organisation

# JUNIOR ORGANISATION



Finally, I would like to express my gratitude to all those members who have spent much effort on this event. Without their support and contribution, it would have been impossible to achieve such a successful exhibition.

## Special New Year Auction of Lucky Vehicle Registration Marks held on Valentine's Day

Did you know, I had a date with our President, Mr T N Wong, on Valentine's Day? It was a special New Year auction of Lucky Vehicle Registration Marks organised by the Transport Department. Mr T N Wong, Mr K C Tang (a Valuation Surveyor from the Rating and Valuation Department) and I were invited to be auctioneers for the event on that day.

Thirty five lucky vehicle registration marks were sold for a total of \$6,494,000, the proceeds of which would go into the Government Lotteries Fund for charity purposes after deduction of expenses in the conduct thereof.

It was an exciting and a day of fun for us. In fact, similar auctions are held frequently on Saturdays. **If you are interested in participating as an auctioneer, please contact me on 2626 1668. Don't miss the chance !!**

## Dragon Boat Competition 1998

The annual Dragon Boat Competition, organised by the Hong Kong Tourist

Association, will be held on 26th and 27th June 1998.

The training schedule for our HKIS team has been arranged as follows:-

- 19th April
- 31st May
- 3rd May
- 14th June

between 1.30 pm and 4.30 pm at Pak Sha Wan, Sai Kung

Team members, please note the above schedule.

**For further details or anyone wishing to join us, please contact Leo Lee at 2919 7931 or Nathan Lee at 9219-2269.**



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## The Importance of Giving Notice

*John B Molloy, LLB(Hons), BSc(Hons), FHKIS, FRICS, ACIArb, Director of James R Knowles (Hong Kong) Limited*

All forms of construction contract contain requirements for the contractor to serve notice to the Architect or the Engineer in the event of a delay to the progress of the works as the first step in the procedure for securing an extension of time.

However, most will know that the giving of notice under such clauses is generally not a condition precedent to the right to an extension of time. This position was confirmed by the House of Lords in the case of *Bremer Handelsgesellschaft mbH -v- Vanden Avenne-Izegem (1978) 2 LLR 109*, where Lord Salmon had this to say:

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*"Had it been a condition precedent, I should have expected the clause to state the precise time within which the notice was to be served and to have made plain by express language that unless the notice was served within the time, the sellers would lose their rights under the clause."*

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So why is it that most forms of contract do not contain the explicit wording necessary for the notice provisions to be a condition precedent?

The reason is that it used to be thought that it would be dangerous to make the giving of notice by a contractor a condition precedent to the right to an extension of time, because in the event that the delay had been caused by the employer, i.e. the employer had

committed an act of prevention, and notice had not been served, then the contractor could claim that time was 'at large'.

Time becomes 'at large' where the employer causes a delay to the progress of the works and there is no provision in the contract to grant an extension of time for that delay. The effect of time being at large is that the employer loses the right to liquidated damages and the contractor's obligation is only to complete the works within a reasonable time. This point was made confirmed in 'Keating on Building Contracts' (4th Edition) at p 346, where it is stated:

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*"If the Architect wrongly assumes that a notice by the contractor is a condition precedent to the performance of the duty of the Architect to form an opinion and take appropriate steps and in consequence refuses to perform such duties the employer loses his right to liquidated damages. It may therefore be against the employer's interests for an Architect not to consider a cause of delay of which late notice is given or of which he has knowledge despite lack of notice."*

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It was felt that even where the contract did provide for extensions of time to be granted for delays caused by the employer, if the employer caused a delay and the contractor failed (for whatever reason) to serve notice within the time specified in the contract, if the giving of notice was a condition precedent to the right to an extension of time, then the contractor could claim that time was at large, on the basis that the employer had committed an act of prevention and

further that the employer must not be allowed to benefit from his own breach of contract.

However, in two recent cases in Australia the court considered exactly this point. The extensions of time clauses in the conditions of contract contained provisions entitling the contractor to extensions of time for delays caused by the employer, and also contained notice provisions which were conditions precedent to the right to an extension of time. The employer caused delay and the contractor having failed to serve notice, and thus having received no extension of time argued that time was at large.

In *Turner Corporation Ltd (Receiver and Manager Appointed) v Austotel Pty Ltd (1994)* Justice Cole stated:

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*"If the Builder, having a right to claim an extension of time fails to do so, it cannot claim that the act of prevention which would have entitled it to an extension of the time for Practical Completion resulted in its inability to complete by that time. A party to a contract cannot rely upon preventing conduct of the other party where it failed to exercise a contractual right which would have negated the effect of that preventing conduct."*

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and in *Turner Corporation Ltd (In Provisional Liquidation) v Coordinated Industries Pty Ltd (1995)*, Justice Rolfe reached the same conclusion:

*“Where the contract provides an extension of time clause, which can accommodate delay caused by the principal and provides a contractual regime or mechanism whereby the delay is to be calculated, the fact the principal may have caused delay has the effect that an allowance should be made in accordance with the contract. It does not have the effect that the contractual provisions are thereby overlooked or put aside or that time is put ‘at large’.”*

These cases have now been considered and followed in Hong Kong in the unreported case of *Dragages et Travaux Publics v. Hong Kong Chinese Insurance Co Ltd.*

These decisions are of great importance for contractors because they confirm that if a contractor is delayed by the employer, then he must comply with the notice provisions contained in the contract (regardless of whether the notice provisions are conditions precedent or not) if he is to be entitled to an extension of time. If he does not do so, he will be unable to claim that time is at large and must complete the work by the due date and pay liquidated damages if he does not. 

## The Market Supply is Bigger Than What We Think - New Way to Analyse the Market

*By Jim K. S. Yip, BSc(Hons), ARICS, Property Investment Manager, Jinhui Investments Managemnet Ltd.*

Many analysts had commented that the residential property boom in 1997 before the financial crisis was due to the shortage of new supply in recent years. It does bear some truth by looking at the figures provided at **Table 1**.

The new supply of private residential in 1996 and 1997 fell below 20,000 units per year, 30% lower than the average annual figure of 30,000 units in the early 90s. As a result, the imbalance of demand and supply equilibrium set the scene for the price rocket in last year.

This analysis has its pitfalls. Firstly, the new supply figure based on the number of units completed overlooks the actual gross floor area built. Secondly, this analysis fails to reflect the current market trend and its changing structure. Thirdly, there are no

sound rationales to support that the optimum supply figure should be set at 30,000 units each year. Price hike was also seen in 1994 when the new supply was over 33,000 units.

If we look at the figures on actual completed gross floor area at **Table 2**, it would depict another picture. Although there was a substantial fall in the supply of new units in 1996 compared with 1992, the actual gross floor area was actually increased. The average size per unit was dramatically increased by 60%, from 300 sq.ft. in 1992 to 482 sq.ft. in 1996.

We still have our current market practice to quote price per floor area instead of the whole unit. Therefore, the supply figure should not exclude the completed floor area from analysis. One would argue in this case that the supply does not shrink, the shortfall in units is due to the increase in size per unit.

Moreover, the total supply to the market not necessarily comes from the new buildings. In fact, the existing stock provides more supply as shown in **Table 3**. The increasing

**Table 1. New Supply of Private Residential Units 1987-1997**

87	88	89	90	91	92	93	94	95	96	97*
34,375	34,470	36,485	29,400	33,380	26,222	27,673	34,173	22,261	19,875	19,000

\* estimated figure

Source: Rating and Valuation Dept.

**Table 2. Comparison of Completed Gross floor Area and Units of Private Residential between 1992 and 1996**

	1992	1996	
1.Completed GFA (sq.ft.)	7,685,000	8,277,000	+8%
2.Completed Units	25,712	17,177	-33%
3.Average Size per Flat (sq.ft.)	300	482	+60%

Source: Statistic Dept.

liquidity in existing stock in recent years tells us that the supply from the secondary market is increased and can be quite flexible. Given the existing large property stock and its high liquidity characteristic, a mere shortage of 10,000 new units would not play quite a significant role for the price spiral in 1997.

Then what is the real factor? Perhaps we might have the answer from understanding more about our current residential market structure. At a primitive form of market structure, demand is mainly from the first-time buyers and supply from new buildings. Price will be stable if supply meets demand. The lower the price, the higher is the demand and vice versa.

However, when market advances to a more sophisticated level, characterised by the existence of established secondary market and large number of trade-up owners, we would then see that at higher level of property value there would be more supply as well as demand (Owners sell off their properties and purchase new ones). But at a lower level of property value, both supply and demand would sink (The price drop hinders the mobility of the owners).

The function of Hong Kong residential properties has already moved from serving for basic dwelling purpose. It now provides more privacy (larger size), convenience (second bathroom), leisure (club house), and so prestige (investment return) to the owners.

This has led to more desire from the existing owners to trade up for their properties. Developers have built larger flats in recent years as evidenced from the statistics to tap in this market potential.

Traditional market analyses focus on the number of first-time buyers as the market demand. In fact due to the changing market structure, the much stronger market demand actually comes from the existing home owners, which triggered the price growth in last year.

We should direct more resources and efforts to the study in this sector in order to analyse the future market trend. At this market downfall especially when the market demand from the trade-up owners is in decline, the repercussions of which can be widespread. For the private sector, previously keen to expand in the home owners' market, will have to revamp their development strategies. And for the government, in its drive to promote more home ownership, will have to recognise the different housing needs in the market and chose a housing policy for a better development of the property market.

**Table 3. Private Residential Stocks and Transactions**

	1995	1996	1997
Stock	892,800	911,240	930,000*
No. of Assignment Contracts	112,212	159,520	220,911
Liquidity Ratio	12.6%	17.5%	23.7%

\* estimated figure

Source: Rating and Valuation Dept. and Land Registry

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(Continue from last issue)

## The New PRC Construction Law

By Stephen Nelson and Rico Chan, Baker & McKenzie, Hong Kong

### Scope of Application and Department-in-charge

The Law applies to all "construction activities" in China, which is defined in its Article 2 as the "construction of all types of buildings and auxiliary facilities as well as the installation of ancillary circuitry, ducts and equipment". Article 6 designates the Ministry of Construction and the local construction commissions as the department-in-charge of construction matters in China.

The department-in-charge and the scope of application of the Law were the most controversial issues in the legislative process of the Law. In the earlier draft of the Law approved by the State Council and submitted to the NPC for enactment, "construction activities" were defined in a much broader manner as "all new construction, expansion, alteration in respect of civil and building works and related installation of circuitry, ducts and equipment as well as all building renovation and refurbishing works". However, the Legislative Works Committee of the NPC and almost all other national ministries except the Ministry of Construction strongly objected to this broad definition of "construction activities" and hence the broad scope of application of the Law. For example, ministries in charge of power, coal, chemical industries argues that the Ministry of Construction and its local commissions should not be the authority-in-charge in respect of specialized construction works such as power plants, coal mining plants or chemical refinery plants.

After heated debates, a compromise solution was adopted in the Law, namely, Article 6 of the

Law designates the Ministry of Construction and the local construction commissions as the department-in-charge of construction activities, but Article 2 of the Law defines construction activities narrowly as covering building works only. At the same time Article 81 of the Law states that provisions in the Law governing construction permit, licensing of construction companies and professional, tendering and procurement, construction managers and construction quality and safety are also applicable to specialized construction works. The State council is designated to issue detailed rules for implementation of this Article 81. It appears that unless and until the State Council issues clear and adequate implementing rules in this respect, departmental conflicts in the regulation of specialized construction works will continue to exist.

### Construction Permit

The Law re-affirms the requirement of construction permit. The Law states that before commencement of any construction works, the employer must apply for a construction permit from the local construction commission at the county level or above. A construction permit will be issued within 15 days of the application if contract has been awarded to suitably qualified contractors and all other statutory conditions in relation to land acquisition, urban planning, demolition, building plans and drawings, construction safety, construction funds etc. have been satisfied. Construction works must start within three months of the issuance of the construction permit. Where commencement of works is delayed due to legitimate reasons, a maximum of two extensions of three months each may be granted.

### Licensing of Contractors and Consultants

Prior to the promulgation of the Law, there are already a substantial body of State Council and Ministry of Construction regulations

governing licensing of contractors and construction professionals. The Law does not introduce any new requirement in this respect and merely re-affirms that all construction companies, soil surveying firms, design institutes, construction management firms and engineering consultants firms as well their professional staff must obtain appropriate licenses and grading from the relevant construction authorities.

For example, at present all construction companies must obtain a qualification-grading license from the local construction commission, in addition to the normal business license which they must obtain from the local Administration of Industry and Commerce. According to the Regulations for the Administration of Qualification and Grading of Construction Enterprises issued by the Ministry of Construction in October 1995, local contractors are classified into grade one to four and local general contractors (i.e. design and build contractors) are classified into grade one and two. Foreign contractors also must obtain a qualification grading license from the national or local construction authorities, according to the Provisional Measures for the Administration of Qualifications of Foreign Enterprises Contracting Projects in the PRC issued by the Ministry of Construction in July 1994.

The Law introduces the new rule that where two or more contractors of different gradings form a construction consortium, the consortium will be deemed to have the grading equivalent to that of the lowest graded consortium member and therefore the consortium can only bid for projects of that lowest grade. This new rule is targeted at tackling the widespread problem of contractors using other contractors' licenses to bid for work, which they are not qualified to undertake.

## Tenders, Contracts and Sub-contracts

The Law stipulates that except for works that are not suitable for invitation of tenders, employers must procure construction works by invitation of tenders. The Law however does not state what types of works need not be procured by invitation of tenders. Presumably this issue will be clarified in the Tendering Law to be promulgated in the near future. The Law confirms that employers shall take charge of the tendering process and the local construction commissions' role is limited to that of legal supervision only. All tendering activities must comply with broad principles such as openness, equitable and fair competition and selection by quality.

The Law encourages the appointment of main contractors or general contractors. It prohibits the practice of dividing one piece of construction work into unreasonable sections and awarding each section to different contractors. It also prohibits sub-contractors from further sub-letting any part of his sub-contract. Article 25 of the Law also introduces the new rule that where the construction contract provides for the contractor to procure and supply materials, the employer may not specify the exact type, manufacturer or supplier of the materials to be used in the work. These new rules are introduced to address widespread irregular practices in the procurement market. In this respect, in addition to these new rules, employers, contractors and consultants should also pay attention to the provisions in the PRC Unfair Competition Law as well as the new regulatory requirements in the forthcoming draft Tendering Law in the area of procurement.

The Law also affirms that construction contracts must be in writing. The Law does not have many provisions relating to

construction contracts. Construction contracts in China will continue to be governed by the general contract law, comprising the 1982 Economic Contract Law, the 1983 Regulations or Contracts for Construction and Installation, the 1985 Foreign Economic Contract Law and the 1986 General Principles of Civil Law. The Law however introduces one new rule relating to contract liability: Article 29 stipulates that the main contractor and the sub-contractor will bear joint and several liability towards the employer in respect of the sub-contracted work. This rule appears to create a major exception to the fundamental concept of "privity of contract".

## Construction Managers

Based on more than ten years of experimentation, the Law positively confirms the role of independent construction managers. Article 30 of the Law authorizes the State Council to stipulate the types of works for which the appointment of independent construction managers is mandatory. The appointed construction manager will supervise the contractors on behalf of the employer in respect of quality, progress, payments and other designated matters in the course of construction. Although the role of the construction managers can be varied by their appointment contracts, their basic role resembles that of the engineer under FIDIC forms of contract.

## Safety, Quality and Liability

The Law confirms that the main contractor is generally responsible for on-site construction safety and pollution control. On the other hand, the employer is responsible for applying for government permits for temporary occupation of off-site land, alteration to underground pipes and wires, temporary disruption of utilities and traffic, etc.

Upon completion, a project must pass the government construction quality inspection before it may be used or occupied. The quality of the foundation and main structure of buildings must be warranted throughout its reasonable use-life. The defect liability periods for foundation, main structure, roof wirings, pipes works, heating and cooling systems, etc. shall be stipulated by the State Council.

In addition to various administrative penalties such as fines, de-grading, confiscation of unlawful earnings, the Law also imposes civil and criminal liability for violations of various construction safety and quality requirements. 