

# Surveying Newsletter

測 量 師 導 報

VOLUME 8 ISSUE 1, JANUARY 1999

## Advice on Self Certification Building Control Process for Exempted Houses in the N.T.

In response to the recent collapse of a balcony in Swallow Garden, our President, Mr. Samson Wong, expressed his comments on the existing system to the press on behalf of our Institute. At the same time, he also sent a letter of advice on the Self Certification Building Control Process to the Director of Buildings on 8 January 1999 suggesting the involvement of Authorised Persons and Registered Building Contractors as well as preparation of code of practice, milestone inspections and control on construction. A positive reply from the director of Buildings was received. the details of them are as follows:-

YOUR REF 來函編號: (13) in AD/S/79  
OUR REF 本署編號: 2840 0451  
FAX 圖文傳真: 2626 1132  
TEL 電話:

**BD** Buildings Department  
屋宇署

12 January 1999

The Hong Kong Institute of Surveyors  
Suite 510 Jardine House  
1 Connaught Place  
Central  
Hong Kong

(Attn: Mr Samson Wong)

Dear Mr Wong,

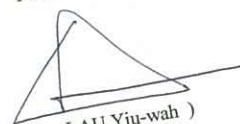
### Advice on Self Certification Building Control Process for Exempted Houses in the NT

Thank you for your letter dated 8 January 1999.

Your proposal for a self-certification building control process has definite merits in ensuring safety in new exempted houses. Rest assured this will be duly considered in the forthcoming review of policy on NT exempted houses by the Administration.

Apart from new exempted houses, the review will also have to address safety issues relating to the existing building stock, as well as those on the application list or under construction. Any constructive suggestion for control process in this regard is welcome.

Yours faithfully,

  
( Philip LAU Yiu-wah )  
for Director of Buildings

消委會及測量師學會  
促政府修例監管丁屋

☐ 測量師學會會長黃山  
措施不全面，工程須有認可人士審核圖則、監管工程及驗收工程

3. 考慮聘請測量師檢查樓宇結構及質素  
最理想是找熟行人士查看或聘用測量師檢查樓宇的結構及質素。



# THE HONG KONG INSTITUTE OF SURVEYORS

## 香港測量師學會

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Buildings Department  
12-18/F Pioneer Centre,  
750 Nathan Road, Mongkok  
Kowloon

Attn: Dr. Choi Yu Leuk  
Director of Buildings

Date: 8 January 1999

Dear Dr. Choi

### **RE: Advice on Self Certification Building Control Process For Exempted Houses in the N.T.**

Despite that the collapse of balcony happened at Swallow Garden in Fanling not resulting in fatal accident, we, Surveyors as property professionals, express our utmost concern on the matter of safety for the occupants and the public.

In order to safeguard the public safety and health for those who will live in the low-rise buildings in the N.T., we urge the Government to tighten the control on the construction of N.T. Exempted Houses.

However, we realize the historical background on controlling these houses in the past, we would recommend to introduce a Self Certification building control process with the involvement of the Authorised Persons (A.P.) and Registered Building Contractors (R.B.C.) as follows:

- **Code of Practice on the Construction of Exempted Houses**

As all exempted houses are mostly in the same sizes, heights and mode of construction, we suggest the Buildings Department or relevant professional bodies can prepare a Code of Practice or design a set of pre-approved standard drawings and details for building structures, plumbing and drainage, and septic tank etc. in order to curtail the time spent on design, submission, application for consent and approval to the Buildings Department.

- **Milestone Inspections**

The inspections on construction works against the pre-approved drawings and details will be carried out at various important stages. The A.P. can then issue a Certificate of Completion if all the works and procedures are in conformity with the pre-approved drawings and to their professional knowledge and judgement. With the presence of the Certificate of Completion issued by the A.P. to the Lands Department, the owners can then apply for exemption certificate from the Lands Department.



# THE HONG KONG INSTITUTE OF SURVEYORS 香港測量師學會

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## ● Control on Construction

The building contractors for the construction of Exempted Houses in the N.T. should be the Registered Building Contractors in the current list kept by the Buildings department.

We believe the foregoing, we recommended, by using the Self Certification building control mechanism can tighten the control of building works for Exempted Houses, whilst it would not prolong the time in the whole construction process for the Exempted Houses in the N.T.

Also, by putting the duty on A.P and RBC 's shoulder in this building control mechanism, it would not aggravate the manpower shortage problem in the Buildings Department. Such similar system is now being used in the U.K., which has proven to be successful.

We hope our Institute can share the objective of the Building Authority with a view to ensuring the public safety and health for Hong Kong people.

Yours sincerely,

Samson Wong  
President, Hong Kong Institute of Surveyors

KC/mc

## 測量師學會對「海燕花園」事件之意見

香港測量師學會對日前粉嶺「海燕花園」發生塌露台事件深表關注。學會會長黃山先生認為現行有關『新界小型屋宇』之建造規範及條例已經過時，未能適當地監管用鋼筋混凝土所建成的樓宇質素，特別是有懸臂式露台之建築物。黃山先生提議地政署應盡速檢討現行監管『新界小型屋宇』建造的有關條例，吸取市區私人樓宇問題簷蓬的教訓，聯同屋宇署制訂更詳細的設計標準及技術指引。並考慮要求業主聘請『認可人士』及『註冊承建商』分別進行工程監理及建造工作，否則不應發給『屋宇興建豁免證』。

長遠而言，政府應訂下『私人村屋維修及保養策略』，鼓勵村屋業主主動定期檢查屋宇的結構，確保樓宇安全。

查詢：

發言人 - 黃山先生 (電話 2881-6166) Mr. Samson WONG  
- 陳華偉先生 (電話 2865-3128) Mr. David CHAN

(from Public Relations & Current Affairs Panel of Building Surveying Division)



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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 before the 10th of each month.

#### Information & Contents

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#### Office Hours:

Monday to Thursday 9:00am - 5:30pm  
Friday 9:00am - 5:00pm  
Saturday 9:30am - 12:30pm

# News from the Secretariat

## MEMBERSHIP RECORDS

To allow the Secretariat Office to ensure its records are up-to-date and correct, please inform the Membership Department in writing, of any changes in your particulars.

## Members Seek

There are 53 members whose correspondence address are incorrect. Mail sent to these members have been returned to the Secretariat Office in the past few months. If you know the whereabouts of the members listed below, please help us to inform him/her to update his/her correspondence address with the Secretariat Office.

SURNAME	NAME	DIVISION	RICS/HKIS NOS
AYSON	IAN JAMES	LS	--/1166
BENNETT	NICHOLAS JOHN	GP	090316X/2440
BICKHAM	PAUL ANDREW	QS	0939072
CHAN	CHI WAH	GP	0984004/2050
CHAN	KI KIN	QS	8296462/81268
CHAN	KIN CHEUNG, KENNETH	QS	8140845
CHAN	KWAN KI	QS	0768399/0750
CHAN	LUEN HEUNG	GP	8524300
CHAN	MAN WAI, KENICE	QS	0880253/1570
CHAU	CHUNG YIU	BS	0865585/1257
CHEUNG	CHI WAI, EDMOND	BS	0962738/1821
CHOY	WAI, WYATT	GP	056441X/0012
CULLUM	ALAN JAMES	LS	1758
FINLAYSON	HAMISH	QS	8495082
FONG	CHI WAI	QS	0948917/2543
FU	KA TAI, FREDERICK	GP	8489272/2733
FU	TAK MING	BS	0774245/1132
HALL	BENEDICT J.B.	GP	8434620/81826
KEUNG	KARK MAN	GP	8476853
KWONG	CHUN WING	QS	8332072/81892
LAM	CHING YI	GP	088448X/80439
LAM	WAI MING	GP	8473513
LAND	ANDREW JAMES	QS	084471X
LAU	CHEUNG CHEE	BS	0610264/0339
LAW	KAR CHEUK, DENNIS	BS	0774879/0866
LEE	HING TONG	GP	0995581/2227
LEUNG	HAY MAN	GP	0325991/0391
LEUNG	KWOK KUEN	QS	786575X/81811
LEVER	GEOFFREY H.	BS	0281599
LO	WAI KWONG, PATRICK	GP	058860X/0015
LOWNDES	PAUL ANDREW LEWIS	QS	071453X/1415
LUI	MAN HO, DJANGO	BS	100916X
MACCOUN	PATRICK NOEL H	GP	0538183/0034
MAU	WAI TAK, PERCY	QS	076955X/0919
MOIR	DEREK BRUCE	BS	0854063
NADARAJAH	RAGUPATHY	QS	8357938
NG	YUEN YUEN, JONATHAN	QS	0939367/80655
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POON	NAI TUNG, THOMAS	GP	0315939/0001
POON	YIU NIN	QS	0713292
READER	DONALD LAWRENCE	QS	0252670/0372
SAVAGE	ANTONY MICHAEL	QS	0961450
SO	SHEUNG LIN	QS	8408157
TAYLOR	GRAEME KENNETH	LS	--/1195
WONG	FAY PANG	GP	0331098/0008
WONG	HO	QS	8439946/81671
WONG	YIN LUNG	GP	0894572/1402
YAO	WEI, WENDY	GP	8441911/82328

## Obituary

Mr TONG Wai Kwun 唐懷昆, FHKIS, Quantity Surveying Division, member since 1984, passed away on 27th December 1998.

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# News from the Secretariat

## Your Home in 2004

### The 1999 HKIS Conference

This year is a special year. Not only is this the last year of the century, it is also the last year in the current millennium. Hence, and nostalgia notwithstanding, it offers an opportunity to not only reflect on what has happened, but more vitally, to contemplate what will happen as the 21st Century dawns upon us. Being the premier professional Institute on real estate and building, and in view of the widespread interest in "homes", the HKIS will take the lead in getting the real estate and building industries, related professionals, government bodies, and the society at large to ponder and imagine what homes and their related markets in Hong Kong will be like in the next 5 years as we enter a new time chapter.

To provide a balanced and comprehensive picture on the topic, the home will be investigated, studied, analyzed, examined, assessed, and viewed from multi-angles. For instance: Which way will home prices go? Will there be new and creative ways of financing to match the ever-changing needs of owners and investors? What will homes look and feel like in design and technological terms? Can we expect to see more labour and energy-saving devices being installed in future homes? Is there a way to build better homes but

for less? Will "location" matter as much as it had before? Will there be changes in the way the development industry operates? Will real estate funds be of an emerging importance like they have been elsewhere?

The conference is planned to be a full day event to take place on 26th May 1999, and a host of guest speakers, selected for their distinguished business, professional or intellectual accomplishment, will share

with the audience their respective insights and knowledge, be it market analysis, finance, architecture, building innovations, geographic information system, economics or asset management.

Details of this major CPD event will be released once they become available. Members of the HKIS are highly encouraged to take part in the above conference and to make a note in their diaries.





# News from the General Practice Division

By Tony Tse, Chairman

## 1. Assessment of Professional Competence - General Practice Division

The assessments of the Autumn APC 1998 have been completed and the results have already been sent to each candidate. There were a total of 97 students attending the Assessment and the overall passing rate is about 21% which is much lower than the Spring Assessment 1998.

The written assessment, as in the April Assessment 1998, was in the new format. Set out below are some of the assessors' observations on the candidates' performance and the major weaknesses :-

- (a) Many candidates were unable to present their comments/arguments in writing, clearly and logically. Some answers were disorganised or even in short note form without elaboration or planning; and
- (b) Some candidates wrote down what they knew rather than answering the questions specifically, an indication of their insufficient understanding and analysis of the questions. This also resulted in long answers to the first or second question, leaving inadequate time for the third question.

Once again, candidates are reminded that the APC is not an examination. It is a professional assessment not only is the professional knowledge important, but the ability to write in a professional manner also counts.

Our Division will organise an APC workshop for the General Practice APC candidates to assist them to have a further understanding of the scheme and to improve their performance. Details will be announced in due course.

## 2. Visit to Guangdong

Our Divisional Council has agreed to pay a visit to the Guangdong Real Estate Appraisers Society in early April 1999. A Seminar on valuation, real estate administration and development will be held during our visit. members are invited to participate and can contact Mr. Edwin C. L. Tsang (Tel. No.: 28931003) for details.

## 3. Changes to the Assessment of Professional Competence Format

Our Divisional Council has recently approved certain amendments to the APC Scheme in order to improve the professional training and standards of our student members. Such changes have also been endorsed by the Board of Education of the Institute. Pending the finalisation of the

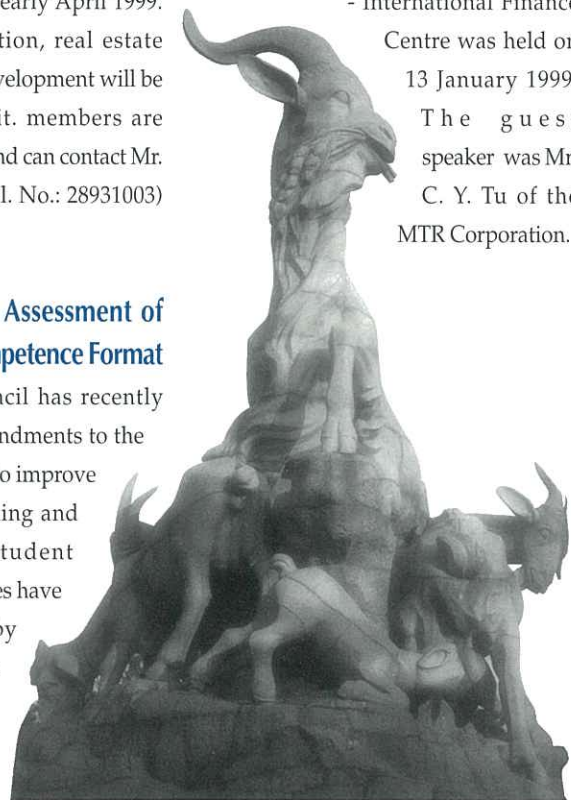
revised Guide and Rules for the APC incorporating such amendments, the Divisional Chairman will be writing to all student members informing them briefly of the changes. Most of the changes will be effective from October 1999.

## 4. CPD Events

A CPD event about computer applications in property appraisal and investment feasibility studies was successfully held on 26 November 1998 with 200 participants. The guest speaker was Dr. Li Ling Hin of the Hong Kong University. Another CPD event on Airport Railway Property Development - International Finance

Centre was held on 13 January 1999.

The guest speaker was Mr. C. Y. Tu of the MTR Corporation.





# News from the Quantity Surveying Division

By T T Cheung, Chairman

## 1 APC and Training

The assessments of the record high 494 APC papers have been completed. Thanks to all the assessors and modulators for their hard work during the past few months. Professional interviews will be conducted in the last week of January. It is hoped that the APC results will be announced after the next General Council meeting in March 1999.

The QSD Council has received a number of suggestions relating to the APC. Some comments are focused on the operational aspects of the test while some comments are more on a macro view of how the whole qualifying process should take form. An APC sub-committee has been formed to review the existing system and the ways forward. I would like to appeal to you for your comments from the education and training stage to the actual test. Please fax or e-mail to me at [ttcheung@iname.com](mailto:ttcheung@iname.com).

## 2 PRC Visit

Despite the freezing cold weather, a delegation of 9 members visited our counterpart, the China Association for the Management of Construction Costs (CAMCC), in Beijing, from 9th to 12th January 1999.

The visit was very successful. We exchanged views on:-

- Their local professional exam system and how surveyors in Hong Kong are registered.
- The difficulties encountered with the accreditation of local universities courses.
- The concept of establishing an Education Board with CAMCC, taking into consideration the model of the Education Board of the HKIS.
- Agreement on regular technology exchange in publications of both Institutes.
- Arranging a PAQS visit to Beijing in 1999.
- Arranging a HKIS QSD visit to the National Conference to be held in

Shangdong Province in April 1999.

- Agreement to review the RICS examination in Shanghai as a National Policy.

The delegates took the opportunity to visit the famous Oriental Plaza site and a few mega projects of Hong Kong developers including the Sun Dong An Plaza, Henderson Centre and New World Plaza. They were all very impressive. The delegates comprised of T T Cheung, Tommy Yim, Jacob Lam, Eric Chung, Alexander Ho, Kent Kam, Nelson Cheng, Ellen Lau and Tony Lau.

We are planning to visit the Shangdong Province and Shanghai in April, details of which will be announced later.

## 3 CPD Events

The CPD events in the pipeline are:-

Date	Topic	Speaker
4/3/99	Construction Dispute	Mr Gilbert Kwok The Chinese Research Institute of Construction Management
25/3/99	Construction Bidding	Dr D Drew The HK Poly U



## *News from the Land Surveying Division*

### **Report on the SIST 98 Wuhan Conference 13-16 December 1998**

*By LEUNG Shou-choi, MBE, FHKIS, FRICS,  
RPS (LS), Authorized Land Surveyor*

#### **Preamble**

SIST is the short form for Spatial Information Science and Technology and the full title of this Conference was the International Conference of SIST. As

Zhizhuo (王之卓) who is about the most imminent professional person, not only in China, but also in the Surveying field of the world. His unparalleled achievement and contribution has been well recognized and his birthday celebration became the climax of this Conference.

#### **The main part of the Conference**

By world-wide standards, this conference was only of a small scale, but it attracted a few well-known overseas scholars as well as the majority of the Chinese high-ranking professors, surveyors and provincial officers.

Overseas participants came from about 10 countries/regions including Hong Kong and Tai Wan. Of these, several overseas representatives were of Chinese ethnic. Pure expatriates were therefore not many. The remaining 100 or so participants were local professors or graduates. The number of papers was large, being 124 in bound volumes. This reflected the enthusiasm of research and writing on the part of the Chinese surveyors.

While the theme of the Conference was SIST and Its Applications, the papers revealed an imbalanced quantity of contents. Those on data processing were by far the majority whereas those dealing with data acquisition were few. A considerable proportion of the papers focused on very specific result evaluation or restrictive applications.

The papers were well printed and bound and this was praise-worthy. I recalled that such pre-distributed papers were rare in China in the past. Contents of the papers were grouped under several chapters, viz. Geodesy and Global Positioning System; Photogrammetry and Remote Sensing; Geographic Information System; Integration of RS, GPS and GIS; and Application of RS, GPS and GIS.

As could be imagined, presentation of such an amount of papers must take time, not to mention the time needed for the keynote address and other proceeding. The programme of the Conference was therefore very tight. It lasted for 3 days with 4 sessions conducted each day separated by 2 tea breaks and one lunch break. About 8 papers were presented in each session. The pressing of time and the intensity of presentation proved to be demanding on both the speakers and the audiences. In general, the Conference went efficiently. Most speakers were well prepared, attendance was good and floor discussion was stimulating.

The opening keynote speaker from Germany and the closing keynote speaker from USA were most entertaining. Both of them successfully demonstrated the qualities of a good presenter, and could serve as a good example to many young surveyors.

implied, this conference centred on the subjects of Remote Sensing (RS), Global Positioning System (GPS) and Geographic Information System (GIS), or the 3s' as is commonly referred to.

Notwithstanding the title of the Conference, the background was in fact an activity tinted by a personal element rather than one of pure technical nature. The main objective was to celebrate the 90th birthday of Professor Dr.-Ing Wang

*International Conference of SIST98 Wuhan*





## *News from the Land Surveying Division*

### **The technical tour**

The morning of 14th December 1998 was set aside for a technical tour within the Wuhan Technical University Campus. Visitors were firstly led to see the GeoStar demonstration. The presentation was understandably self-promotion oriented but this software did seem to be powerful and impressive. We then visited different offices in the State Key Laboratory, including the Photogrammetry and Remote Sensing Section, the video conference facility, the North Pole and South Pole display room, etc. The last part was particularly interesting to me as I met an old friend and new acquaintances who all had been working in the Polar Region sometime in the past.

### **The Birthday Celebration**

Towards the end of the Conference, the Birthday Celebration for Professor Dr.-Ing Wang took place. Basically, this occasion consisted of two parts, a Theatrical Performance in the evening of 15th December 1998 and a morning assembly on the following day. The evening entertainment took place in the Grant Auditorium arranged by Professor Wang's ex-students and the current staff and students of the University. "Ex-students", must not be mistaken as young people of average

social standings. Indeed they consisted of the Heads of National Survey Organizations, Professors, and Principals of Universities and they were invariably of middle or old ages. But, their enthusiasm and energy were as young as many others and the show



*Professor Wang in the Reception hosted by the Hong Kong delegates*

successfully revealed the popularity of Professor Wang.

The morning celebration session was of a completely different style. There was no action but only speaking. However, the life history of Professor Wang was itself an attraction and therefore the interest of all the audience were maintained. Many VIPs came to this occasion specifically though without attending the Conference at all. This provided the chance for many people to renew their friendship. Apart from kind words, people brought along many gifts to Professor Wang. As the representative of HKIS, I presented the gold plate of our Institute to him and this was displayed on the table amongst others for all to view.

In the same evening, the Hong Kong delegates hosted a reception to the Chinese scholars, professionals and officials in return for their hospitality. We were mostly honoured by the presence of Professor Wang who, at the age of 90, and after a long day of celebration, was still in high spirits. On this occasion, I composed a Chinese couplet and offered it to Professor Wang to express my respects to his wisdom, his longevity and his success in educating students, which read as follows:-

王者之風，卓人之德，先生宜高壽。  
宗師所育，賢哲所傳，弟子盡長才。

### **Conclusion**

The Conference was quite well organized on the whole. I could tell that Conference organization has been improving in China. More activities of this sort should help promote China's contact with overseas and attract visitors to tour in China. There was a general aspiration among the Chinese, Mainland and Taiwan alike, to visit Hong Kong to attend the survey conference for both sides of the "Strait" next year. Surveyors of HKIS should therefore prepare for this and make it a success. Let us aim at attracting the participants of this Conference to Hong Kong by then.



# News from the Land Surveying Division

## Consultative Brief on the Land Survey Ordinance

Prepared on 6th June 1998  
By KWAN Lam-fat, Member of the Working Group on Land Survey Legislation

### 1. Objective

This paper serves to provide a brief review of the Land Survey Ordinance (LSO) since its operation in 1996 and to highlight some justifications for extending the LSO to cover all land boundary surveys.

### 2. A brief review of the LSO

- ▶ 2.1 The LSO was enacted in 1995 to control the standards of land boundary surveys for land division. Under the LSO, instruments effecting the division of land parcels delivered to the Land Registry for registration must be accompanied by land boundary plans prepared and certified by Authorized Land Surveyors (ALSs).
- ▶ 2.2 Before the LSO became fully operational, there were worries that (a) the supply of ALS would be insufficient to meet the demands of the public for land boundary surveys, (b) the land boundary surveys would cause delays to land developments, and (c) the survey charges would be too expensive.
- ▶ 2.3 At present, there are 26 ALSs registered under the LSO, and 17 of them are practising. Since the operation of the LSO on 15th January

1996, about 3,000 land boundary plans for land division purpose have already been prepared, and 1400 of which have been deposited with the Land Survey Authority (LSA). Though the boundary survey jobs are not evenly entrusted to the ALSs, there are no signs that huge backlogs have been created with any of them. In fact, many ALSs have the capacity to take up more land boundary survey work.

- ▶ 2.4 Since 1994, the Hong Kong Polytechnic University has been producing about 35 graduates in Surveying and Geo-informatics each year. The majority (about 110) of these graduates are now working in survey related organisations. Eight of them have already obtained the ARICS / AHKIS qualification and 28 of them are undergoing professional training. The number of graduates and professional land surveyors coming from the United Kingdom, Australia and Canada etc. are on the increase and they are all potential corporate members of the Hong Kong Institute of Surveyors (HKIS). It is very likely that the number of ALSs available on the market will be doubled in three years time.
- ▶ 2.5 Today, the preparation of plans for land sub-divisions may take a bit longer than in the past because the process has changed from purely

office work to that involving a lot of information searches and actual field survey. Nevertheless, instead of causing undue delays to land developments, land boundaries surveys have in many cases expedited the land development process as the land developers can now produce development proposals that would not be hindered by land boundary disputes. Regarding the criticisms that the cost of land sub-divisions surveys are too high, we notice that they are normally made by clients who do not fully understand the survey processes involved. Anyway, the HKIS has not been informed of or come across any case where the charges were considered unreasonable or inconsistent with the quality of survey services provided.

- ▶ 2.6 Although the LSO has been in operation for only about 2 years, its contributions to the betterment of the society have gradually emerged. For instance, the LSO has certainly made conveyancing of sub-divided landed property more certain, secure and fair. It has also drawn to an end the era when subdivision plans of dubious quality were allowed to be registered. The land boundary plans prepared by the ALSs so far have also facilitated the LSA to improve its land boundary records. All these are indeed very important achievements



## *News from the Land Surveying Division*

of the LSO which in the long run would better protect the rights and interests of individual land owners, and facilitate more efficient and effective land administration, management and development.

▶ 2.7 Nonetheless, it is important to note that the existing LSO is not flawless. Firstly, the LSO only applies to transactions effecting land subdivisions. For other transactions falling outside the ambit of the LSO, including those which involved the re-definition of old schedule lots, plans of dubious quality can still be used as supporting documents and the exact boundaries of such lots are still left uncertain. Secondly, most ALSs find it difficult to comply with the requirement of depositing a duplicate land boundary plan with the LSA within 7 days of the registration of the instrument to which the land boundary plan is attached, because they have to rely on the land owners and / or solicitors to advise them the date of registration. Thirdly, there is no provision in the LSO that a land boundary plan prepared and certified by an ALS is final and conclusive until the contrary is proved. The land boundary plan has therefore no legal effect except the effect it has by virtue

of its being a plan attached to or accompanying the instrument registered with the Land Registry, and as such, formal rectification procedures have still to be followed in order to rectify any error found in the Block Crown Lease, the original lease of an old schedule lot.

### **3. The reasons for extending the LSO**

▶ 3.1 We, as members of the HKIS, have a duty to help establish a sound cadastral survey system in Hong Kong. The deficiencies of the existing LSO as detailed in paragraph 2.7 above, particularly the narrow scope of the Ordinance, are the major hurdles that must be surmounted before our goals such as follows can be achieved :

- (i) To protect land owners interests and rights by making certain the boundaries before conveyancing takes place;
- (ii) To facilitate better land management and control by improving the land boundary records gradually;
- (iii) To speed up land acquisition, land disposal, land exchanges etc. by virtue of the improved land boundary record;
- (iv) To ensure land owners receive fair compensation for the land

being resumed / acquired by the Government;

(v) To help resolve boundary disputes / litigations;

(vi) To facilitate planning, construction work and land development.

▶ 3.2 To extend the LSO to cover all land boundary surveys is absolutely essential because the accomplishment of the above goals really depends on the availability of a correct, accurate and comprehensive land boundary record. Such record can hardly be built up if all the boundary data, other than section boundaries data, are unreliable.

▶ 3.3 To leave the boundary of a parent lot undetermined but go ahead with subdividing it into sections is a fallacious attempt, because the area of the individual sections so determined would still be uncertain. Being aware of this undesirable situation, the ALSs have actually adopted a practice of defining the parent lots in proceeding with their subdivision survey, but this effort would still be abortive unless the LSO is extended to cover all land boundary surveys.

▶ 3.4 Finally, it is important to note that the Land Titles Bill would be re-



## News from the Land Surveying Division

activated soon. This registration, if it only deals with ownership but not the physical definition of the land, would not protect the interest of the public comprehensively. The titles to land would still be inconclusive if the units of land to which the titles attached are not uniquely and readily identifiable on the ground. The support of an all embracing Land Survey Ordinance is absolutely essential to the success of the title registration.

### Land Survey Ordinance

By W F YIK, LSD Secretariat

Upon implementation of the Land Survey Ordinance for two years, LSD is actively organising a review on its operations, and closely working with the Land Survey Authority to update the Code of Practice for Land Survey Ordinance.

Since the formation of the Land Survey Legislation Committee (LSLC), which consists of :-

Mr. LEUNG Shou-chun,	Chairman
Mr. Henry H K CHAN	Member
Mr. KWAN Lam-fat	Member
Mr. LAW King-wai	Member
Mr. SO Wing-yeung	Member
Mr. Jacky TULL	Member
Mr. Ian F WOOTTEN	Member
Ms. Rina TSOI,	Secretary

the LSD Council has appointed the Committee, in addition to its original functions, to collect and consolidate the comments from the members about the operations of the Land Survey Ordinance, and to make recommendations to the Council. The first meeting of the Committee was held on 7 January 1999. In the meeting, the Terms of Reference for LSLC, Membership, Land Titles Bill and the outstanding items inherited from the Working Group on Land Survey Legislation were discussed. The Code of Practice for Land Survey Ordinance was also reviewed briefly. It was scheduled to have further discussions on this matter in the subsequent meetings.

Should members have any opinions about the operations of the Land Survey Ordinance and the provisions of the Code of Practice, please inform the Committee. Your participation is essential for them to proceed their works effectively.

### Land Titles Bill

It is intended to reintroduce the

Land Titles Bill to the Legislative Council. The HKIS has recently formed a working group chaired by Mr. Tony TSE of GP Division to deal with this matter.

### Kung Hei Fat Choi

The year of the Tiger has gone, and the Rabbit has arrived. May I, on behalf of the LSD Council wish all the Members a prosperous year of Rabbit. Kung Hei Fat Choi!

**DAVID  
C LEE**  
李頌熹

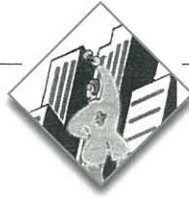
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# News from the Building Surveying Division

By Kenneth Chan, Chairman

## HKIS Building Surveying Divisional Council 98/99

### List of Skill and Support Panels

Your Divisional Council has now been able to assemble a soldier of members with various skills and interests to participate in the works of our various Skills and Support Panels. Here are the following line-ups.

#### 1. CPD Panel

Chairman : Gordon Wong  
Members : T.C. Cheung, Augustine Chow,  
Daniel Ho, Robin Leung, Edgar Li,  
K.K. Lo, Kant Tsang, Kenneth Yun

#### 2. Education and APC Panel

Chairman : Barnabus Chung  
Members : Jim Dale, C.K. Lau, Eddie Lee,  
Mike Mann, Peter Wong

#### 3. Facilities Management Panel

Chairman : Chan Man Wai  
Members : Dickson Au, Nelson Ho, Andrew Ip,  
Edgar Li, Kingston Sun, Philip Tse

#### 4. International Affairs Panel

Chairman : Thomas Choi  
Members : Kenneth Chan, Philip Tse, Christopher Wong

#### 5. Newsletter

Chief Editor : Alan Sin  
Members : Terence Lam, Edgar Li, Gordon Wong,  
Wong Kam Wah

#### 6. Public Relations & Current Affairs Panel

Coordinator : Nelson Ho  
Members : David Chan, Kenneth Chan, Ben Chong,  
Benson Wong

#### 7. Research and Technical Publication Panel

Chairman : S.M. Lo  
Members : Chan Man Wai, T.C. Cheung, Andrew Ip,  
Kenny Kong, Alex Wong,  
Christopher Wong

#### 8. Social Function and Communication Panel

Chairman : Terence Lam  
Members : Robin Leung, Edwin Tang, Gordon Wong

#### 9. Strategic Planning Panel

Chairman : Chan Man Wai  
Members : Andrew Ho, Nelson Ho, Andrew Ip,  
S.M. Lo, Christopher Wong, Peter Wong

#### Technical Advisory Panel

Chairman : C.K. Lau  
Members : Chan Man Wai, Kenneth Chan,  
Danny Cheng, Raymond Cheng,  
Richard Cheung, Thomas Choi,  
Barnabus Chung, Vincent Ho,  
Charles Hung, Eddie Lee, Paul Tam,  
Alex Wong, Samson Wong

#### Total Property Management Panel

Chairman : S.K. Kwan  
Members : Oliver Chan, Ben Chong, John Ho,  
Nelson Ho, Gordon Lee, Gary Yeung,  
Kenneth Yun

Any other members who are interested in the works of the above panels, please call the Hon. Secretary, Mr. Nelson Ho on 2584 8690 or reach him by facsimile 2824 2651 or E-mail [nelsonho@mail.hkapa.edu](mailto:nelsonho@mail.hkapa.edu).

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# Letter from Members

The Hon. Edward Ho Sing-tin, J.P.  
Legislative Councilor  
c/o Wong Tung & Partners Ltd.  
5th Floor, Citiplaza 3  
Tai Koo Shing

27th November, 1998

Dear Edward,

## urban Renewal

You will no doubt have read the two articles that have been published this week in SCMP which both touch on the very important point of the need for increased Government participation if this process to make any meaningful progress.

The first article was published in the Property Post on Wednesday November 25th 1998 reporting an interview with LDC Chairman Lau Wah-sum. I agree entirely with the point that the only way forward is for Government to grasp the nettle and take on the responsibility directly for site assembly and rehousing. You have to remember that all the relatively easy CDA/Urban renewal schemes have been tackled so what we are left with are the more complex, difficult and possibly financially unviable schemes. It is these schemes that now need to be addressed before the buildings deteriorate further to the point of collapse.

In today's political climate I cannot see how anyone can disagree with the proposition that these types of urban renewal projects are nothing but a 'public purpose' whether in the context of the Land Resumption Ordinance or the Town Planning Ordinance. May be this point needs to be clearly addressed and agreed first as a matter of principle in order that the Government can feel free to act more proactively.

The second article appeared on Thursday November 26th 1998 when Bowen Leung, the outgoing SPEL, was giving his views on this subject. He is quoted as saying "The political reality is that more and more people say the Government should do more. And from the environmental and safety point of view, the Government has no choice but to take up the task." Again I would fully endorse these sentiments.

There was mention in the CE's policy address about the creation of an Urban Area Renewal Authority - paras 81 to 84 of his October 7th address refer. You will no doubt be taking up this issue with the incoming SPEL Gordon Siu but I think the most important point is whether or not such an organization should be part of Government. I feel that it should be for the following reasons:-

- 1) When it comes to exercising powers of resumption Government should, as a matter of principle, retain the responsibility for taking back land and property from private owners. In practice even when resumption powers are delegated to organization such as the LDC Government has to so closely monitor the overall process that it amounts a duplication of effort such that Government might as well have done the work itself in the first place,

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# Letter from Members

- 2) If Government retains this responsibility then there are likely to be fewer accusations of unreasonable compensation and clearance offers. The Lands Tribunal is always available as the final arbiter,
- 3) Government, with possibly the help of HKHS, is in the best position to deal with the large scale rehousing commitments that will arise from these clearances. In addition the very sensitive issues of rehousing the elderly & disabled are best handled by Government with its access to Social Welfare agencies. The private sector is simply not geared up for this type of activity,
- 4) There are likely to be infrastructure provision requirements such as upgrading of roads & sewers before any of the new sites created could be disposed of. Again Government is in the best position to provide these types of facility at the right time,
- 5) In spite of all the outgoings that would be incurred from resumption, rehousing, clearance and infrastructure provision there would be substantial income generated from the subsequent sale of the sites that would be created. I recall that for the 'Pilot Scheme' in Sheung Wan carried out by Government in the early 1970s that there was an overall surplus so these types of project are not all necessarily revenue losers in the long term. That being said profit should not be the principle motive, it should be considered a bonus if it occurs.

I think that it is telling that two of the most senior and influential people in this field are of the same view on such an important point. There is now a need for a serious discussion on what is the best way forward. I hope that you will raise these issues with both your fellow legislators as well as the administration. Naturally I would be more than happy to participate in my professional capacity should you consider it appropriate.

As this is such an important subject I am addressing you in form of an 'Open Letter' that I will ask the Hong Kong Institute of Surveyors to publish in their journal in order to generate discussion and draw a wider range of views.

Yours ever,

Roger Nissim  
FGICS, FHKIS, RPS

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# Letter from Members

To : HK Insitute of Surveyors

Courtesy of the solicitor firm called Masons who produce a regular update from their Engineering and Construction Department I have been made aware of a 1998 court case in the U.K. which highlights the Surveyors Duty of Care. The logical implication of this case is the need for all surveyors to continually update themselves, in particular to take CPD seriously. The synopsis of the case is as follows:-

The case of Izzard v Palmer (unreported, UK, Queen's Bench Division, February 1998) highlights the dangers to professionals of failing to keep up to date with contemporary thinking in their area of professional expertise.

The plaintiffs purchased a maisonette in reliance upon a valuation report from the defendant surveyors. The report did not contain any adverse comments on the building and confirmed that the property was readily saleable at or about the valuation figure. In the event this type of maisonette was very expensive to maintain. Defects appeared in the maisonette and after the mortgagee's repossession the property was sold at a price much less than the valuation figure.

Mr. Justice Schott Baker held that the surveyors were negligent even though other surveyors might have acted as the defendants had done. The plaintiffs should have been informed about the potential structural risk associated with a maisonette of this type and the possible maintenance problems and charges. The Judge was taken through various articles which had been written about properties built to the same design. He concluded that there was *"ample material available, and in my judgement readily accessible for a surveyor who was unfamiliar with this type of building, to have apprised himself of the type problems that might affect the building's value."* The defendants as professional men would have kept up to date with background information on this type of property. By failing to warn the plaintiffs of the risks they were in breach of the duty to exercise reasonable skill and care.

I think this case serves as a timely reminder to all Surveyors practicing in Hong Kong. If you agree perhaps this note should be published in our local journal.

Roger Nissim  
FGICS, FHKIS, RPS



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# Feature

## Housing for the Elderly : A Perspective from a Public Housing Provider'

*Keynote Address by Mr Tony Miller, Director of Housing, at the Sixth Annual Congress of Gerontology of the Hong Kong Association of Gerontology Ageing in Place : Options and Alternatives, Saturday 28 November 1998*

Dr. Leung, ladies and gentlemen,

I am deeply honoured to be invited as the officiating guest and keynote speaker for the 6th Annual Congress of Gerontology. I am also somewhat humbled. I come before you as a novice amongst experts. The only relevant qualification which I can claim to share with the illustrious international and local scholars, and professionals here present today, is that I am growing older by the second. Beyond that my experience is very indirect.

2. I do, nevertheless, have my prejudices and my convictions and, happily, these coincide generally with the theme of this years Congress: that ageing in place is to be preferred to the disorientation, and loss of both identity and dignity which can result from segregation and remote institutional care. How to achieve this in our crowded metropolis is another question and not one to which I have any ready answers. Instead, what I propose to do today is to share with you the collective experience of the Housing Authority in providing elderly housing in Hong Kong, to outline the

challenges as I see them and, rather more tentatively, to suggest some of the options and opportunities as we move forward.

### The Hong Kong Context

3. Let me start by putting things in perspective, particularly for those of you less familiar with Hong Kong, highlighting similarities and differences.

4. In common with other developed economies, Hong Kong has an ageing population. Sustained economic growth has steadily improved the standard of living, and this together with higher standards of medical care has lifted life expectancy. 20 years ago, Hong Kong Man could look to 70 years and Hong Kong Woman to 77. Today, these figures have risen to 77 and 82 respectively. Out of a population of 6.7 million, 15% are currently 60 or over and we estimate that this percentage will increase steadily to 20% of total population by 2016.

5. Where we differ from many other communities is in the extreme pressure on space imposed by our unique geography, the extent of Governments intervention in the housing market, and the way in which both have impacted on family decisions over time.

6. Since the start of the public housing programme in 1953, Government

has provided subsidised rental and home ownership units for about half of Hong Kongs population. Thus the Housing Authority currently provides some 660,000 heavily subsidized rental units and has helped another 240,000 families purchase subsidized flats under the Home Ownership Schemes. This is an extraordinary achievement by any standards and it is particularly remarkable for a Government whose traditional inclination has been non-interventionist. We have one of, if not the most successful public housing programme in the world, but it has had a number of unintended side effects. One of these is to exacerbate that well-known conflict between allowing ageing in place and encouraging the younger generation to care for the old. Allow me to elaborate.

7. In the case of public rental housing, the Housing Authority which I represent, is not only the developer but also the manager. The rents it charges are only a third of the market average. Hardly surprising therefore that the programme is viewed by some as a sort of social safety net. Hardly surprising also that many look to the Housing Authority to provide a solution for the housing needs of our increasingly ageing population. Indeed the Housing Authority already houses a disproportionate number of the communities elderly. Around 54% of

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# Feature

Hong Kongs elderly population live in public housing, and in some older estates the concentration is very high indeed.

8. I think it is worth reflecting first why this should be, and secondly why the market in this otherwise free-market economy seems unable to respond to an obvious demand for this particular group.
9. The disproportionate number of elderly in public housing reflects rational family choice in a grossly distorted market. Consider a family whose parents entered public housing in the late 50s or early 60s. As their children have grown up, been educated and found employment, many have also prospered. It is not uncommon, therefore, for the married children to move out of public housing and move into private accommodation, leaving the parents behind. This suits the parents, who would often much prefer to live in familiar surroundings. And it suits the children, who, on the one hand, want more room for their own young families in a new environment, and on the other, are happier to help Mum and Dad by paying the cheap rents charged by a benevolent Government for their public housing flat than to pay more to accommodate them in the private sector.
10. Thus it is also not uncommon for the Housing Authority, when it comes to redevelop its older estates, to find that many of the youngsters have already left. To illustrate the point, if you take our 8 oldest public housing estates, more than 30% of those living there are already over 60 and in one case the figure is nearly 40%. It may well be that the younger generation could afford to house their parents with them or even elsewhere, but it makes more economic sense to the family for the elderly to remain in public housing. The consequence in terms of benign neglect are obvious. The implications in terms of Governments role and responsibility rather less so. However, looking forward, the challenge seems to me to be to search for ways of reconciling both objectives, on the one hand encouraging the young to look after the old, on the other allowing ageing in place.
11. As to the reason for market failure, we need look no further than the scale of Governments intervention. The Government dominates the bottom end of the market. It provides subsidized rental housing for 35% of the population. As a result, the limited private rental market is completely polarized. At the top end there are the corporate rentals and flats occupied by young upwardly mobile professionals. At the bottom are the deteriorating older private sector properties which no one wants to buy until they are ripe for redevelopment. These are let out by landlords for whatever they can get, with minimum provision for management and maintenance. Poorer families not yet able to secure public housing, or unwilling to live away from the urban areas tend to gravitate towards such accommodation.
12. You may have heard of our "cage homes" and possibly of our "bedspace apartments". Their residents are predominantly elderly singletons or couples, and relatively new migrants. You will not have heard of private sector developers building new accommodation for them largely because private sector developers have no intention of competing with Government for this segment of the market. To this extent, the public housing programme has become part of the problem. Clearly, ageing in place in such slums is not a solution. Rehousing is, but how to persuade the elderly concerned to move to a better environment.
13. In the longer term, measures which the Government has already set in train, including the sale of public rental flats to sitting tenants will help to restore the market i.e. a range of good quality housing will become

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# Feature

available for both sale and rent throughout the territory. In the meantime, we are tailoring our policies to address demand for elderly housing more directly. Our approach in recent years has been a three-pronged one:

- \* providing them with more subsidized Public Rental Housing;
- \* giving them priority for rehousing; and
- \* providing them with special services to meet their needs.

Let me flesh out this strategy in greater detail.

14. In terms of housing provision, we have been providing more and more PRH designated for the elderly. In the next five years, we are committed to providing 30,000 small flats suitable for allocation to the elderly. Previously, we only provided the elderly with self-contained units. In recent years, we have developed more diversified types. Our Housing for Senior Citizens (HSC) developments provide hostel-type accommodation with a warden service. These new HSC not only enable us to utilize our scarce land resources more effectively, but also provide the elderly with an environment in which they can either enjoy privacy or mingle with one another as they wish. The HSC are not isolated developments, but are fully integrated into our public

rental estates, such that the old are never far from the sight or sound of children playing.

15. In terms of housing allocation, we are giving special priority to the elderly. While the average waiting time for PRH is now 6.5 years, elderly applicants are guaranteed rehousing within 4 years for self-contained units. If they choose HSC, they will be rehoused in 2 years. At the same time we are tailoring our policies to encourage the younger families to live with their elderly parents. To this end we operate a number of elderly persons priority schemes which provide special incentives for younger generation applicants who are prepared to live with their elderly parents. Similarly, families with elderly persons are also given priority in purchasing our subsidized sale flats and these are always over-subscribed.

16. As regards providing for special needs, we are heavily reliant on voluntary agencies and we make space available to them for day care centres and the like. In addition, we have experimented with an Estate Liaison Officer Scheme. Under this scheme, which now operates in the 25 PRH estates with a specially high concentration of elderly tenants, our estate liaison officers keep in touch with the elderly, identify their needs and encourage their participation in

social activities. As a matter of course, we now also install emergency alarm systems, in all flats where the elderly are living alone so that they can call for assistance in case of emergency.

## Challenges Ahead: Options and Alternatives

17. Whilst these arrangements represent progress, I would be the first to admit that more can and should be done. However, before we go much further, I believe we should pause to review what we have been doing, where we are headed and whether or not we could achieve our objectives more effectively. So in suggesting a few dos and don'ts for the future, I will focus on three areas: demand, design and the division of responsibilities.

18. First of all, demand. If we are to be able to focus our housing assistance on those most in need, we need to take a much harder-headed look at how we assess demand. The fact that the elderly population in Hong Kong will rise to 20% of the total by 2016 does not mean that the Government needs to provide housing for all of them. Those who have the means to look after themselves, or whose families are perfectly capable of providing for them, have no call on the public purse. However, those who qualify for public housing in

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# Feature

should, I believe, be given not only the full range of choice available to others but also preferential priority.

19. As regards re-assessing numeric demand, the Governments Planning Department will put in place and operate a specialized model for housing demand for the elderly by 1999. This demand model aims to assess not only the housing needs for the elderly in total, but also the extent to which assisted housing is needed and the specific types of accommodation required. Once this more objective and scientific demand model is in place, we should be able to plan our future public housing supply more realistically and avoid some of the mis-matches experienced in the past.
20. However, it is also important, I believe, that we take an equally hard look at our various allocation policies so as to ensure that the incentives point consistently in the right direction. While we need to strengthen allocation priorities for new applicants in ways which encourage the young to look after the old, we need also to be certain that we do not leave unchanged policies which inadvertently have the opposite effect on existing tenants.
21. I mentioned earlier that we have started the process of selling public rental housing flats to sitting tenants.

Obviously not all of those in estates offered for sale will be able or willing to buy. (It is early days yet - we only launched the first phase of the scheme at the beginning of this year - but experience so far suggests that 70% of tenants will purchase.) And I think it safe to assume that a fair number of those who do not purchase will be elderly. However, we will not move them out of the estates. Encouraging ownership must not be allowed to result in any form of ghettoization either by age or income level. The Housing Authority will remain the landlord for those flats which are not sold in these estates and we will manage that stock sensibly.

22. Which brings me to design. We have to recognize that demographic change requires that we design in both flexibility and innovation such that we can adjust to meet the needs of all ages and the balance of facilities provided for them at any one time.
23. We have already produced a range of flats designed specifically for older people. We will learn from them and develop further. We have also designed new small household blocks and annex blocks for inclusion in new estates to provide accommodation for elderly household who want to live physically apart from their grown-up children in different units but in the same locality. Again we will learn

from these. Separately, we will be building on the success of the first few Housing for Senior Citizen blocks which I mentioned earlier. These will be designed to accommodate a continuum of social services, including day-time social centres and clinics to be operated by other government departments and voluntary agencies. They will provide one-stop-shop" service allowing able-bodied elderly to age in place in familiar surroundings. Since the elderly are more likely to have diversified social and medical needs than ordinary persons, their housing needs are also likely to be more diversified. The design and nature of our elderly housing must be responsive to these needs.

24. We are currently doing desk-top studies for the redevelopment of some of our older estates. Our aim will be to ensure that all elderly families who want to stay in the same district will be re-accommodated there in purpose-built blocks designed into the fabric of the new estate, providing fully integrated services on the one hand and preserving a sense of community on the other. Thus, as we redevelop the older estates, where a very large proportion of residents are elderly, we will be looking to provide them with a range of accommodation types tailored to suit their needs. Our aim will be to allow them to age in place, and yet

# Feature

be provided with all forms of necessary support services.

25. Lastly, as regards roles and responsibilities, I firmly believe that we must take a more holistic and professional approach to providing services for the elderly generally. More sophisticated services demand more professional management. As a developer, the HA is well placed to provide the hardware for those in need. It is much less well-suited to providing the software. That is an increasingly specialised field and I look forward to working with colleagues in other disciplines on alternatives to the present somewhat ad hoc arrangements, including for

example, contracting out the management of elderly public housing to specialised agencies or companies.

## Conclusion

26. Ladies and Gentlemen, in a year when a 77 years-old is rocketed into space, defining age is problematic and describing ageing as a problem is clearly misguided. It is vitally important that we do not fall into the trap of defining challenges and devising solutions statically. There is a continual need to identify the changes in demand in terms of both numbers and service type. And there is a similar need for a flexible and diversified approach to provision of elderly housing.

27. I have set out what we are doing now and for the immediate term. For the longer term with our more open border and progressively greater familiarity, more and more of our community both young and old may look north for holiday and retirement homes. I for one would not discourage it. Rather I would encourage all professionals in the housing, social service and medical field to work jointly and imaginatively towards better and more flexible elderly housing solutions, bearing in mind how in many parts of the world the "problem of ageing" has proved to be an "opportunity for commerce" which has led to radically enhanced standards of service and individual dignity.



This year, over 4,000 graduates and 5,000 under-graduates from a wide spectrum of courses will be available for full-time employment from mid-June and summer employment from early June to mid-September respectively.

If your company has suitable vacancies for our students, you can send in your recruitment details at fax number 2774 5226 or you can post your advertisement on-line at our web-site <http://www.polyu.edu.hk/recruit>. For further information, you are most welcome to contact our staff members:

	Telephone	E-mail address
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Mrs Tina Lau	2766 6790	satina@inet.polyu.edu.hk

Counselling Services Section, Student Affairs Office, The Hong Kong Polytechnic University, Hung Hom, Kowloon 2766 6800

# Feature

## Unrealistic Rates in Bill of Quantities

John B Molloy, LLB (Hons), BSc(Hons), FHKIS, FRICS, ACI Arb Managing Director, James R Knowles (Hong Kong) Limited

This is a common problem. A contractor or a sub-contractor has included an unrealistically low rate in the Bills of Quantities. There is a substantial increase in the quantity of the item concerned, either due to a variation order or (in a remeasurement contract) resultant from the remeasurement of the works.

The question that arises is how should the quantity surveyor or engineer value the works?

Many quantity surveyors, if convinced that the contractor has included an unrealistically low rate in the Bill of Quantities, will insist upon the rate applying up to the quantity in the Bill, but will value any excess in quantities over and above the Bill quantity at a fair and reasonable rate.

This practice is recognised by 'Keating on Building Contracts', Sixth Edition, at pages 101 and 102 where he states:

*"Effect of Pricing Errors - When the contractor has made an error in his pricing of the tender for a lump sum contract and there are no grounds for rectification and the contract provides for payment of variations at rates shown in the tender, a difficult question can arise when pricing variations*

*and the error is apparent. Should any, and if any, what, adjustment be made in the rate shown in the tender to arrive at the new rate for pricing variations? Many surveyors in practice claim to make an adjustment. It is thought that there is no generally accepted custom and that the question must always be one of construction."*

But Keating provides no assistance to determine whether this practice is correct.

Assistance can be found however in the case of Dudley Corportion -v- Parsons and Morrin Ltd (1959) CA, 8 April. This is not a particularly well known case (although it is mentioned in 'A Building Contract Casebook' by Powell-Smith & Furnston), but it is a very important case which quantity surveyors should be familiar with.

The project in this case concerned the building of a school and the contract was the RIBA 1939 Form, with quantities. Whilst this is of course a very old form of contract, the contract terms in issue were essentially the same as those of both the JCT 1963 Edition which is the same as the current Hong Kong Private form of contract, and the JCT 1980 Edition which will soon be adopted as the new Hong Kong Private form of contract. So the case is as relevant today as it was in 1959.

The contractor, Parsons and Morrin Ltd, priced an item in the Bills of Quantities for excavating 750 cubic yards of rock at the equivalent of HK\$1.2 per cubic yard. This was a gross underestimate.

In carrying out the excavations described in the drawings and bills, the contractor excavated a total of 2230 cubic yards of rock.

The Architect valued the work at the equivalent of HK\$1.2 per cube for 750 cubic metres, i.e. the quantity in the Bills of Quantities and the balance of 1480 cubic yards at the equivalent of HK\$24 per cubic yard which he considered to be a reasonable rate.

The employer disputed this amount considering that the Architect should have insisted that the rate of HK\$1.2 be used.

The matter went to the Court of Appeal where Pearce J. agreed with the employer that in such circumstances the rate in the Bills of Quantities must be used, even if it is unrealistically low. He said :

*"In my view, the actual financial result should not affect one's view of the construction of the words. Naturally, one sympathises with the contractor in the circumstances, but one must assume that he chose to take the risk of greatly underpricing an item that might not arise, whereby he lowered the tender by £1,425. He may well have thought it worth while*

# Feature

to take that risk in order to increase his chances of securing the contract."

Accordingly, this authority indicates that the practice of quantity surveyors when unrealistically low rates are encountered of using that rate for the quantity in the Bills of Quantities and a reasonable rate for any additional quantities is incorrect - the rate in the Bills of Quantities must be used even if it is unrealistically low.

The reasoning behind this is logical. A contractor when tendering is fully aware of the provisions of the contract. He is aware that his rates will be used for the valuation of variations and in the remeasurement of the works. When he submits his tender, with an unrealistically low rate in the Bills of Quantities he is accepting the risk of that rate being used for valuing additional quantities of the works.

However, what is often conveniently forgotten by employers is that the converse is true. If a contractor puts an unrealistically high rate in the Bills of Quantities he is entitled to have that rate used for the valuation of variations and the remeasurement of the works. Whilst this may mean that the contractor makes large profit this is no reason for the employer to attempt to change the rate. When the employer accepts the tender, with an unrealistically high rate in the Bills of Quantities he is also accepting the risk of that rate being used for valuing

additional quantities of the works.

So both the contractor and the employer are bound by unrealistically high and low rates contained in the Bills of Quantities for the valuation of variations and the remeasurement of the works, and it is submitted that this position is still applicable to Hong Kong Government forms of contract for remeasurement works which contain

provisions at GCC Clause 59(4)(b) to amend rates when there are substantial increases or decreases in quantities. GCC Clause 59(4)(b) is not a clause enabling the Engineer to amend a rate because the rate itself is either high or low; it is a clause that enables the Engineer to amend the rate where the change in quantity has of *itself* rendered the rate inapplicable.



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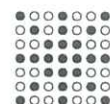
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