

# Surveying Newsletter

測 量 師 導 報

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## *Creation of Technical Class of Membership within HKIS*

**A** letter to the Editor has been received from Mr Graham Heath, FHKIS, commenting on the Creation of Technical Class of Membership within HKIS.

"I am pleased to see that the Institute is now examining this issue which effectively means incorporating the HK members of the Society of Surveying Technicians (SST) into HKIS. As readers may know, this has already occurred in Britain with SST merging into RICS and its members designated 'Tech RICS.' This includes the 1,200 SST members in Hong Kong.

An opinion survey has been undertaken and I have no doubt much discussion will ensue. Indeed when drafting the new Co-operation Agreement between HKIS and RICS, the SST question was excluded to allow time to further debate. To enable members to reach a decision I think it would be useful for them to see the reasoning the RICS followed when coming to their decision. This I think is equally relevant to HKIS and is attached for information."

Since 1991, the RICS has been moving towards the creation of a technical grade of membership, now achieved with effect from 1 August 1998. This note briefly summarises the steps which led up to this change.

### **Background**

As early as 1967, the RICS recognised that the expansion of higher education in the United Kingdom would lead to the profession of chartered surveyor - then largely based on apprenticeships and professional examinations - becoming a graduate-entry profession. Mindful however of its Royal Charter obligation to maintain and develop surveying skills across all disciplines of surveying, the Institution also realised a similar need for a formal qualification structure for technicians working within land, property and construction. With the encouragement of the RICS, the Society of Surveying Technicians was formed in 1970. By 1998, the Society's membership stood at just over 5,000 (with over 1,000 in Hong Kong).

### **Reasons for Integration**

If the chartered surveyor profession is to succeed in attracting the ablest

candidates, it must offer qualifications which compare with other leading business professions. Increasingly the qualification route for chartered surveyors will place emphasis on business, accounting, communication and technological - rather than technical - skills.

At the same time there is nevertheless still a requirement for these traditional technical skills within surveying, often within offices led by chartered surveyors. Many school-leavers who would once have gone straight into work, are now looking for a formal career structure, based on vocational qualifications.

By creating a new class of technical membership, the aim of the RICS has been to create a career path and status for technically competent professionals. They will be entitled to use the designation 'TechRICS', showing that they are part of the RICS, and subject to the full rigour of its rules of conduct, but clearly distinguishing them from chartered surveyors.

These proposals now have the approval of RICS and SST members, and have





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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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#### Advertising

All advertisements and small ads are welcome. SURVEYING is reaching over 5,000 readers. For detailed information & advertising rates, please contact Ms Margaret Yung of the Secretariat office at 2526 3679 OR Mr. Charles Yiu of Corporate Culture at 2802 6949.



#### The Hong Kong Institute of Surveyors

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

been endorsed by the Privy Council. Their principal aim is to retain the influence of the RICS over the education, training and conduct of surveyors at all levels. While the former members of the SST will form the nucleus of the new membership class, it is hoped that the creation of the new qualification will attract greater numbers of young people into the profession to create a pool of technical experts for employers to recruit in support of graduate professional staff. Members of the public will have the comfort of knowing that technical surveyors are subject to the same rules of conduct as chartered surveyors.

The move emphasises the standing of the RICS as the natural first choice organisation of all who practise surveying. A fully integrated profession should equip members to meet the challenges of changing work practices and developing technology, while enhancing their employment opportunities around the world.

#### How will it work?

There will be only one class of technical member. RICS General Council has approved that the small number (around 300) of **Fellows** of the SST should be invited to apply to be assessed for direct entry to **ARICS** membership of the Institution, based on their experience, evidence of career progression and seniority, and fully documented and planned CPD.

The remaining 5,000 or so **AMSST's** and **MSST's** have now been invited to apply for **TechRICS** membership.

While a further benefit of the new arrangements will be the opportunity they create for technical members to qualify as chartered surveyors, those who aspire to do so will need to hold an accredited degree and successfully complete the RICS APC. Similarly probationer chartered surveyors who do not complete the APC may transfer to the technical surveyor route.

#### How will it affect Hong Kong?

Most if not all of the current 1,000 or so SST members in Hong Kong can expect to become TechRICSs. There may well be some pressure from young people in Hong Kong that HKIS should also create a similar class of technical membership for the same reasons as have persuaded the RICS, and that is a separate matter which HKIS may wish to consider. For the meantime however, it may be that HKIS would prefer that the Co-operation Agreement with RICS should be confined to chartered surveyors.

#### Reply from SST Working Group

*The SST working group have recently compiled an analysis, following the response by members on the opinion survey on the formation of technical grade surveyors in the HKIS. A report on the opinion survey will be published in the future issue of the newsletter.*



# News from the Secretariat

## HKIS Disciplinary Panel

The following Disciplinary Panel members were appointed by the General Council on 21st December 1998 for 2 years to expire on 20th December 2000.

BSD	Membership	Year Elected
Mr CHUNG Hung Kwan	FHKIS	11/06/84
Mr WONG Bay, Peter	FHKIS	11/06/84
Mr Mike MANN	FHKIS	24/08/84
Mr LAM Chun	FHKIS	24/08/84
Mr Raymond BATES	FHKIS	26/03/85
Mr LAU Chi Keung	FHKIS	01/05/87

### GPD

Mr KAN Fook Yee	FHKIS	30/07/84
Mr WU Moon Hoi, Marco	FHKIS	30/07/84
Mr HO Hang Kwong, Thomas	FHKIS	12/10/84
Mr LEUNG Chun Ying	FHKIS	10/10/88
Mr Lyall ALEXANDER-WEBBER	FHKIS	07/12/89
Mr YIP Moon Wah, Stephen	FHKIS	04/12/91
Mr NG Hang Kwong, Francis	FHKIS	26/01/95
Mr CHIU Kam Kuen	FHKIS	26/10/95
Mr WONG Ho Ming, Augustine	FHKIS	28/12/95

### LSD

Mr NG Tsan Wing	FHKIS	16/06/97 * Note 2
Mr WONG Thien Nyen	FHKIS	10/06/91 * Note 1
Mr MAN Wing Kan	FHKIS	28/06/94
Mr NG Tak Cheong	FHKIS	30/06/94
Mr AU YEUNG Ping Kwong	FHKIS	12/09/94
Mr TAN Chin Hor	FHKIS	12/09/94

### QSD

Mr Derek Charles MACKAY	FHKIS	24/08/84
Mr CHAN Ka Kui	FHKIS	25/03/85
Mr LAU Ping Cheung	FHKIS	28/03/85
Mr CHEUNG Ho Sang, Albert	FHKIS	07/11/86
Mr David R C BRECHIN	FHKIS	28/05/87
Mr Andrew Hewit LAMONT	FHKIS	14/03/91
Mr Michael CHARLTON	FHKIS	10/06/91
Mr CHEUNG Tat Tong	FHKIS	26/03/97
Mr CHUNG Yiu Ming, Eric	FHKIS	16/06/97

Note 1: WONG Thien Nyen was appointed by the General Council on 12th April 1999 to replace Mr Carlton John HILL for the remaining term up to 20th December 2000.

Note 2: NG Tsan Wing was appointed by the General Council on 7th July 1999 to replace Mr John WALKER for the remaining term up to 20th December 2000.

## Promotion of Surveying Practices through the HKIS Homepage

The HKIS is in the process of re-designing the homepage with added information and functions including a means of promotion for member practices. The new function will allow surveyor firms to publicise their company profile with a text description of business, list of directors/senior management executives with photos, brief description of 3 projects with photos. There will be a charge of \$3,000 per annum.

If members are interested in this service, please complete the enclosed application form and return for the attention of Miss Margaret Yung of HKIS on or before 31st August 1999.

## HKIS SURVEYORS ANNUAL DINNER 1999

will be held at

The Grand Hall, The Hong Kong Convention  
and Exhibition Centre, Wanchai

on

**Friday, 19th November 1999**

Guest of Honour

Mr Gordon K C SIU, JP  
Secretary for Planning, Environment and  
Lands Bureau

Members, please look out for further details in the  
coming issues of the newsletter.



# News from the Secretariat

## Surveyors Lunch

Two Surveyors Luncheons have been held at the Hong Kong Convention and Exhibition Centre.

On 11th May 1999, we had the pleasure to hear from the Commissioner of Rating and Valuation, Mr Kenneth PANG, a talk on the "Opportunities and Challenges in the Next Millennium: A Surveyors Perspective." [Photo 1]

The Guest of Honour, Mr Tony MILLER, Director of Housing, was warmly received by members on 15th June 1999, where he presented a speech on "Unclogging the Housing Pump: A Progress Report." [Photo 2]

## Transfer of Field Area Statements

*(Surveying and Mapping Office, Lands Department)*

This is to notify that all the eleven volumes of original Field Area Statements (FAS) previously kept in District Lands Offices in New Territories were transferred to the Hong Kong Public Records Office on 13 May 1999 for saving as historical archives. The intention of this exercise is to avoid such a valuable and historical document from being further deteriorated by natural tear and wear. If members require to refer to the original of FAS in future, please approach the Hong Kong Public Records Office at the below address for assistance:-

3/F, Hong Kong Public Records Building, 13 Tsui Ping Road, Kwun Tong, Kowloon

Tel. : 2195 7766 Fax : 2142 5756

## HKIS SURVEYORS LUNCH

Date : 24th August 1999  
Guest Speaker : Mr Thomas H K Ho, MTRC  
Venue : HK Convention and Exhibition Centre, Wanchai  
Time : 12.30 noon

*Please look out for further details. The reservation form will be posted out separately.*

[Photo 1]

*The Guest Speaker, Mr Kenneth Pang, receives a souvenir from the President, Mr Samson Wong*



[Photo 2]



*Mr Tony Miller receives a souvenir from the President, Mr Samson Wong.*

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# Committees

## Standing Committee on Town Planning

*By LAU Tak, Francis, Chairman Standing Committee on Town Planning*

The Standing Committee on Town Planning was recently formed. It is composed of the following members:

- Mr Samson Wong
- Mr Roger Nissim
- Mr Gordon Ongley
- Mr Edwin Tsang
- Mr Lau Ping Cheung
- Mr Lau Chi Keung
- Mr Lau Tak, Francis

The committee currently studies and will give comments on the following topics:

- South East Kowloon development
- Central and Wanchai reclamation
- Green Island development
- Village improvement and upgrading of Lei Yue Mun area
- Sham Tseng further reclamation
- Remaining development in Tung Chung and Tai Ho
- Town Planning Board Guidelines
- Town Planning White Bill

The Hong Kong Institute of Surveyors, the Hong Kong Institute of Architects and the Hong Kong Institution of Engineers, have jointly held press conferences and have presented their views to the Town Planning Board on the South East Kowloon development, Central and Wanchai reclamation and the Green Island development. The Hong Kong Institute of Planners and the Hong Kong Institute of Landscape Architects have recently joined the group to discuss and give comments on some of the current major planning issues.



## News from the Building Surveying Division

*By Kenneth J K Chan, Chairman*

### Strategic Planning

It is envisaged that the Building Surveying professional will be facing tremendous changes and external pressure in the future. To name just a few incidents, such as the privatization of the Estate Management and Maintenance function of the Housing Authority, proposed re-organization of the Buildings Department, increasing influence of the engineers in various areas of our works - building safety inspection, fire safety, NTEH, etc. The BD had included RPE/B as TCP and was

proposing that RPE/B shall have equal standing as RSE in the guidelines for NTEH. The tidal force of expulsion is overwhelming. Will our traditional skills be sustainable?

Listed below are some of the areas of concern that we should address:

- Education
- Professional Training
- Sustainability of Traditional Skills
- Strongholds Enhancement
- Further Skills Development:
  - Project Management
  - Facility Management

Fire Engineering

Building Engineering

- Lobbying/ Petitioning
- Promotion
- Any Other Concern

The Strategic Planning Panel will be organizing a half-day Strategic Planning Workshop, in the afternoon of 4th September 1999, to work on a strategy for the BSD. Please diarize the date and make every effort to come.

*Let's join forces to forge a Strategy for the 21st Century.*





## *News from the Building Surveying Division*

### **Electronic Submission and Processing System (ESPS)**

#### **Trial Test of the Pilot System - Buildings Department**

The Buildings Department commissioned a consultancy study in 1997 on the submission of building plans and related documents in electronic format. The study has now been completed and a pilot system known as the electronic submission and processing system (ESPS) developed. Staff of the Buildings Department is now undertaking a trial test of the pilot system, which would need submission of plans in electronic format. The Director of Buildings wrote to the Institute to inform members who are Authorized Persons (AP) registered under the Buildings Ordinance to participate in the trial test of the pilot system.

The aim of the trial test of ESPS is to try to operate and, if possible, to improve the following key steps at present in use for processing submissions made to the Buildings Department:

- 1 Receipt and registering of submission
- 2 Transmission of submission
- 3 Referral to other departments
- 4 Check and comment on screen/drawing
- 5 Cross reference to supporting documents and existing records
- 6 Communicate with AP/ RSE
- 7 Tracking of submission, plans and documents
- 8 Approval/ disapproval of submission

- 9 Despatch of submission
- 10 Retrieval and storage of records
- 11 Plotting in Drawing Office

It is appreciated that AP/ RSE may be involved in some of the above steps. It is hoped that by the end of the trial test, the pilot system can be tested in most of the processing steps of building plan submissions.

For the purpose of the trial test, the Director of Buildings needs new submissions of building plan, superstructure plan and foundation plan. Other types of electronic plan including amendment submissions are not required at this stage.

AP/ RSE's participation in the trial test is entirely voluntary and exclusively for the test. The information and data in electronic plans submitted for the trial test of the pilot system shall not be construed as prescribed plans or documents under the Buildings Ordinance but rather they only serve as reference materials to facilitate the trial test. Furthermore, no parties participating in the trial test, including the Buildings Department, shall be responsible for any results and consequences arising from the trial test.

For the purpose of the trial test, AP/ RSE are requested to submit, in parallel and at the same time, hard and electronic copies of the same new submission to the Department. The hard copy of

submission is recognized as a proper submission under Section 14 of the Buildings Ordinance and will be processed in the normal way as stipulated in PNAP 30. The electronic version of the same submission, which should be stored in CD-ROM disks, will be considered as a supporting information solely for trial testing purposes. The electronic submission will be used to facilitate the workflow under the plan processing procedures of the Department. The trial test will also be extended to other Government Departments or organizations involved in the centralized plan processing system. The electronic plans may be transmitted, distributed or copied as required. Any comments made or actions taken by the Department in respect of the electronic submission will not, in any way, prejudice the application for approval of plans under the Buildings Ordinance. All communications given to AP/ RSE under the trial test will, however, be useful reference material that may help in expediting the building plan approval process.

Details of the specifications for the electronic submissions and blank CD-ROM disks are available in the Department for collection by APs for preparation of electronic plans. Should members have any queries regarding the trial test or wish to obtain the specifications and CD-ROM disks for electronic submissions, you should contact Mr P L IP at 2626 1556, Mr Y C LEE at 2398 3007 or Mr Raymond LAU at 2626 1073 of the Buildings Department.



## *News from the Building Surveying Division*

### **Re-organization of the Buildings Department**

The Working Group on the Proposed Re-organization of Buildings Department had provided the following report for our members' attention.

*26 April 1999 - First Meeting of the Working Group*

The members of the Working Group agreed the following:

- 1 BD should consult the industry to find out the needs of the industry and assess the impact of the proposed re-organization on the industry.
- 2 BD should identify the inherent deficiencies of the current operation and provide solution. The Consultancy Report on the proposed re-organization should be released for the industry to review.
- 3 The proposed re-organization should be implemented incrementally.
- 4 BD should set out clearly what the Department is looking for from the proposed changes and how these can be achieved.

*11 May 1999 - Meeting with Mr Edward Ho and HKIA and HKIS representatives*

- 1 It was generally agreed at the meeting that the proposed "matrix management arrangement" and "process based structure" for the function of building plans

processing will create confusion, and established, efficiency of the current practice will be sacrificed. In short, it was considered that the expertise of each professional discipline should be respected and utilized appropriately. If matrix management were adopted, there would certainly be difficulties for the AP and RSE to approach a Chief Building Surveyor to discuss structural plans or approach a Chief Structural Engineer to discuss building plans.

- 2 Without details of the Consultancy Report, it would be very difficult to comment further on the proposed re-organization.
- 3 It was agreed that there has been inadequate consultation with the industry and that implementation of the proposed re-organization should only take place after consultation.
- 4 It was proposed to set up a meeting with SPEL to reflect the views of the professional institutes.

*31 May 1999 - Meeting with representatives from BDLBSA and HKIS*

- 1 The meeting was held to collect views from BDLBSA on the proposed re-organization and to discuss what should be reflected to SPEL.
- 2 The following points were raised:
  - a) There has been a lack of proper consultation with BD staff as well as the industry.
  - b) BDLBSA was not resisting to

changes with genuine needs, sufficient justification and good planning.

- c) The proposed matrix management will create confusion and BD should consider using partly process-based structure and partly functionally based structure to suit different tasks.
- d) The trial scheme of the proposed re-organization should be carried out incrementally and on a district basis.

*4 June 1999 - Meeting with BDLBSA, HKIA and HKIS*

The meeting was held to consolidate the views from HKIS, HKIA and BDLBSA for discussion with SPEL.

Finally, the President, Mr Samson WONG, and Mr C K LAU went with HKIA representatives to meet with Mr Gordon SIU, SPEL, on 7 June 1999. Dr YL CHOI and Mr Philip LAU represented BD at the meeting. The President reported that the BD would take a further look at the implementation of the proposed re-organization, that had been postponed to October 1999, against the original timetable of August 1999. A copy of the Consultancy Report would be made available to the professional institutes.

If you have any views on the re-organization of the Buildings Department, please feel free to write to us.





# News from the General Practice Division

By Tony TSE, Chairman

## 1. Guidance Notes for Asset Valuation and Guidance Notes for General Practice Surveyors acting as Independent Experts in Commercial Property Rent Review

The final drafts of both the Guidance Notes for Asset Valuation and Guidance

Notes for General Practice Surveyors acting as Independent Experts in Commercial Property Rent Review have been finished and will be submitted to the General Council for endorsement.

The exact prices for the respective Guidance

Notes have not been fixed but it is estimated that the price for the Guidance Notes for Asset Valuation will not exceed \$200 per copy (including a 2 ring binder), and the price of the Guidance Notes for Independent Experts will not cost more than \$80 per copy (N.B. however the prices are subject to change).

If anyone or any company are interested in purchasing the Guidance Notes please register by fax or by mail at the HKIS office and the registration forms will be sent to you shortly. Registration over the telephone will NOT be accepted.

## 2. Guangdong - Hong Kong Property Valuation Seminar

The 3-day seminar, from Thursday 6 May 1999 to Saturday 8 May 1999, was led by Mr. Francis Ng, Senior Vice President of HKIS, and Mr. Edwin Tsang, Convenor of External Affairs Committee - General Practice Division.

The response was overwhelming. 29 HKIS members joined the seminar. 70 participants, mainly heads and deputies of government departments and major institutions in various parts of the province attended the meetings. The total number of participants was over 100.



We were welcomed by Mr. Chan Ping (陳平), the Chief of the Real Estate Bureau of the Construction Committee of Guangdong Province.



### The following topics were presented :-

- |  |                              |
|--|------------------------------|
| i) The impact of the Asian economic crisis on property market in Hong Kong                   | Mr Francis Ng & Mr Albert So |
| ii) The impact of the Asian economic crisis on property market of the Pearl River Delta Area | Mr Li Shun Wai               |
| iii) Lease control in Hong Kong  | Mr Lau Tak                   |
| iv) The Estate Agents Ordinance  | Mr Lau Chun Kong             |
| v) Property development and pre-sale property market in Guangdong Province                   | Mr Li Wan Chung              |
| vi) The impact of Housing Reform on property market in Guangdong Province                    | Mr Kam Kwok Yee              |
| vii) Valuation methods for mortgage purposes   | Mr Lau Chi Wan               |





## News from the General Practice Division

A lot of questions were raised, mainly directed at Mr. Francis Ng, regarding land sales and property market in Hong Kong. The new housing reform in China also attracted a lot of inquiries. There was friendly exchange of ideas during tea breaks.

In the evening, some members relaxed themselves in coffee shops and discos. We also visited the office of a local real estate consultants firm operated by Hong Kong surveyors.

On the last day, we visited three large low density estate developments such as (麗江花園), Country Garden (碧桂花園). Members were amazed to see the scale and design of the development.

The delicious Guangdong food added much flavour to the trip. The fresh crocodile slices impressed members most. All of us are eager to attend the seminar again in Guangdong so that we can have the meal again.

Finally, Mr. Francis Ng wishes to take this opportunity to thank the participants, in particular Messrs. Edwin Tsang and Francis Lau for their invaluable contribution in making the event a great success.

### 3. Estate Agents Ordinance (General Duties and Hong Kong Residential Properties)

### Regulation & Estate Agents (Determination of Commission Disputes) Regulation

The above was published in the Government Gazette dated 21 May 1999. On 9 June 1999, Mr. Simon Lai, member of the HKIS working group on Estate Agents Ordinance, on behalf of the HKIS, made representation to the Subcommittee of the Legislative Council on the issue. Subsequently, a letter summarising our major comments on observations on the Regulations has been prepared for our President's signing. Apart from commenting on the various practical problems relating to compliance with the Regulation, we have also made representation and urged the Government to accept a formal representation in the Estate Agents Authority, and that at least one permanent seat be allocated to the Institute on the Board of the Estate Agents Authority. This, no doubt, will enable a more direct and effective channel for the Institute to advise the Board on estate agency matters.

### 4. Nominations

In April, the General Council of the HKIS approved the setting up of a Standing

Committee on Valuation, and Mr. F. Y. Kan was nominated as the Convenor. The Council of the General Practice Division had long discussions about our role in the Committee and finally approved to nominate the following members as members of the Standing Committee, in addition to two members from each of the other Divisions i.e. Quantity Surveying Division, Building Surveying Division and Land Surveying Division. Should any members have queries or matters relating to valuation they are most welcome to send comments to these representatives or to the Convenor of the Standing Committee. The 1st meeting of the Committee will be held soon at which the terms of reference will be proposed and members will be advised of the details in due course.

### Nominations from General Practice Division

Name	Tel	Fax
1. Mr Francis H K Ng	2231 3133	2868 4707
2. Mr Gordon Moffoot	2840 1177	2840 0600
3. Mr Jonathan W W Li	2288 7728	2865 3851
4. Mr K K Chiu	2507 0602	2530 1502
5. Mr Simon S M Lai	2810 8123	2845 0649
6. Mr Thomas N T Poon	2170 3814	2384 4901
7. Mr Tony W C Tse	2835 6626	2893 5937



## News from the Land Surveying Division

### The 3rd Conference for the Exchange of Survey & Mapping Technology Across the Straits

By K.L.MOK, Chairman

The 3rd Conference for the Exchange of Survey & Mapping Technology Across the Straits will be held around September to October 2000 in Hong Kong.

An organisation committee for the Conference is being formed. Mr T N WONG is nominated to be the Chairman, while Mr SZE Fook Yun, Mr SIN King Kau and Mr CHAN Tak Hing are recommended to be the representatives of the HKIS in the committee. They will hold the first meeting in mid-June 1999.

Members will be kept informed about

the progress and details of the Conference.

### The First Hong Kong Symposium on Satellite Positioning System Applications (SPSA)

By Dr Esmond MOK, Chairman of SPSA

I am pleased to inform you with the following information about the Symposium.

- 1 Prof P A Cross, Leica Professor of Geomatic Engineering and Head of Department of Geomatic Engineering, University College London, UK, has been invited as keynote speaker.
- 2 The symposium is co-sponsored by the following institutions and companies (in alphabetical order):-

- a The Hong Kong Institution of Engineering Surveyors (HKIES)
- b The Hong Kong Institute of Surveyors (HKIS)
- c The Hong Kong Society for Transportation Studies (HKSTS)
- d Leica Geosystems Limited
- e Topcon Optical (HK) Limited
- f Trimble Navigation Limited

- 3 Information and registration form can be obtained from the homepage <http://www.lsgj.polyu.edu.hk/>

### Land Survey Authority Circular No. 2/99

(Legislation Section, Survey & Mapping Office, Lands Department)

### Notification of Change in Registration Particulars

Section 11(3) of the Land Survey Ordinance (Cap. 473) requires that an Authorized Land Surveyor shall within 28 days notify the Registrar of any change in particulars in respect of his/her registration.

It is a disciplinary offence if an Authorized Land Surveyor fails without reasonable excuse to perform the above duty under the Ordinance. Authorized Land Surveyors are therefore reminded to observe closely such requirement.

With immediate effect, Authorized Land Surveyors are required to complete Form SMO-F17 (06/99) and return it to the Legislation Section within 28 days upon any change of the registration particulars.

### TED CHAN & ASSOCIATES LIMITED

Authorized Land Surveyors



The company invites high calibre candidates to apply for the following posts:-

#### 1. Land Surveyor

- ✓ Corporate member in LSD of HKIS or equivalent
- ✓ RPS(LS) is preferred but not essential

#### 2. Senior Survey Officer

- ✓ Minimum 20 years' experience in Cadastral or Geodetic Survey
- ✓ Holder of Higher Certificate of Land Surveying is preferred but not essential

Interested parties please apply with full resume, recent photo and expected salary to :-

The Human Resources Department  
Ted Chan & Associates Ltd  
1007 Marina House  
68 Hing Man Street  
Sai Wan Ho, Hong Kong



ISO 9002 : 1994  
Certificate No. CC 1439



ISO 9002 : 1994  
Certificate No. CC 1439





## News from the Quantity Surveying Division

By T T Cheung, Chairman

### 1 APC 1999

It will be held on 20th and 21st September 1999. The format of the test will be the same as last year. A workshop has been arranged on 24th July 1999. Candidates sitting for the APC are strongly advised to attend the workshop to familiarise themselves with the requirements of the Institute.

### 2 PRC Visit

We are planning to visit the Cost Bureau and Tendering Department of Guangdong Province during summer.

### 3 International Committee

QSD is arranging PAQS senior members to visit our Chinese counterparts in Beijing and Shanghai this September following the

annual PAQS Congress in Kuala Lumpur, Malaysia. The visit is fully supported by participating parties as an exchange in professional practice, educational systems and certification/registration system amongst Pacific countries.

### 4 Listing of PQS firms on web

The first batch of QS private practice has submitted their declaration forms and endorsed by QSD to be listed in HKISs homepage. Those who would like to be

listed are advised to contact the HKIS Office to get a copy of the declaration form.

### 5 Direct Professional Access to Barristers

The matter is now in the hands of the Bar Association, whom we would expect a feedback by early August 1999.

### 6 CPD Events

The following CPD events are on the pipeline:-

Date	Topic	Speaker
24/8/99	Typical Insurance Requirements for Major Construction Projects	Mr John Holmes and Mr John Lam, Jardines Construction Insurance Services
16/9/99	Life-long Learning - A talk on People Development	Dr F C CHAN CLP Power Hong Kong LTD

## Education

### Learning and Teaching Projects in LSGI, The Hong Kong Polytechnic University (HKPU)

Bruce King, HKPU

The UGC Teaching Development Grants provide funding support to the HKPU on teaching and learning

development projects aiming to improve various aspects of learning and teaching in the University. The Department of LSGI currently has six ongoing Teaching and Development projects, and below is one of those we have completed.

### A teaching and learning system for the Zeiss P3 analytical stereoplottter

Teaching photogrammetry is one of the more difficult tasks in geomatics education. Apart from the difficulties experienced by students understanding the concepts, the cost of

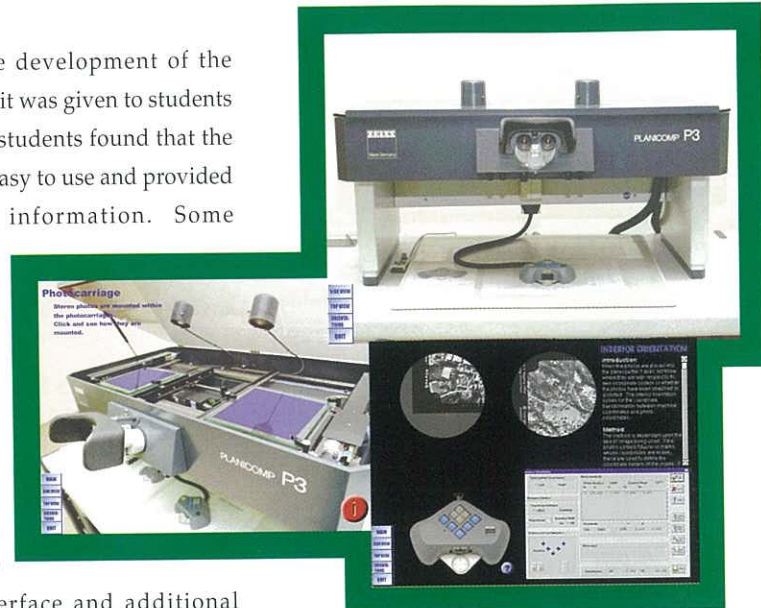
photogrammetric equipment prohibits having a large store of equipment to make practical exercises convenient for students. In LSGI there are nearly 100 students studying photogrammetry in any one semester and there is only one analytical stereoplottter for them to use for one of their practical exercises. This results in limited time for students to become familiar and comfortable in using the equipment before undertaking practical exercises.

To overcome this problem, a simulator for the department's Zeiss P3 analytical plotter has been developed. The aim is to provide more efficient use of P3. Before having the tutorial, students would sit at P3 and learn its use; now students learn its functions before sitting in front of it. This has the effect of making students more efficient at using their time sitting at the P3; allowing better access to the P3 for their classmates; and reduces overall time for running the practical exercises.

The tutorial has two objectives: use of the P3 by illustrating its parts, controls and procedures; and reinforce concepts by explanation of basic photogrammetric concepts and illustration of their application in the P3. Some screen shots are given to illustrate this.

Following the development of the initial tutorial, it was given to students for use. Most students found that the software was easy to use and provided much useful information. Some students asked that it provide more step-by-step guidance, while others wanted more information on the P3 software interface and additional examples and even movies to show exactly how to do some operations.

Ultimately it was found that the first version of the tutorial was worthwhile. Now it remains to build upon this with better simulation, more feedback for the students and build in self-assessment components.



# Feature

## Contingency Fee Agreements - Valid in arbitrations ?

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

A few weeks ago I went to see the film 'A Civil Action' starring John Travolta. Not a great film by any means, but nonetheless interesting because it concerned a lawyer in the USA (Travolta) who went bankrupt attempting to sue two large corporations

for polluting the water supply of a local town which had in turn caused the deaths of a number of children. The reason why the lawyer went bankrupt was because he conducted the proceedings on the basis that he would be paid a percentage of any monies he was able to recover for his clients. In other words he had entered into a contingency fee agreement.

Contingency fee agreements fall into two categories:

- Conditional fee agreements whereby the solicitor or consultant is entitled to his normal fees (with or without a percentage uplift) if successful in the matter, but no fee if unsuccessful.
- Bonus fee arrangements whereby a solicitor or consultant is entitled to a percentage of the monies recovered in the action by his client, but again no fee if unsuccessful.



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# Feature

In the United Kingdom contingency fee agreements, were for long held to be unlawful and unenforceable because they were caught by the law of champerty. The attitude of the courts towards such agreements can be seen by the words of Lord Denning MR in *Re Trepcia Mines Ltd* where he said:

*“(Champerty) occurs when the person maintaining another stipulates for a share of the proceeds.... The reason why the common law condemns champerty is because of the abuser to which it may give rise. The common law fears that the champertous maintainer might be tempted, for this own personal gain, to inflame the damages, to suppress evidence, or even to suborn witnesses. These fears may be exaggerated; but, be that so or not, the law for centuries has declared champerty to be unlawful, and we cannot do otherwise than enforce the law.”*

There were many critics of this state of affairs. Contingency fee agreements had been for a long time not only permissible but the norm in the United States for the prosecution of speculative monetary claims. Further the rising cost of litigation and its effect in depriving citizens who fall outside the financial limits of legal aid eligibility of access to the civil courts led to an increasing demand for some form of contingency fee agreements to be available. These pressures led to legislative inroads into the common law of champerty and in 1990 in the United Kingdom, Section 58 of the Courts and Legal Services Act

made conditional (but not percentage of proceeds) fee agreements lawful.

Whilst this made the position in court clear, what is the position in arbitration proceedings?

In Hong Kong in the case of *Canonway Consultants Ltd v Kenworth Engineering Ltd*, Kaplan J held that whilst the English law of champerty applied in Hong Kong its boundaries excluded arbitration proceedings. In the course of his decision he said *if [champerty] were to apply in the present case, it would be extending champerty from the public justice system to the private consensual system which is arbitration.*

Therefore the position in Hong Kong is currently that contingency fee agreements (both conditional and percentage of proceeds) do not apply to arbitration proceedings. However, a recent decision in the United Kingdom may well change this position if the matter comes before the Hong Kong courts again.

The case is *Bevan Ashford (a firm) v Geoff Yeandle (Contractors) Ltd (in Liquidation)*. Bevan Ashford are a firm of solicitors. They had entered into an agreement with a contractor called Geoff Yeandle Ltd for the conduct of an arbitration. The agreement incorporated a conditional fee arrangement whereby Bevan Ashford would be paid their normal disbursements and normal fees if the

arbitration was successful and nothing apart from disbursements if it was not. This action sought a ruling from the court as to the legality the agreement.

Clearly if the case referred to court proceedings the agreement would have been valid in accordance with Section 58 of the Courts and Legal Services Act. However the judge concluded that Section 58 does not apply to advocacy services or litigation services in relation to proceedings that are not proceedings in court and therefore that it does apply arbitration.

Accordingly, the question that remained was that whilst the agreement would be a lawful enforceable agreement if entered into for the purpose of court proceedings, was it lawful for the purpose of the arbitration proceedings?

The judge firstly considered the question as to whether the law of champerty applied to arbitrations. The case of *Canonway Consultants Ltd v Kenworth Engineering Ltd* was considered but the judge did not agree with Kaplan J's decision that the law of champerty did not apply to arbitrations. He considered that if it is contrary to public policy for a lawyer to agree that if the claim fails he will be paid nothing but that if the claim succeeds he will receive a higher fee than normal it makes no difference whether the claim is prosecuted in court or in an arbitration.

# Feature

However whilst the judge concluded that the law of champerty does apply to arbitration, he nonetheless considered that the agreement was lawful.

In making this decision the judge recognised that the law against champerty was based upon public policy. However he considered that public policy must change with the passage of time and an arrangement or agreement held in the past to be champertous and consequently unlawful and void need not necessarily be so held today. He considered that if Parliament has declared that conditional fee agreements are valid and enforceable for the purpose of certain types of litigation then these conditional fee agreements are not only no longer contrary to public policy but are expressly sanctioned under Parliamentary authority.

On this basis he concluded that it would be quite impossible to argue that use of that same conditional fee agreement in arbitration proceedings would be contrary to public policy if it were not so for litigation.

The effect of this judgment in Hong Kong is interesting. Whilst it is quite possible that a Hong Kong Court may follow the decision that the law of champerty does apply to arbitration, the Courts and Legal Services Act does not apply here. Therefore would a Hong Kong court still consider that a conditional fee agreement was no longer contrary to public policy? I suspect not.

## Surveyors' Duty of Care

The details of the following 1998 court case in the UK (courtesy of a legal firm who produce a regular update from their Engineering and Construction Department), was kindly forwarded for the information of Surveyors practicing in Hong Kong by Mr Roger NISSIM, FHKIS, FRICS, 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 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 of 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.



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# Feature

## Petrol Filling Stations in the Urban Area

By Robin S Howes, FRICS, FHKIS  
Fire Safety Engineering Consultants Ltd.

The recent Government budget proposals to encourage the sale of some petroleum products by retail outlets reminded me of "the good old days" when a car driver could pull into the multi-storey car park at the Hilton Hotel and fill up with petrol. It seemed as if the Government was about to consider reviewing the locations of petrol filling stations (PFS) so that they would be located where people need them around, the large multi-use developments in the denser parts of the urban area. Could the future car owner fill up at the mall whilst his family went shopping.

Hong Kong is a land hungry city, the urban area is spreading rapidly and car ownership, whether the Government likes it or not, is most families aim. Are we to be stuck, therefore, with a continuing situation where the PFS is either remote from the built up area, in an industrial development or taking up valuable development sites in the urban area with small single storey buildings. Could they be located at road level (not necessarily ground level as more and more roads are elevated) in major developments and built over.

Initial investigation seemed to suggest not. The Fire Services Department (FSD) advises that as a result of the budget speech they are currently looking at the possibility of allowing the sale of petroleum related products in supermarkets but there seems to be no current provision to rethink PFS locations. But, given adequate safety precautions what is wrong with locating filling stations within some more categories of highrise building. In theory they could, the FSD currently issue "Standard Requirements for Petrol Filling Stations on Ground Floor of Industrial/Car Park buildings, so the concept of a PFS within a building" is extant, however there does seem to be resistance to locating them where people congregate.

The other point of reference for the FSD is The Institute of Petroleum, Marketing Safety Code, this is not particularly forthcoming on the location of a "service station" but is not "... intended to preclude the use of alternative designs, materials and methods where these provide equivalent standards of safety." This last phrase is, I think, the crux of the matter. The necessary requirements to allow PFS to be located within multi-use developments should be rationalised, possibly along current fire engineering lines, so a choice does exist.

With modern materials, building methods and means of extinguishment, safety standards can be achieved and maintained and the necessary requirements for separation, storage, ventilation, lack of ignition source, delivery, etc., can be codified. (The recent sad case of the Australian driver who ignited a petroleum firm when using his mobile phone in a PFS, highlights the fact that delivery, ventilation and control of sources of ignition are probably as critical as the use and construction of the building when considering these matters.)

Lets hope that the Government is forward thinking enough to encourage the Director of Fire Services to favourably consider the sale of all petroleum related products within our city environment and not to continue the blight of valuable sites on outdated "safety" grounds.



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