

Surveying news

Volume 9 Issue 11,
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Message from the President

CHINA VISIT

Mr Francis Ng

BEIJING

In mid-October, Mr. Lawrence Poon (General Council member) and I paid a visit to the Renmin University and the China Real Estate Valuers' Association. We had a good discussion on possible accreditation of surveying courses in the university and raised concerns on difficulties for surveyors setting up their business in the mainland. Although there were no instant solutions, representatives from the Renmin University agreed to pay a visit to Hong Kong to obtain firsthand information about the Institute and more details in the accreditation aspect. It was also agreed that HKIS and CREVA would maintain a closer link with a view of possible mutual recognition of professional qualification in the longer term.

Immediately thereafter, I joined the 'Coalition of Professionals' which was warmly received by Mr. Li Peng, Chairman of the Standing Committee of the National People's Congress (NPC) (全國人大常委會委員長李鵬). Mr. Li expressed high regard to the contribution of professionals towards the prosperity and stability of Hong Kong. He added that since the sovereignty over Hong Kong was taken back not long ago, there were still some novel aspects that needed to be accommodated.



From left to right: Prof. Yan Xing,
Mr. Lawrence Poon, President,
Mr. Francis Ng and Prof. Lin Zeng Jie



Mr. Li Peng, NPC Chairman, meeting with the President, Mr. Francis Ng on 19 October 2000, at the People's Community Hall

WESTERN DEVELOPMENT

After 20 years of reforms, there exists a wide variance of development between the eastern and western parts of China. The main reasons are that the eastern part is easily accessible and some cities are with good economic performance thus providing investment opportunities and attracting more talented people. Some eastern provinces do have rich natural resources and favourable climates. Although the western part comprises 56% of the total land area, population stands at 23% and GDP (生產總值) amounts to only 15% of the nation.

In the past two decades, major investment/development took place in the eastern part. Heavy resources have been pumped into these areas thus there is a common saying, 'Peacocks flying to the south-east' (孔雀東南飛). After rapid growth/development for a prolonged period, resulting in hefty increase in wages, high land prices, some natural resources begin to dry up (e.g. the coal mines at Tuoshun 托順). Also, production levels in certain aspects cannot be maintained. Another vital aspect is that apart from economic consideration, development of the western part will help to achieve a more harmonious relationship amongst various minority races.

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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 Hon. Editor at the office of the Institute before the 10th of each month.

Information & Contents
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PEN-PICTURE OF BUSINESS POTENTIALS IN VARIOUS PROVINCES

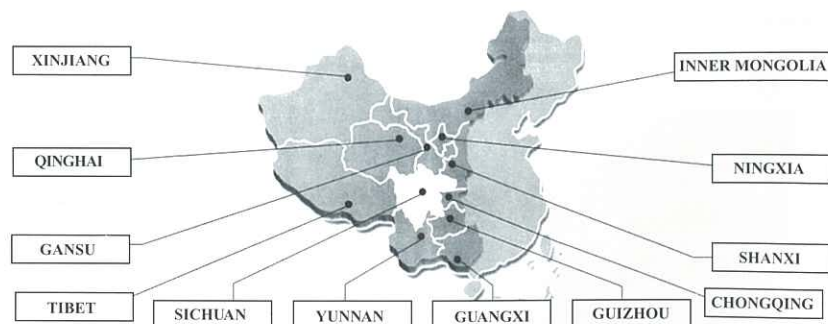
Province	Area (km ²)	Population (M)	Remarks
Xingjiang 新疆	1,660,000	17.00	One of the five major pasturing areas of the country.
Qinghai 青海	721,200	5.10	A main livestock-raising base. Currently over 230 million heads of livestock.
Gansu 甘肅	455,000	24.94	A center point of the ancient 'Silk Road'. Rich in minerals, oil and fuel.
Tibet 西藏	1,230,000	2.30	The biggest and highest plateau in China. Geothermal deposits (地熱蘊藏量) are ranked the first in China.
Sichuan 四川	485,000	84.93	Existing set up of major electronic and metallurgical industries. Major cities include: Chongqing and Chengdu.
Yunnan 雲南	394,000	40.42	A very popular province for tourists. Ideal place for plants. Rich in mineral resources.
Guangxi 廣西	236,000	46.33	Ditto. Output of sugar cane ranks first in China.
Guizhou 貴州	176,000	35.55	Abundant mineral, biological and hydraulic resources.
Inner Mongolia 內蒙古	1,100,000	22.32	Rich resources in agriculture, forestry and husbandry. The largest per capita arable land and forest area in China.
Ningxia 寧夏	66,400	5.45	Immense pasturing areas. Abundance in coal, petroleum and gas.
Shanxi 陝西	205,600	35.70	An important area for scientific research and education.

With a view to attracting investment in this part of China, in particular in research & development and technology innovation, a series of new policies/measures are being introduced. These include: commitment to gradually enlarge the opening up of services and trade; qualified enterprises will be allowed to be listed on stock markets A and B; procedures/formalities are simplified; laws and regulations will be further reviewed and

elaborated; tax reduction and preferential treatments etc.

With such a big area opening up, the trading/investment opportunities are immense. Should members/surveying firms wish to follow up with the details, they are welcome to visit the HKIS library where a full set of publications on investment items is available for reference purposes. ☐

PROVINCES SPEAK FOR THEMSELVES



Membership

CONGRATULATIONS TO THE FOLLOWING WHO WERE ELECTED AS HKIS MEMBERS ON 9 NOVEMBER 2000

FELLOWS (3)

BS DIVISION

PONG KAM KEUNG

QS DIVISION

CHENG WAI HUNG, NELSON

LUI CHI WAI

ASSOCIATES (4)

BS DIVISION

LOW YUNG KWOK

QS DIVISION

KEOWN, KEITH

PIPER, BARRY JOHN

WONG WING SUET

A
Very
Merry
Christmas
And A Happy
New Year

From the HKIS General Council and all the staff of the Secretariat Office

News from the Divisions

GENERAL PRACTICE DIVISION

Tony Tse, Chairman

ANNUAL GENERAL MEETING

The Annual General Meeting (AGM) 1999/2000 of GP Division will be held on 5 December 2000 at 6:30 p.m. at the newly completed Joint Professional Centre, Ground Floor, The Centre, 99 Queen's Road, Central, Hong Kong. Immediately following the AGM, we have invited Mr. P. C. Lau to brief us on matters affecting our profession. Coffee and tea will be served. All GP surveyors are urged to attend the AGM and our Council is most pleased to exchange views with our members regarding works to be attended in the coming years.

APC ASSESSMENT, AUTUMN 2000

The written examination of this year's APC was held on 9 October 2000. There were a total of 185 candidates attending the examination. At the time of writing this report, marking of most of the papers have been completed and successful candidates will be notified of the details of the Interview

Assessment, scheduled to be conducted in December 2000 soon.

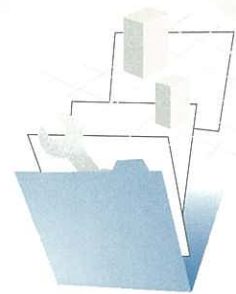
CPD EVENT

A CPD event on the Land Titles Bill will be organized on 7 December 2000 at the Hong Kong Polytechnic University. As you are aware the Bill proposes that the present deeds registration system be replaced by a land title registration system which will significantly alter the existing conveyancing practice of Hong Kong. We have invited speakers from the Land Registry who will explain the main features of the Bill and the benefits of the new system to our members. Details of the event will be distributed to our members soon.

VISIT OF SHANGHAI REAL ESTATE APPRAISERS ASSOCIATION

The Shanghai Real Estate Appraisers Association (上海市房地產估價師協會) is planning to visit Hong Kong during the

period from 4-14 December 2000 and HKIS GPD have been asked to assist in organizing the itinerary. A Working Group, chaired by Mr. Alex Lam, will be attending to the matter. It is proposed that a seminar relating to land and valuation practice of Hong Kong and Shanghai be organized, tentatively scheduled on 5 December 2000. The current visit to Hong Kong follows our visit to Shanghai early this year. Our Council welcomes more contact with the valuation organizations of the Mainland, which will no doubt enhance our status in the Mainland and also enable people in the Mainland to be more familiar with the scope of professional services provided by GP surveyors. During their stay in Hong Kong, visits to government departments and private practice surveying firms will also be organized, so that they will have a better understanding of our practice in Hong Kong. ☐



Building SURVEYING Division

APC

November is actually an exciting month for the Building Surveyors. Some are very busy in preparing the APC examination, either for themselves or for their colleagues. Some are busy in preparing the examination paper and lining up assessors for the examination. May we send our sincere wishes for the success of all the candidates, and thank those working hard to make the examination happen, including the assessors, and the Board of Education. This is actually a tough task, not only for the candidates but also for those arranging the examination. It also demonstrates in one of the many aspects that Building Surveyors are highly professional and committed to their profession.

AGM

After an exhausting November, we will have our AGM and the Annual Dinner on 1st December 2000. Please mark your diary. In addition, we have also arranged 2 visits in December. A visit to the Medical Building of HKU and a visit to the International Finance Centre.

Lastly, may we wish you a merry Millennium Christmas!

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Date : 15 -16 January 2001, Hong Kong
Speaker : **Andrew Leicester**, Project Management, Training & Development Consultant, Australia
- Course 3** **Design and Construction Liability in Construction**
Date : 15 - 16 January 2001, Hong Kong
Speaker : **Professor Anthony Lavers**, Professor of Law, The Oxford Centre for Real Estate Management, Oxford Brookes University, U. K.
- Course 4** **Causes and Cures for Indoor Air Quality (IAQ)**
Date : 5 February 2001, Hong Kong
Speaker : **Peter Williams**, Head of Property and Construction, University of Melbourne, Australia
- Course 5** **Appraisal and Rectification of Building Defects**
Date : 5 - 6 February 2001, Hong Kong
Speaker : **Stephen Pullen**, Technical Consultant for Building Materials/Products Failure and Testing, Australia.
- Course 6** **Deep Excavations**
Date : 5 - 6 March 2001, Hong Kong
Speaker : **Chris Harnan**, Former Group Operations Director and Deputy Managing Director, Bachy Soletanche Ltd. U. K.

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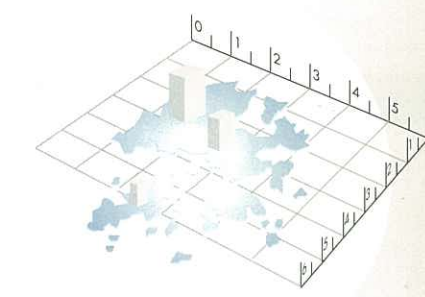
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LAND SURVEYING DIVISION

CHAIRMAN'S REPORT 1999/2000

WONG Chung-hang, Chairman

The 1999/2000 Land Surveying Division council year has been dominated by three main issues, namely the Guidance Notes for Land Boundary Surveys, the Land Titles Bill and the proposed corporatisation of the Survey and Mapping Office.

As a result of the Boundary Survey Advisory Committee's concerted and dedicated efforts, the final draft of the Guidance Notes for Land Boundary Surveys has been completed. It is a thoughtful piece of work. However, we still want members to comment. Verbal or written, crude or refined, does not matter. The Guidance Notes has achieved its purpose of setting out the basic survey principles and requirements for conducting land boundary surveys in Hong Kong.

The Institute is of the view that the proposed land titles registration system is not complete if it is not supported by land boundary plans delineating clearly and accurately the boundaries of registered land parcels. The Institute had written to the government in August proposing that any instrument effecting the transaction of land parcels be attached with a land boundary plan prepared by an authorised land surveyor registered under the Land Survey Ordinance. Unless there are alternative measures taken by the government, we are of the view that our proposal will better protect the interests of the landowners.

To assess the effects that the corporatisation of Survey and Mapping Office would have on the provision of land surveying services to the community, the LSD Council with the endorsement of the General Council set up a working group in April. The Working Group studied the government's consultancy report on the feasibility of the corporatisation of SMO and submitted its comments to the Executive Committee in July. The Hon Secretary and three LSD members attended the Lands Department's briefing on the corporatisation proposal and raised the Institute's concerns. The subsequent correspondence with the government has also expressed adequately the views of the Institute. Basically, we are trying to pursue the government's continuous impartiality, maximum support and minimum intervention, and financial prudence.

Regarding the LSD internal affairs, I am pleased to report to you that we had a fruitful year again. The overwhelming participation in all the functions organised by the LSD Council such as the Continuous Professional Development events and the annual dinner was very encouraging. In January, we received the immediate past president of the Institute of Surveyors, Australia, at our New Millennium CPD lunch. Another important event was the technical visit

to Macau in May. This visit not only allowed us to have an on-the-spot experience to know more about their survey and land registration systems but also gave us the opportunity to build up friendship with our counterparts in Macau.

In April, I joined the HKIS delegation to the 2000 Mainland and Hong Kong Conference on Urban Construction and the Environment in Chongqing and presented a paper on the Hong Kong Land Information System. In collaboration with the Hong Kong Polytechnic University and the Hong Kong Institution of Engineering Surveyors, HKIS participated actively in organising the 3rd Across-the-Strait Geomatics Conference to be held in December.

Through the HKIS International Committee, the LSD maintains close contact with the Asean Federation of Land Surveying and Geomatics (AFLAG). The General Council has approved that the Institute should become a member of the AFLAG. In fact, we are going to host the 7th South East Asian Survey Congress in Hong Kong in 2003, which is an AFLAG activity and is the most important land surveying event in the region.

Lastly, I would like to thank all those who have volunteered to work so hard for the LSD and the Institute. I wish you all a prosperous year in 2001.

GUIDANCE NOTES FOR LAND BOUNDARY SURVEY

The deadline for commenting on the "Guidance Notes for Land Boundary Survey", prepared by the Boundary Survey Advisory Committee (BSAC), has been extended till the end of this year.

Your written comments should reach the Secretary for BSAC, Ms Rina Tsoi, c/o HKIS office at Suite 510, Jardine House, 1 Connaught Place, Central, Hong Kong, or via fax: 2868 4612, on or before 31 December 2000.

LSD ANNUAL DINNER 2000

Lam Lik Shan, Lesly

One of our major events in the new millennium, the Land Surveying Division (LSD) Annual Dinner 2000, was successfully held on Friday, 20 October at the Sheraton Hong Kong Hotel. The Dinner attracted more than 100 people, including members, vendors, guests, consultants, academics, etc. who got together to enjoy an absolutely fabulous evening.

In the opening address, our Divisional Chairman Mr. WONG Chung-hang warmly welcomed everyone for coming to the dinner. He briefly mentioned our activities in the past year, e.g. CPD lunch and events, international conferences, technical visit to Macau, etc., and noted that members' active participation has been encouraging. Members were also invited to attend

the upcoming 3rd Across-the-Strait Geomatics Conference being held here in Hong Kong in December.

As a start to the dinner, a lucky person from each table was awarded a souvenir by "lucky hand". Enthusiastic hotel staff then served up the delicious meal, one course at a time. As in past annual dinners, there were the exciting lucky draws for people to take part in. Together with the appetizing food on the table, they have undoubtedly provided the incentives and substance for a fun filled evening enjoyed by all.

LSD Council members later proposed a toast and we all drank to our good health and fortune.

The LSD Annual Dinner 2000 indeed provided a good opportunity for synergy among the experts, professionals, executives and managers from the land survey-related organisations and other business or professional communities. More importantly, it has served to bond members together. We thank you for your support and sincerely hope to see you next year. ☺



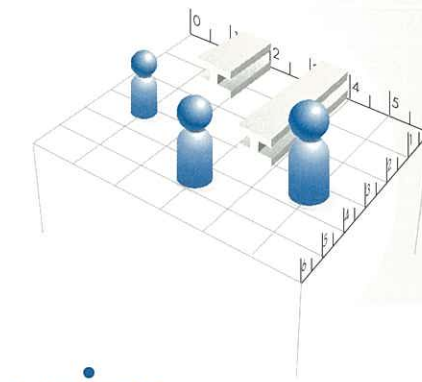
Opening address by Mr. WONG Chung-hang,
LSD Chairman



Cocktail reception



Good health and fortune!



QUANTITY SURVEYING DIVISION

TT Cheung, Chairman

After 2 years of service, my term of office as Chairman will soon come to an end. I sincerely hope the incoming Council would continue to work hard in serving our members.

AGM

The QSD AGM will be held on 4 December 2000 at the World Trade Centre Club at World Trade Centre, Causeway Bay. Nomination forms for the new QSD Council have been sent to members.

APC 2000

An assessors' dinner meeting was held on 3 November 2000. Thank for your support as assessors.

PRC

QSD will send a delegate to Beijing for the 2nd Organizing Committee meeting on 2001 International Cost Conference and to attend the Cost Conference jointly organized by the Works Bureau and the Ministry of Water Resources to be held on 14-15 Dec 2000.

DIRECT PROFESSIONAL ACCESS TO BARRISTERS

The DPA has finally been confirmed by the Bar Council. We will organize a CPD to explain in detail the concept and operational aspects of the DPA and hope that members can benefit from the alternate route that is now available to surveyors.

HKIS QSD WEBSITE

QSD has designed a website for members and hope that when it is fully developed in the future, it will benefit members. Your views are welcomed. The address is <http://www.hkisqsd.com> ☺

LETTER OF CONCERN

Dear Sir/Madam,

I would like to report to you an interesting observation about the Practical Task of BS Division this year.

As I know, a candidate named "X", who is a Building Safety Officer of the Buildings Department since 1 August 2000, was assigned to an assessment panel with one of the assessors being a senior officer of the Buildings Department.

I am quite concerned that this arrangement would cause unfairness to other candidates.

Please make any necessary adjustment to reflect "X's" performance.

Best regards,

Anonymous
14 November 2000

REPLY TO THE LETTER

It is always the concern to avoid any possible conflict of interest in the Assessment of Professional Competence. In the exercise of the Practical Task assessment, which involves almost 150 candidates and 100 assessors this year, the list of candidates was circulated to assessors so that they could declare any conflict of interest before assessment panels were assigned.

The identified candidate joined the Buildings Department on 1 September 2000 (not 1 August 2000 as alleged) and was posted to a particular section. The assessor who is "a senior officer of Buildings Department" works in another section. The assessor does not know the candidate and there is no works relationship between them personally. There is therefore NO conflict of interest.

For the final assessment of candidates whose mainstream practice is building control, inevitably a senior officer of the Buildings Department will chair the assessment panel. The conflict of interest aspect will be vigorously checked. The mere "working in the same organisation" does not necessarily constitute a conflict of interest.

Any person has a right to file in a complaint but please come clear and identify yourself, and please do not 以小人之心度君子之腹.

Barnabas H K Chung
Chairman, Building Surveying
Divisional Education Committee ☺

APPOINTMENTS TO THE ESTATE AGENTS AUTHORITY

Mr Augustine WONG Ho-ming had been re-appointed to the Estate Agents Authority (EAA) for a term of two years with effect from 1 November 2000.

TPB DISCUSSES REZONING OF INDUSTRIAL LAND

The Town Planning Board (the Board) announced on 27 October 2000 that it has agreed in principle the rezoning of about 212 hectares of industrial land to "Business" or other non-industrial uses to meet the changing economic needs of Hong Kong.

The decision was made after considering the major findings of the "Area Assessments of Industrial Land in the Territory" (the Assessments) undertaken by the Planning Department to follow up on the department's earlier review of industrial land reservation and provision. The Assessments aim at assessing the suitability of rezoning surplus general industrial land with regard to such factors as local setting, surrounding developments as well as traffic, environmental and infrastructural considerations.

In the Assessments, a balance has been struck to minimize disruption to economic activities and employment in established and vibrant industrial areas. Newer and more vibrant industrial areas, which are mostly in the New Territories, are therefore recommended for retention.

Of some 504 hectares of industrial land assessed, 165 hectares have been identified as suitable for rezoning to 'Business' use and 47 hectares for rezoning to other non-industrial uses including residential. For the remaining 292 hectares of land to be retained for industrial use, about 124 hectares and 168 hectares are in the Metro

Area and the New Territories respectively.

Selected sites in Kwun Tong, Kowloon Bay, Hung Hom, San Po Kong, Cheung Sha Wan, Wong Chuk Hang, Chai Wan, A Kung Ngam, Kwai Chung, Tsing Yi, Shek Mun and Tai Po are examples of areas proposed for rezoning to 'Business' uses.

The 'Business' zone is primarily for general employment uses. Its intention is to allow maximum flexibility in the use of the existing industrial and industrial-office buildings as well as in the development of new buildings for both commercial and clean industrial uses.

The Board has only agreed in principle to the broad land use proposals of the Assessments. Detailed site-specific rezoning proposals will be submitted to the Board for consideration on the basis of individual Outline Zoning Plans, and the agreed amendments to the relevant plans will be gazetted for public inspection in accordance with the provision of the Town Planning Ordinance in due course.

Meanwhile, applications for commercial and other office uses under the existing "Industrial" zones will continue to be considered by the Board on individual merits.

PRIVATE RESIDENTIAL PROPERTY TRANSACTIONS IN OCTOBER

According to statistics published by the Land Registry on 4 November 2000, the total number of sale and purchase agreements for all building units received for registration in the Land Registry in October 2000 was 7,562. This figure includes both domestic and non-domestic properties.

The number of transactions in the private residential property market in October in fact showed a small increase from the

previous month. The number of private domestic transactions registered was 6,239 with a total value of \$17.4 billion. This represents an increase of 2.5 per cent in the number of transactions registered and of 16 per cent in total value over September.

In September, there were 6,087 transactions involving private domestic units with a total consideration of \$15 billion.

All figures exclude transactions of subsidised units for sale under the Home Ownership Scheme and the Private Sector Participation Scheme.

TWO PRE-SALE CONSENTS ISSUED IN OCTOBER

The Lands Department issued two consents for the sale of 2,079 residential units in two uncompleted development projects in October.

The projects, located on Hong Kong Island and in Tseung Kwan O, are estimated to be completed in May 2002.

At the end of October, there were 16 applications for pre-sale consent involving a total of 7,694 residential units across the SAR. The units are expected to be completed between December 2000 and June 2003.

In addition, there were four applications for pre-sale consent concerning commercial developments in Kowloon.

Applications for consent to assign being processed included two residential projects involving a total of 3,705 units in Kowloon.

BUILDING PLANS APPROVED IN SEPTEMBER

The Buildings Department approved 24 building plans in September — 8 on Hong Kong Island, 5 in Kowloon and 11 in the New Territories. The approved plans covered 14

for apartment and apartment/commercial developments, 2 for commercial developments, 1 for factory and industrial developments, and 7 for community services developments.

In the same month, consent was given for works to start on 20 building projects, which will provide on completion 152,990 square metres of usable domestic floor area and 220,577 square metres of usable non-domestic floor area.

The department also issued 22 occupation permits — 2 on Hong Kong Island, 5 in Kowloon and 15 in the New Territories. Of the buildings certified for occupation, the usable floor areas for domestic and non-domestic uses were 175,391 square metres and 57,242 square metres respectively. The declared cost of the new buildings completed in September totalled about \$5.037 billion.

In addition, 9 demolition consents involving 9 buildings and structures were issued.

The department received 1,150 complaints against unauthorised building works in September, and issued 221 removal orders on unauthorised works.

AUTHORITY CHAIRMAN DETERMINED TO ENHANCE HOUSING QUALITY

The Chairman of the Housing Authority, Dr Cheng Hon-kwan, said on 16 November 2000 that he was determined to enhance building quality through the full implementation of the 50 recommendations on quality reforms.

Dr Cheng said the Authority has been under great pressure from building incidents in the past year. One of his three major objectives as the Chairman of the Authority was improving building quality.

Speaking at his inaugural meeting of the Housing Authority, Dr Cheng said the Authority would try its best to promote the partnering spirit with its partners and reinforce its works supervision. "We will also look into the recommendations on enhancing the standard of the industry to be put forward by the Construction Industry Review Committee."

"I am sure that as long as we make concerted efforts and work together with an open mind, we will be able to restore public confidence in us very soon," he added.

Dr Cheng went on to suggest that promoting staff morale and implementing housing strategies were his other major objectives.

Assuring that the staff's well being will be taken care of in the interests of society, Dr Cheng also called on the management to maintain close contact with staff associations and strengthen communication with colleagues so as to increase the transparency of the operation of the Authority and the Housing Department.

"We have a lot of talented and capable people in the Housing Department who are well-experienced and full of creative ideas. We have colleagues who work very hard for the Department and the public, often unnoticed, even when we are in difficult straits," he said.

On housing strategy, Dr Cheng said the Authority will implement the initiatives to reduce the average waiting time for public rental housing (PRH) flats to three years by 2003, reduce partially the production of subsidized home ownership flats and replace them by an equivalent number of loans, increase the supply of PRH for the elderly in need, review the design of flats for the elderly and consider the use of rental

subsidies to satisfy the housing needs of prospective elderly tenants.

At the meeting, members of the Authority also approved a more flexible housing production mix from 2004/05 onwards.

In future, all housing projects of the Authority (excluding Private Sector Participation Scheme) will be classified into two broad groups according to their locations, commitments for rehousing, financial viability and relevant policy considerations, instead of being grouped under PRH or home ownership scheme (HOS) rigidly.

Group 1 projects, being the main stream, will comprise projects to meet three types of rehousing demand arising from redevelopment of old PRH estates and Government's clearance operation, offering flats to PRH applicants on the Waiting List or sitting tenants applying for transfers, and offering for sale as HOS.

Group 2 projects, primarily for sale, will be confined to those strategic locations which demonstrate promising development potential.

A production mix of 80/20 between Group 1 and Group 2 projects has been set between 2004/05 and 2007/08. This will be reviewed annually when the Authority rolls forward its production programme to match the land supply pattern.

Building standards of Group 1 and Group 2 projects will be pitched at prevailing Harmony and New Cruciform Blocks respectively while non-standard building designs will be more frequently used where appropriate to enhance estate identities. Development costs of new housing projects will be close to those of standard blocks. ■



Q&A IN THE LEGCO CHAMBER

SEPARATE COLLECTION AND RECYCLING OF WASTE

The following is a question raised by the Hon. Sophie Leung and a written reply by the Acting Secretary for the Environment and Food, Mr Paul Tang, in the Legislative Council meeting on 25 October 2000:

QUESTION:

Regarding the separate collection and recycling of household waste, will the Government inform this Council:

- (a) of the progress made in the past three years in promoting such practice; and
- (b) whether it has considered requiring future residential developments to set aside space for separating household waste; if so, of the details; if not, the reasons for that?

REPLY:

(a) Promoting separation and recovery of household waste is a key component of our waste management system. Major publicity and education programmes have been launched since 1998 to arouse public awareness on waste separation and recovery. In addition, the following actions have been taken:

- (i) All the 189 public housing estates are now provided with waste separation bins for waste paper, aluminium cans and plastic bottles. Over 480 private housing developments have also implemented waste recovery programmes. By now, more than 3,100 sets of separation bins have been placed in these housing developments.

- (ii) A waste separation and recovery programme has also been launched in primary and secondary schools in 2000. About 400 schools have participated. We plan to extend the programme to cover all schools before 2003.

- (iii) We have been collaborating with environmental groups, community organizations and District Councils to carry out pilot projects to experiment with different waste separation and recovery systems.

- (iv) We are also working with various departments to further improve waste separation and recovery in Government buildings and public places.

- (b) The Legislative Council passed the Buildings (Amendment) Ordinance on 14 June 2000. The Ordinance requires, among other things, mandatory provision of space for the separation of waste and material recovery in new buildings. For residential buildings, large refuse storage chambers are required to allow for material recovery activities. As a further incentive for developers, the Building Regulations have also been amended, such that refuse storage and material recovery rooms provided on individual floors will not count towards the calculation of permissible gross floor area. The new legislation will be effective on 1 November 2000.

TO ASSIST PROFESSIONAL BODIES TO EXPLORE OPPORTUNITIES

The following is a question raised by the Hon. Eric Li and a written reply by the acting Secretary for Commerce and Industry, Miss Yvonne Choi, in the Legislative Council on 1 November 2000:

QUESTION:

Will the Government inform this Council:

- (a) of the human, financial and other resources deployed over the past year for assisting various local professional bodies in exploring development opportunities outside Hong Kong; and
- (b) whether, in the light of the imminent accession of China to the World Trade Organisation (WTO), it plans to designate a bureau to provide support to various professional sectors in exploring business opportunities in the Mainland; if so, of the manner of the support and the budgeted resources in the coming year; if not, the reasons for that?

REPLY:

- (a) Over the past year, the Hong Kong Trade Development Council (TDC) has organised, in collaboration with relevant bureaux or professional bodies, a series of activities to promote our professional services to markets outside Hong Kong. The TDC has also conducted a number of research studies on markets outside Hong Kong that are relevant to the local professional sectors.

In order for Hong Kong to leverage on the opportunities arising out of China's

accession to the WTO, in the past year the Financial Secretary's inter-departmental group has maintained a close dialogue with relevant authorities in the Central Government to understand the detailed arrangements for and progress of market liberalisation in the Mainland. Under the steer of this group, relevant bureaux and departments have taken proactive actions to liaise with various professional bodies and practitioners, informing them of the direction, pace and scope of liberalization in the Mainland to enable them to grasp the earliest opportunity to expand their business there. At the same time, the group has reflected to relevant authorities in the Central Government the difficulties encountered by Hong Kong's professional sectors as well as their views on future business prospects in the Mainland.

In addition, the Government has put in great efforts to remove trade barriers and open up overseas markets for local professional sectors. In the past year, a dedicated team on multilateral negotiations on trade in services in the Trade and Industry Department (TID) has actively participated in negotiations on market access and improvement to rules for global trade in services. The team has consulted 28 local professional bodies on the WTO's initiative to develop disciplines on the qualification and licensing requirements of professional service providers. TID has also, in co-operation with other members of the Asia-Pacific Economic Co-operation (APEC), compiled a directory containing information on the regulatory requirements for professional services in each APEC member economy for reference by our professional service providers.

As listed above, various bureaux and departments as well as the TDC have deployed resources to assist local professional bodies to develop markets outside Hong Kong. We have not, however, collated data specifically for the professional sectors that quantify the human, financial and other resources spent over the past year in supporting them.

- (b) The Government has no plans to designate a bureau to provide support to all professional sectors in exploring business opportunities in the Mainland. As different professional sectors have different requirements for their business operation and regulation, it is more appropriate to let the concerned bureaux and departments provide support to individual professional sectors with which they are familiar.

As regards supervision and co-ordination, in addition to the inter-departmental group mentioned in Part (a), the Services Promotion Strategy Group, chaired by the Financial Secretary and comprising businessmen, academics and senior government officials, will continue to monitor efforts made by various bureaux and departments in supporting the professional sectors to develop markets in the Mainland. Where necessary, the Strategy Group will make recommendations to the Financial Secretary for improvement. The Commerce and Industry Bureau will continue to be responsible for the co-ordinating function. ■



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HONG KONG AUSTRALIA PHILIPPINES

QUANTUM MERUIT CLAIMS

John B Molloy, LLB (Hons), BSc (Hons), FHKIS, FRICS, FInstCES, MCI Arb, RPS (QS)

In recent articles we have looked at the valuation provisions in most standard forms of contract. However there are situations where the valuation provisions are not applicable and the contractor's works have to be valued on the basis of 'quantum meruit'. But what does this really mean? When would such a claim be applicable, and how should it be assessed.

The recent case of **Serck Controls Ltd v Drake & Scull Engineering Ltd (May 2000)** may give some assistance in this respect.

But first, some basics. The term 'quantum meruit' literally means 'as much as he has earned', but it is often used synonymously with the term 'quantum valebant' meaning 'as much as it is worth', and it is these two quite different assessments that were the subject of dispute in the Serck Controls case.

There are three common situations in the construction industry where a quantum meruit claim is applicable. These are:-

1. Where a contract is entered into without an agreement as to how the works will be paid for.
2. Where the contract expressly provides that the contractor will be paid a reasonable price.
3. Where works are done at the wish of one party before a contract is entered into.

This third situation is perhaps the most common and usually occurs where a contractor commences work after receiving a letter of intent, but then subsequently the contract is never signed.

A further situation where a quantum meruit claim may be made is where the contractor carries out works that are substantially different to what he was originally required to do. This type of claim is predictably very popular with contractors who argue that changed circumstances, such as ground conditions, have meant that the works that they are now carrying out are substantially different to those they contracted to do, and on this basis they are entitled to be paid on

a quantum meruit basis. Such a claim is however extremely difficult to succeed with because it is rare for the different conditions to be sufficient to make the works substantially different to those contracted for.

But assuming a quantum meruit claim is valid in principle, how should it be assessed? This was the question before the court in the above-referred Serck Controls case.

In this case, Serck carried out design and installation work for control systems forming part of the construction of a nuclear research facility for British Nuclear Fuels Limited. Drake & Scull Engineering Ltd were responsible for the mechanical and electrical installation of which the control systems were a part.

On 1 December 1994 Drake & Scull issued a letter of intent to Serck Controls. In common with many letters of intent the letter went beyond simply being a statement of intention and also contained instructions to proceed with the works.

The letter included the following provision:

"In the event that we are unable to agree satisfactory terms and conditions in respect of the overall package, we would undertake to reimburse you with all reasonable costs incurred, provided that any failure/default can reasonably be construed as being on our part".

At a preliminary hearing it was established that the parties had reached no formal contract beyond the letter of intent.

However in negotiations there was agreement as to the price and scope of the works, but not as to the programme or terms and conditions.

It was common ground therefore that Serck Controls was entitled to be paid on a quantum meruit basis, and the purpose of the trial was to ascertain what was a reasonable sum.

The court considered three main points:-

1. **Was a reasonable sum Serck's reasonable costs incurred in executing the works carried out, or was it the value of the works to Drake & Scull?**

The barrister for Drake & Scull contended it should be the value of the works to his client, and he drew reference to Hudson's Building and Engineering Contracts, 11th Edition at paragraph 1.264 where the author said:

"the resulting obligation of the defendant is not to pay a reasonable price or remuneration based on cost, but to reimburse for the value of the advantage, if any received by the defendant".

However in this situation the court did not accept this approach. It considered that a quantum meruit claim could arise in a wide range of circumstances. At one extreme was an express contract to do work at an unquantified price which would be valued on the basis of a reasonable price, whilst at the other extreme was an uninvited intruder who carries out works which benefit the recipient and which it would be unjust to retain without making payment where the assessment must be value to the defendant.

Here the court held the situation was clearly at the former end of the range and Serck's reasonable costs was the correct measure.

2. **Was the 'agreed' tender price relevant in assessing the sum?**

No, the court held it was not a starting point to be used to assess the reasonable sum because that would treat it as a contractual term, which it was not. The sum could be used as a check but no more.

3. **Is the conduct of the party relevant in a quantum meruit claim?**

The court held that a party could not claim payment for extra time, which was its own fault, or for its own defective works.

Accordingly, if a contractor's claim for payment on a quantum meruit basis is valid in principle the answers of the court in this case should provide some guidance as to how the quantum of the claim should be assessed. ☐

內地的近期發展

林清錦 郭靖華 工料測量組內地小組

這一期繼續前一期關於新的示範文本的問題。

問：關於施工組織設計和工期應注意哪些問題？

答：施工組織設計和進度計劃，可以是投標文件的組成部分，也可以是合同的組成部分。承包人應依其進行施工，工程師對此進行檢查、監督。為了避免施工組織設計和進度計劃是否合同的組成部分有爭議，最好能夠在合同中明確確認一下。確認後，對雙方都有好處，以後追究責任有依據。根據它，可以知道合同的履行是按照怎麼一個既定的施工方案履行的。

問：施工組織設計應包括哪些文件？

答：應包括：各分部分項工程的完整的施工方案，保證質量措施；施工機械的進場計劃；工程材料的進場計劃；施工現場平面佈置圖及施工道路平面圖；冬、雨季施工措施；地下管線及其他地上、地下設施施工的加固措施；保證安全生產、文明施工、減少擾民降低環境污染和噪音的措施等文件。

問：施工組織設計和工程進度計劃的關係？

答：工程進度計劃是以分部工程作為施工項目劃分對象，控制各分部工程的施工時間及分部之間互相配合，搭接關係的一種進度計劃。計劃與設計應當適應，兩者都是組成投標文件的重要部分，在施工過程中，承包人必需按照施工組織設計和工程進度計劃組成施工，在客觀情況變化時，可以修改進度計劃。

示範文本中還規定了進度計劃的提供和確認程序性的條款內容。《合同法》中規定，發包人可以隨時檢查作業進度，所以，示範文本中也規定了工程師對進度檢查、監督的權利。

從有關條款的規定，當工程進度與經確認的進度計劃不符時，而此不符並非承包人的責任，承包人如按工程師的要求執行改進措施，可以提出追加合同價款。

問：開工及延誤開工條款適用中應注意的問題？

答：建設工程的開工時間是《合同法》規定

施工合同包括的主要內容。因此，在施工合同《協議書》內雙方約定了開工日期，發包人和承包人都必嚴格履行。由於建設工程涉及的面廣，往往有一些預想不到的因素，影響按約定的日期開工，需要在施工合同內設置延期開工條款。

在遇到因發包人和承包人的原因需推遲開工日期，雙方應按合同約定的程序通知對方，還要考慮是否要順延工期，以及因一方推遲開工日期，給對方造成損失的賠償責任。在此處，發包人要求推遲開工日期，只需通知承包人，而承包人要求順延則必需征得發包人的同意。兩種情形下都存在損失賠償責任的問題。

問：通用條款中暫停施工的有關規定？

答：工程師要求暫停施工，應以書面形式提出，並且在提出要求後48小時內提出書面處理意見。承包人應停止施工，並妥善保護已完工程。本條款對於暫停施工是有較嚴格的程序要求的。

對於造成暫停施工的責任，對發包人和承包人的規定不同：因發包人原因造成停工的，由發包人承擔三種責任：

- 1) 追加合同價款；
- 2) 賠償承包人由此造成的損失；
- 3) 相應順延工期。由承包人承擔：因暫停施工而發生的費用；工期不予順延。

問：通用條款中工期延誤的有關規定？

答：通用條款中規定了順延工期的七種情形。這些情況可分成兩類：

- 1) 發包人和承包人共同約定的情形；
- 2) 工程師同意的其他原因。

問：示範文本中關於工程竣工的規定與91年本有什麼不同？

答：91年本中有“工期提前”條款，該條款規定甲方應支付於乙方的獎勵金額和計算方法。鑒於一些建設工程盲目搶工期，造成嚴重的質量隱患和事故，故在示範文本中取消。但，某些特別情況下，發包人要求承包人提前竣工，雙方

應簽定提前竣工協議。發包人需提供某些條件及追加合同價款。

建設工程竣工時間是雙方約定的，發包人都應嚴格遵守，承包人都應按期竣工是要承擔違約責任的。

問：對示範文本中關於工程質量的規定有那些建議？

答：現有的工程質量條款還不夠，例如驗收質量責任以及賠償的質量責任。依《合同法》和《質量管理條例》的規定，以後的施工工程質量驗收由建設單位組織檢收(以前是質檢站)，也就是由發包人決定這個工程是否合格，依照什麼標準來執行？需要雙方明確。所以，應該在合同中明確決定工程質量的標準。

全面質量管理問題：依《建築法》第80條，“在建築的合理使用壽命內，因建築工程質量不合格受到損害的，有權向責任者要求賠償”。責任者如何斷定？當事故發生時，雙方都應用證據來證明自己這方沒有責任。這時有一個良好的資料管理，平時就落實掌握證據就會起很大的作用。

問：通用條款中關於“檢查和返工”的規定？

答：發包人對作業進度、質量進行檢查須以不妨礙承包人正常作業為前提，但是，雖影響正常施工，但檢查檢驗不合格時，影響正常施工的費用由承包人承擔。

工程質量達不到標準，承包人需承擔工程師要求拆除和重建的費用，工期不予順延。

問：通用條款中關於合同價款與支付的規定？

答：工程價款部分是整個合同權利義務關係的中心，《合同法》第286條規定了施工單位在發包人未支付(合同價款)工程款的情形下，可以就工程折價、拍賣的價款優先受償。

問：在工程合同價款中應注意的問題？

答：提請發包人注意的是通用條款中工程預付款和工程進度款的規定，尤其是工程進度款。

現在工程承包合同里面幾乎沒有工程預付款，依建設部印發的《建設工程施工發包與承包價格管理暫時條例》應“堅持實施預付款制度”。預付款甲方不按規定支付，乙方可以停止施工，這是《合同法》給予乙方後履行一方的抗辯權。

工程進度款與結算款是兩個概念。工程進度款取決於工程完成的量，因此，也就產生工程款的計量和確認。工程量指已完成的，可以付款了，如果進度款正常，到最後就算付款拖欠也不會太嚴重。所以提請注意抓緊中間結算，是解決嚴重拖欠工程款的出路。

問：與91年本相比示範文本中工程變更的規定有何變化？

答：91年本中叫“設計變更”；示範文本中由“工程設計變更”、“其他變更”以及“確定變更價款”三部分組成。

新增“其他變更”條款，由雙方協商解決，合同履行中發包人要求變更工程質量標準及發生其他實質性變更。

發包人要求變更工程時，承包人必須變更，並進行工程變更需要的附加工作。因變更導致合同價款增減及造成的承包人損失，由發包人承擔，延誤的工期相應順延。

問：示範文本中關於工程質量保修的新規定？

答：應簽訂質量保修書，在工程竣工驗收之前，作為合同的附件。當然也可以把工程質量保修書的內容直接列入合同條款。

依《質量管理條例》第16條地基基礎和主體結構在整個合理使用的壽命期保期。屋面防水工程，有防水要求的衛生間，房間和外牆面的防滲漏，為5年等等的最低保修年限。(法定最低保修年限，具體保修期限由雙方約定)。

其他項目的保修期限由發包人與承包方約定，這一約定，在招投標過程中就達成。

問：違約、索賠和爭議的規定有何變化？

答：91年合同文本中規定工期提前給予獎勵，延期要罰款；示範文本取消罰款的規定(不平等、行政色彩)，而取代以“違約責任”。

原索賠條款較簡單，而工程索賠制度是國際承包工程的慣例，本參照國際通用施工合同文本，比較完善地約定了處理索賠事件的程序。

問：專用條款的性質？

答：由於建設工程的單件性，每個具體工程都有一些特殊情況，如工期和造價不同，承包及發包人各自的實力、施工現場和環境和條件不同，《通用條款》不能完全適用於各個具體的工程，因此配之以《專用條款》供雙方結合具體工程情況協商取得一致意見後，對其作必要的修改和補充，在《專用條款》中加以規定。

雖然專用條款是發包人和承包人約定的，但并非是完全任意的。應以下列內容為依據：

1. 法律、行政法規：即雙方在談判合同具體條款時，不能

違反法律、行政法規的規定。只能在法律、行政法規允許的範圍內進行，不能超越法律、行政法規允許的範圍這行談判。如果訂立與法律、行政法規相抵觸的合同條款則屬於無效合同條款。

2. 投標文件和中標通知書：招標工程必需依據投標文件和中標通知書訂立書面合同。

3. 《通用條款》：《通用條款》內需要在《專用條款》具體約定的內容，在談判時，都要依據《通用條款》逐條談判約定。☞

Leisure



文字趣談

吳恆廣

在日書信往來、報章、雜誌及刊物中，我們經常看到形體重疊的字，如：林、圭、炎、喆、羽、棗等。但如果本身是一個獨立字，再重複兩次，構成另一個字，例子並不多。筆者稍為搜羅，找出二十個給各位介紹一下：

- 轟 - hong (1)象聲詞；(2)驅逐的意思。
- 蟲 - chong 指昆蟲或類似昆蟲的小動物。
- 焱 - yan 火花、火焰。
- 鑫 - xin 商店字號、人名敘用的字，取興盛的意思。
- 毳 - cui (1)鳥獸的細毛；(2)「毳毛」就是「寒毛」，即人體皮膚的細毛。
- 晶 - jing (1)光亮；(2)水晶的簡稱。
- 犇 - ben 同「奔」字。
- 品 - pin (1)物件；(2)等級、種類；(3)性質。
- 森 - sen 樹木眾多。
- 亘 - yao 山高。多用於人名。
- 姦 - jian 性犯罪行為。
- 矗 - chu 筆直。
- 淼 - miao 形容水大。
- 磊 - lei 「磊落」，光明正大的意思。
- 弄 - pa 從別人身上竊取財物的小偷。
- 蕊 - suo 多心、疑心。
- 鬪 - lei 「鬪茶」是古代一種茶湯。
- 𩺰 - xian (1)古「鮮」字；(2)生肉。
- 麤 - cu (1)同「粗」字；(2)魯莽。
- 𩺰 - biao 眾馬奔跑的樣子。

以上的三疊字，部份頗為罕見。筆者亦見過一個四疊字「𩺰」，音 yi，乃人名用字。☞

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It is a matter of discretion for individual employers to recognise any qualification to which this course may lead.
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PROJECT MANAGEMENT GRADUATE

Duties

To assist project management team to carry out property development project management functions and any works relating to the design, construction, maintenance and repairs of buildings and property management; to carry out inspections of existing or new buildings; to assist in developing and implementing office automation and computerization projects.

Entry Requirements

The candidate should preferably be a graduate in year 2000 from the Hong Kong Polytechnic University or City University of Hong Kong with a BSc Degree in Building Surveying or from the University of Hong Kong with a BSc Degree in Surveying, AND have Grade C or above in English Language (Syllabus B) and Chinese Language in HKCEE.

Terms of Appointment

Successful candidates will be appointed on 24-month contract terms. Candidates appointed are not permanent staff. On completion of the contract, outstanding performer may be considered for employment on permanent basis.

How to Apply

Candidates shall apply in writing to: **General Manager, Project Management Department, Henderson Land Development Co. Ltd., 6/F, World-Wide House, 19 Des Voeux Road Central, Hong Kong.** All application should reach the above address not later than 22nd December 2000. Candidates shortlisted for interviews will normally be invited within eight weeks from close of application.

Notes: - the terms of appointment and conditions to be offered shall be subject to the provisions prevailing at the time in the company.

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