



Surveying

news



CHAN Hak

Message from the President

KUNG HEI FAT CHOY

Recently, a Chinese weekly magazine published a feature article about the employment and business situation in which professionals were facing under the current economical climate. Whilst there were some struggling stories told amongst practitioners in several of the professions, but from what was gathered from our members the situation in the surveying profession was not all that alarming. Indeed, the surveying profession covers a wide range of activities, such as, land boundaries determination, topographical and engineering surveys, property planning and development, real estate valuation and transaction, housing management, building maintenance, quantity surveying, etc.

Though new property developments have slowed down, there are many other areas that our members can venture into and provide various surveying services. For example, just looking around us there are large a number of residential buildings that accommodate millions of population and which are also the key assets and investments of many property owners. Proper maintenance and management of these properties will protect and even enhance their value. It is very encouraging to notice that property owners are gradually becoming more aware of that. Even neighbouring cities in the region are showing keen awareness as evidenced by the holding of the First Regional Conference on Private Buildings Management in Hong Kong on 6 July this year with speakers and participants also coming from outside Hong Kong.

In another article in the same issue of the magazine, it is predicted that hundreds of billions dollars worth of infrastructure projects to be rolled out by the Government in coming years would benefit the construction and real estate professions. An interviewee also pointed out that many of the residential buildings completed in the 60's to 80's were showing signs of ageing, and property owners were quite prepared to invest more for proper building maintenance and quality living environment.

Admittedly there may be some individual members and surveying firms confronting a less favourable situation for the time being. However, with some optimism for a brighter future, vision for more opportunities, and more importantly, endeavour to provide quality work at all times, the surveying professionals will continue to meet the need of and contribute to the community and enjoy a fair share of its prosperity.

I wish you all a happy Year of the Horse.

1	Message from the President	8	Quantity Surveying Division
2	News from the Divisions	9	Junior Organization
2	Building Surveying Division	12	Surveyors in Action
4	General Practice Division	14	Features
6	Land Surveying Division	31	Surveyor's Surf

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

HKIS EXECUTIVE COMMITTEE 2001/2002

President	Hak Chan - 陳克 FHKIS, FRICS, RPS(LS)
Senior Vice-President	Kenneth Chan - 陳佐堅 BSc, FHKIS, FRICS, FBEng, MCI Arb, AP, RPS(BS), CFM, FPFM
Junior Vice-President	Tony Tse - 謝偉銓 FHKIS, FRICS, RPS(GP)
Honorary Secretary	Alex L. F. Wong - 黃來發 AHKIS, MRICS, RPS(BS), FPFM
Honorary Treasurer	T. T. Cheung - 張達榮 BSc(Hon), MSc(Arch), FHKIS, FRICS, RPS(QS)
Immediate Past President	Stephen Liu - 廖凌康 FHKIS, FRICS, ACI Arb, RPS(QS)
Chairman, Building Surveying Division	Raymond Y. M. Chan - 陳旭明 FHKIS, FRICS, MCI Arb, AP, MASI
Chairman, General Practice Division	Alexander T. W. Lam - 林增榮 FHKIS, FRICS, MCI Arb, RPS(GP)
Chairman, Land Surveying Division	C. H. Wong - 黃仲衡 FHKIS, FRICS, ACI Arb, AMBCS
Chairman, Quantity Surveying Division	Nelson Cheng - 鄭偉雄 FHKIS, MRICS, AAIQS, ACI Arb, RPS(QS)
Chairman, Junior Organisation	Nathan H. T. Lee - 李海達 BSc(Hons), AHKIS, MRICS, RPS(BS)
SECRETARIAT	
Secretary-General	Gordon M. Y. Ng - 吳文仁 AHKIS, MRICS, RPS(GP)
HON. EDITOR	Gilbert Kwok - 郭靖華

EDITORIAL CONTRIBUTIONS

Surveying encourages article queries and submissions. Article submissions should include both hard (printed) copy and a diskette in Word format. Contributions should reach the Hon. Editor at the office of the Institute before the 10th of each month.

Information & Contents

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

Advertising

All advertisements and small ads are welcome. SURVEYING is reaching over 5,700 readers. For detailed information and advertising rates, please contact Ms Margaret Yung of the Secretariat office at 2526 3679.

Building SURVEYING Division

Raymond Chan, Chairman

Hi, Fellow Building Surveyors.

This is my first report in this newsletter. In fact, I just found out (after having been elected as Chairman) that as Chairman of the Division, it is traditional for me to write something here every month. I wish I had known earlier.

Maybe, I should let the Secretary do the writing. Is it not true that it is the Secretary's duty to do the writing?

Anyway, let's start business.

REPORTS

Meeting with Mr. Marco Wu, Deputy Director of Housing

I had the opportunity to meet (together with several QS representatives) with the Deputy Director of Housing, Mr. Marco Wu on 18 December 2001. I was the only BS there. In the meeting there was an exchange of ideas to improve co-operation, efficiency, tendering procedures and assessment of performance, etc. I also conveyed some of my concerns and opinions to Mr. Wu, in particular on the outsourcing of consultancy work on management and maintenance of existing estates. The meeting was short however it ran well and was good. Mr. Wu said that it might be useful to arrange another similar meeting to discuss our theme further and so he can gather his BS related staff to attend. I will follow up on this matter.

Meeting with Mr. Yu Chi-hang, Deputy Director of ASD

I had a meeting with Mr. Yu Chi-hang on 17 January 2002 together with several QS representatives. Again, I was the only BS representative there. We discussed possible areas of outsourcing consultancy works, importance of maintaining steady and forecasted flow of work, partnering between ASD and consultants to achieve good results etc. I particularly mentioned my concern on the School Improvement Projects, which have not made full use of our BS expertise. I think that BS would be suitable in

some of the projects, which involve more alteration work than architectural design work.

Again, I think that we BS will have to follow up on this kind of liaison further.

VISIT TO SHANGHAI

Four Building Surveyors, including myself and three delegates from the Buildings Department visited Shanghai during the end of October 2001. We met Government officials handling building control, land use control and building maintenance. We tried to learn (briefly) how they carried out these duties. We also let them know briefly how these things worked out in Hong Kong. Although we were not able to have an in-depth discussion or make any further arrangements/commitments, I think that it was a good start for us to understand how our counterpart worked in the Mainland China and to market to them our strength and skills.


We also met the academics of the Department of Construction Management Estate in Tongji University. They do not have any Building Surveying courses or the like in their University. Most of them do not know what Building Surveyors are. We discussed various topics of interest and we eventually agreed to explore the possibility of conducting a joint research between BSD, HKIS and Tongji University to examine how the Mainland China can make use of our profession and what changes, if any, can be recommended to the existing system in the Mainland China after studying our work and achievements in Hong Kong. The outcome of this research can be published in the journals in the Mainland China and can give a better exposure of us to the local professional. After returning to Hong Kong, the Tongji University has further worked on the idea, and has given us a more detailed brief of the proposed research. The BSD Council has in principle approved this research. We are expecting to spend about HK\$50,000 towards the cost of this research. The proposed title of this research is "A pilot study of the business development for the building surveying (BS) profession in the Mainland China".

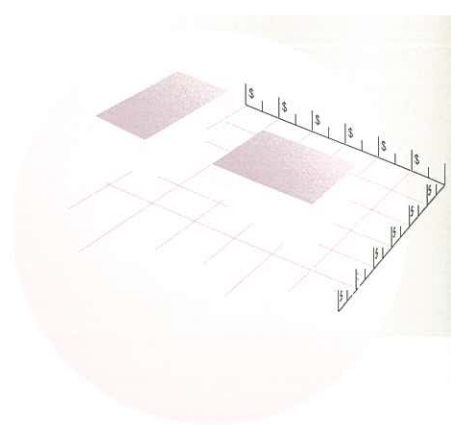
We also attended a seminar which attracted more than 200 delegates from all over the country. We were able to meet various people from various places and exchange ideas.

I delivered a talk in the seminar on Building Maintenance. I spent a very long time preparing for this talk. About 20% of the time was on the preparation of the script while the rest of the time (many many hours, believe me) was on the practicing of Putonghao to make myself capable of delivering the speech in an understandable manner. Fortunately, due to the tightness of schedule, no question time was allowed which really helped me out. I strongly feel that Putonghao is a "must" and should come first if we ever plan to develop our careers in the Mainland China.

VISIT TO BEIJING

Mr. Kenneth Chan, myself and a number of QS representatives visited Beijing during November 2001. We visited the Beijing Construction Project Management Association and were warmly welcomed by them. They knew something (but not very much) about Building Surveyors. I got the message that they really welcomed our help to assist them to work their way ahead. With China entering the WTO and Beijing having a long list of projects to go ahead before the 2008 Olympics, it appears to be very encouraging and a good opportunity for BS to expand in this rapidly expanding market.

OK, you may have read enough from me therefore I will stop here to give you a rest. However, I shall be back next month to pound you with other news and updates (unless you prefer to read them from the Secretary). 



GENERAL PRACTICE DIVISION

Alexander Lam, Chairman

HIGH PASSING RATE IN THE APC FINALS

The results of the Assessment of Professional Competence for Year 2001 were very encouraging. The passing rate of the written part was 48% whilst the passing rate of the Panel session was 51%. Amongst a total of 205 candidates who applied for the APC, 56 candidates passed all the tests compared with 18 passes in the preceding year. It represented an increase of 211% in the passing rate (see Table 1).

The GP Divisional Council will place more focus as well as resources into the training of student surveyors with an aim to broaden their exposure and to strengthen their ethical knowledge. Mr. Rock Tsang, the convenor of the Education, Membership & APC Panel in the Council, and his panel members are putting together more thoughts and ideas and will formulate action plans to be implemented in due course.

FORTHCOMING EVENTS

MEDIA LUNCHEON

A luncheon with the local press and media will be held on February 1 in the Ritz Carlton. This is part of a public relations and promotional campaign of HKIS.

EDUCATION AND CAREERS EXPO 2002 - CAREERS SEMINAR

HKIS will hold an exhibition booth in the Education and Careers Expo, organised by the Labour Department and HKTDC from 21-24 February. A careers seminar will be held on 23 February from 12.10 pm to 1.00 pm, introducing HKIS and the various surveying disciplines. President Chan and all the Divisional Chairmen will be on the stage as panel speakers. Please give your support to the Institute by attending this meaningful seminar.

Assessment	2001			2000		
	Number of Candidates		%	Number of Candidates		%
	Pass	Total		Total	Pass	
Written	88	184	48	29	190	15
Panel	56	109	51	18	46	39
Final	56	205	27	18	207	9

Table 1

HONG KONG REAL SERVICES EXPO 2002 - SHANGHAI

In March, HKTDC will organise an Expo in Shanghai. HKIS, together with two other Associations will exhibit our professional services. The responses of the past two Expo's were overwhelmingly good. If by chance you should be in Shanghai or about to go there please do pay a visit to our booth. The details of the Expo are as follows:

- **Date** : 6- 9 March 2002
- **Venue** : G/F, Shanghaïmart
- **Conference** : On 7 March between 9:30 and 12:10 an open conference will be held with the kind support of the following fellow members as guest speakers.

Name	Topic
Wyatt Choi	塑造一個成功商場的要素 (Factors of a successful Shopping Centre)
Robert Wong	如何令老化商場重生 (How to revitalise a Shopping Centre)
Tony Tse	商場前期策劃的要訣 (Key factors in planning Shopping Centres)
Alexander Lam	Q & A Session
• Remarks	Mr. C.Y. Leung, Convenor of the Executive Council, HKSAR, will be the Guest of Honour and officiate at the Opening Ceremony. ㊄

QUALITY BUILDING AWARD 2002

Nine professional bodies and property related organizations including the Hong Kong Institute of Surveyors have pioneered a "Quality Building Award", a biennial event to honour the building project team that displays the highest quality of interdisciplinary organization, communication and group dedication in achieving the highest levels of construction of construction excellence.

The purpose of the Quality Building Award is to give public recognition of outstanding quality building and promote the partnering team effort in building construction industry.

Application Deadline: **1 March 2002**

Award Presentation Ceremony: **28 June 2002**

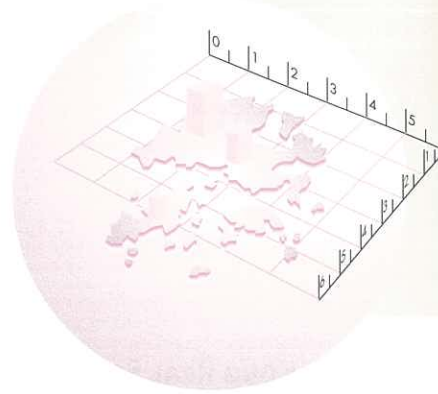
Interested parties please contact the Quality Building Award Secretariat and PR Manager, Link-Work Communication (HK) Ltd. at Room 1001-2 Lansing House, 41-47 Queen's Road Central, Hong Kong.

CALL FOR CONTRIBUTIONS - 大公報

Members who are interested to express their professional views may wish to submit their articles in Chinese in not more than 1,000 words by e-mail to the Editor at editor@hkis.org.hk. The Editor will select suitable articles to be published in 大公報 (Ta Kung Pao).

CORRECTION

In the January 2002 issue of Surveying (page 3) the Chinese name of Mr. WONG Loi Fat, Alex, Honorary Secretary, was incorrectly spelt. The Chinese name should be 黃來發.



LAND SURVEYING DIVISION

BEIJING-HONG KONG-MACAU GEOMATICS CONFERENCE 2001

Conrad Tang & Ronald Chan

The Beijing-Hong Kong-Macau Geomatics Conference 2001 was held in the Hong Kong Polytechnic University (HKPU) between 17 and 18 December 2001 and in the Department of Cartographic and Cadastral Services (DSCC) in Macau on 19 December 2001. About 150 participants from the three cities attended the conference.

Professor Ko Jan-ming of the HKPU, Director Cheong Sio-kei of DSCC, Mr. Chan Hak, Deputy Director of the Lands Department and the President of HKIS, Mr. Wong Chung-hang, Chairman of the Land Surveying Division, HKIS and Mr. Mannars Chan, President of HKIES, gave the opening address at the conference. The organizing committee had received more than fifty papers among which fifteen were presented with topics related to new technology and development, WTO opportunities and challenges facing the land surveying industry. Chair Professor Chan Yong-qi of HKPU led the closing discussion on the future development of our profession. The conference reached a consensus that we should not only have to strengthen our traditional services but also to explore into other dimensions of services like geo-spatial database.

This was the second round of the previous Beijing and HK conference; the third round is scheduled in Beijing in 2003. Beijing is the capital of China where there are many leading universities, research institutes and central Government Ministries. The Beijing Institute of Surveying and Mapping is a well-established Institute with many working groups in GPS, GIS, Remote Sensing, Instrumentation and many others. The conference had achieved its purpose for the betterment of the professionals and the improvement of mutual communication and understanding among the three cities.



President Chan Hak addresses the BHMGC audience



Conference attendants take a group photo in the HKPU campus.

AERIAL SURVEY IN HONG KONG

Prepared by Rina Tsoi

Aerial Survey in Hong Kong has had a long history since 1924 and its first survey was carried out by "Pegasus" of England. From the rapid change in technology and environment, the functions and applications of Aerial Survey have been increased and widely used in various areas in Hong Kong.

I would like to present the following interview between Mr. AU Chi-ho, Tommy and myself so that you may have some ideas of the current Aerial Survey practice in Hong Kong.

Interviewee: T for Mr. AU Chi-ho, Tommy
(Land Surveyor from the Photogrammetric and Air Survey Unit, Surveying and Mapping Office (SMO) of the Lands Department)

Interviewer: R for Ms Rina Tsoi

R: Tommy, could you tell us what are the main functions and applications of Aerial Survey currently used in Hong Kong?

T: Well, it can be summarised as listed below:

- 1:1000 Base Map Revisions;
- Land Boundary Survey/Analysis, Land Resumption;
- Large earth volume computation such as quarry, reclamation;
- Monitoring of structures such as breakwater, slopes;
- Law/Lease enforcement such as Town Planning Ordinance / Building Ordinance;
- Use of Infra Red photo for forest management;
- Historical record of city development; and
- Hydrographic survey for shore line at low tide recording.

R: What are the main products produced from the Aerial Survey?

T: They include 1:1000 Base Map and up to 1:200 plans for engineering purposes, Orthophoto map, and even the data obtained from Aerial Survey could produce the Virtual Reality Model such as flying through simulation. Of course, aerial photos in Black and White colour and infra-red could be produced.



Outlook of Hong Kong.

Mr. AU Chi-ho, Tommy was carrying out an Aerial Survey.



R: Are there any difficulties that you have encountered during the survey?

T: Definitely, the uneven terrain in this small area is the major difficulty encountered. The aeroplane has to avoid any collisions of the building and mountain with sufficient air space and separation. The stability of the aeroplane is also affected because of the unstable currents generated by the hilly terrain.

Moreover, air traffic conditions in the Hong Kong airspace are very busy and most of them are incurred by aeroplanes from three international airports, i.e. Chek Lap Kok, Macau and Wong Tin in China.

In addition, weather conditions have become worse in recent years owing to factors like a ring of factories surrounding the Hong Kong region that incur dust particles. It causes hazy weather and makes clear aerial photos difficult to take.

R: As we know, a special training is required for carrying out Aerial Survey. Are there any other conditions which are important for being a competent Land Surveyor/Air Survey (LS/AS)?

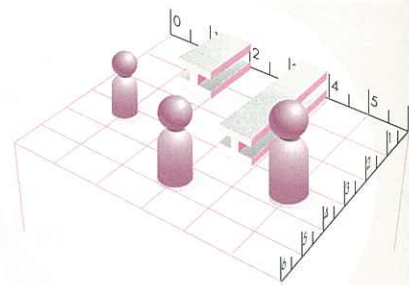
T: After the Aerial Survey training, I guess the other things to handle are air sickness and having the stamina for being an LS/AS.

The unstable currents and sharp turns of the aeroplane, may make you feel sick and dizzy easily. Also an LS/AS has to work alone to solve technical problems on the aeroplane and make instant decisions during the aerial survey mission.

R: Well, it sounds challenging being an LS/AS. I am sure you must have some personal experiences. Would you mind sharing them with us?

T: Sure, every time a set of good quality aerial photos are produced I feel excited and have great job satisfaction. Also, I think that a set of good survey records should be preserved for our next generation as a historical reference.

R: Thank you, Tommy. ☺



QUANTITY SURVEYING DIVISION

QSD COUNCIL MEETING SCHEDULE

The QS Divisional Council will meet on the 1st Monday of each month at the HKIS office.

QSD SUB-COMMITTEES

Since the last AGM, there have been council meetings in December and January. The following sub-committees' chairmen have been appointed:

Mainland sub-committee	Mr. Sam Cheng
International	Mr. Stephen Chung
CPD	Mr. Honby Chan
SMM	Mr. Peter Ho and Mr. Sam Cheng
Conditions of Contract	Mr. Daniel Ho
IT	Mr. Evelyn Kwok
ACQS Liaison	Mr. Derek Mackay
New Member Liaison	Ms. Sandy Tang
Education & Accreditation	Dr. Anita Liu
Professional Services	Mr. Nelson Cheng

Members who are willing to assist in any of the sub-committees can contact the Chairman at e-mail address nelsoncheng@levettandbailey.com

CPD

Our CPD Convenor, Mr. Honby Chan, plans to organize one CPD event every month starting from March. Site visits to major construction sites such as the Cyberport, Hong Kong Station etc. will be organized in addition to the monthly events. We welcome suggestions from

members on the preferred topics of CPD. Please e-mail your suggestions to Mr. Honby Chan at hshchan@krcr.com

APC 2001

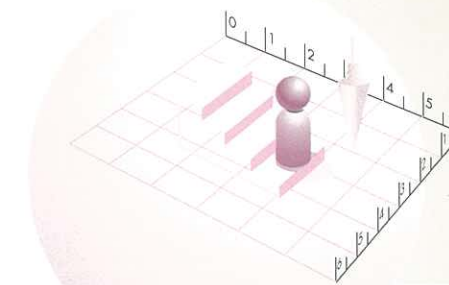
The results of the APC 2001 were released before the Chinese New Year. 83 candidates passed the written examination and 85 candidates passed the interview. Those who failed the interview will have to be interviewed again in 2002. The passing rate this year was around 14%.

THE 17TH ICEC INTERNATIONAL CONGRESS 2002/6TH PAQS CONGRESS/3RD WORLD CONGRESS ON COST ENGINEERING, PROJECT MANAGEMENT IN MELBOURNE

Following last year's 5th PAQS Congress in Hong Kong and the International Conference in Beijing, the 6th PAQS Congress will be held in conjunction with the 17th ICEC International Cost Engineering Congress and the 3rd World Congress on Cost Engineering, Project Management and Quantity Surveying in Melbourne on 14-18 April 2002 at the Grand Hyatt Melbourne Hotel.

The theme of the Congress is "Environmental & Economic Sustainability - Cost Engineering Down Under". The Congress is designed to attract leading cost management professionals from around Australia and the world, including cost engineers, cost estimators, project managers, planners, schedulers, value engineers, project controllers, quantity surveyors and educators.

For more details, please visit the web site at <http://www.mcigroup.com/icec2002.htm>



JUNIOR ORGANIZATION

STICKS AND STONES

Jim Yip, Hon. Secretary

POTATO EATERS

In 1885, Van Gogh portrayed five peasants sitting around a table eating potatoes in a painting called "Potato Eaters". Through an emphasis on the peasants' hands - the "same hands that had dug the earth and thus earned this meal honestly", according to Van Gogh's letter, - the painting tells a compelling story.

If we were to portray more than twenty young JO members gathering in our last monthly meeting, what would we choose to emphasize? Of course, the flushed cheeks, the by-product of round after round of heated exchanges on one central topic: the best way to help realize many of our members' surveyor dreams.



JO Annual General Meeting

MOVE HEAVEN AND EARTH

The latest membership figures show that amongst 5,795 members in HKIS, almost half are student members i.e. non-corporate status.

JO members' grievances over the APC are on the rise in recent years. As their voice in the institute's affairs, the JO Committee 2002 is determined to fight hard for their interests. We have adopted a two-pronged strategy: to argue for a change in certain APC rules that look inappropriate given there have been sweeping changes in the surveyors' job market, and to provide more training opportunities to better equip our members for the APC.

Areas of our concerns:

- Technical-grade officers in various government departments devoid of APC opportunities, despite having a recognized surveying degree
- Wider recognition of training experience in general practice such as property management, marketing, estate agency and China experience
- Recognition of external supervisors

We have set up a working group comprising corporate and student members to look into these matters closely. JO members are welcome to submit their views to Nathan Lee, the JO working group chairman at e-mail nathandotcom@sinaman.com

SHINING JO MEMBERS

Tony Wan, the present JO Treasurer, tells of the perks exclusively reserved for an active JO member, which I regret for not knowing earlier. When he was preparing for the APC a few years ago, he grabbed every opportunity to organize CPD events for the JO. He once held a record of arranging nearly 10 events in a single year. The end result was not only knowing each CPD speaker very well, who are usually APC assessors, but also gaining valuable access to them for advice when he came across problems at work or study. Terrific, Stephen Yip gave him half a day's drill right before the APC. Tony Wan passed the APC at first attempt and immediately moved into a new job at the end of two years' training in the Lands Department, again, thanks to the strong network he had built in the JO. Had I received his recipe earlier, I firmly believe that I would not have had to struggle with the APC for four times.

In the 11th Asian Games in 1990, the then 16-year-old Hong Kong swimmer, **Margaret Szeto** was outpaced by others at the Yingdong Swimming Pool Beijing. She returned home and trained 8 hours a day in the water. She smashed four Hong Kong backstroke swimming records one year later and was voted as the best female swimmer in the same year. After a surveying degree from HKU, she took her winning strokes from water to land, but only to find the APC arena was no friendly waters for her. "It is even harder than the qualifying test for the 1992 Barcelona Olympics," she jokes. Made of invincible steel and propelling thrust, it is only a matter of time when she will take the glory by storm.

Jazz Wong, our JO representative in the Property Management Committee, is a beacon of light for many GP graduates in the private sector. A property management trainee, he fights with sticks and stones to defend the greatest interests of surveyors in the property management field. "I have to voice out the difficulties of non-valuation/land matter candidates in the APC," he insists. Close to his heart, he wants to become a great surveyor. "Although I am a loser in the APC, I do not think that its requirements should be too low as this is no good for our profession," he wrote, in an email to me reviewing his second APC written exam performance.

Smart, hardworking, determined and utterly defiant in the face of adversity, are the attributes of our young surveyors today. We will continue to report interesting characters in our JO community.

HATS OFF TO SCHINDLER OF YOUNG SURVEYORS

We dedicate this small column every month to those who work tirelessly for the better future of JO members. Two are chosen for this month.

M. Y. Wan. Last month, we interviewed him for our feature story on Transfer of Development Rights in historic buildings. A student from the Hong Kong Polytechnic University was also present in the meeting. This lucky final-year Poly student has been taken to site visits such as IFC 2 and various project meetings in the past three years. Mr. Wan is his mentor. Unfortunately, the list under his mentorship could not match that of the Austrian industrialist, Oskar Schindler, who saved 1,100 Jews during World War II.

Ronald Cheung. Ronald is our JO representative in the GPD council. Credit must be given to him for his unflinching efforts to bring to the attention of GPD members the plight of GP students. Some of our JO members do not have GP surveyors as their supervisors in their organizations. As a result, they are barred from taking the APC under the existing rule. Think of Nan Fung, New World China Land, Hysan or property companies currently employing no GP surveyors, these may become no-go areas for GP candidates. Frankly, this does not work in the best interests of HKIS. A report from Ronald tells of an encouraging

sign that the new GPD council has taken an open attitude on that.

SURVEYOR OUTREACH, SERVING THE COMMUNITY - PRO BONO PROJECTS

This idea is only at the drawing board stage and we don't know whether it is practical or feasible.

Pro Bono projects means JO members providing voluntary property advice to non-profit-making organizations, making use of our property expertise to the benefit of the community at large. This is a bold initiative, but with controversies. It could put the reputation of HKIS at risk. As we are a professional body, our genuine motive in providing a free service notwithstanding, people will expect a certain degree of professionalism and we may not have a good control on each service. It may also affect the livelihoods of some practicing surveyors or cause concerns on professional ethics.

However, the execution risks, in our view, can be contained by defining the scope of our involvements and nature of the job, e.g. limited to verbal advice only; by declaration, that we bear no responsibility for the advice and clients signing an agreement that they receive advice at their own risk.

What are the projects? The non-profit-making organizations may be religious establishments, educational institutions or charity organizations. They may have various needs for property advice: they want to make a better use for a derelict agriculture plot; they are not sure if their site might have been encroached on by a neighbor; they want to seek advice on landlord and tenant aspects such as the use of CR101, or relocation tips, or a rough cost estimation for small work; they want to lodge a rating appeal; or they are concerned with the existing fire-fighting provisions in their premises etc.

In most of these cases there are no significant profit gains. The monetary consideration does not warrant the hiring of a professional surveyor service or these organizations cannot afford a surveyor.

Without surveyor's advice, the administrator of the organization could

resort to calling up the enquiry hotlines of various departments for advice or simply refrain from action, which may not well be in the society's best interest.

The benefits of the Surveyors Outreach Project are providing additional real-life training opportunities for JO members and promoting Hong Kong surveyor's image.

The current major feedback from assessors on the performance of APC candidates are that they have insufficient practical experience because of their narrow work fields in one or two areas, thus they are unable to meet all the APC requirements. We believe the community project would provide more diversified work experience to our young members.

Besides, through this charity project we can not only serve the community but also strengthen our profession's image as a caring institute to the environment in which we work as well as the community in which we live in.

We will undertake a consultation, seek advice and will report to you if we make any progress.

Send your comments to jimyiphk@yahoo.com

JO website: <http://devoted.to/hkisjo>

BACK TO POTATO EATERS

The peasants in "*Potato Eaters*" got nothing from their meal except potatoes. Their living conditions were harsh, as shown from the painting, and the background was dim.

Like the poor peasants, JO members are battling hard against the odds. Yet our yearning hearts are nothing but as sensational as the peasants' gnarled hands.

"*Potato Eaters*" was Van Gogh's first major work after 5 years of painting study. The painting has some obvious shortcomings such as misalignment of objects. However, the artistic value of the canvas lies not in technical quality, but in the sincerity and fervor of the painter's

commitment. Van Gogh will remain forever a big name in the history of art.

Make JO your first stop as you Journey Onward to paint your rosy future.

"Sticks and Stones may break our bones, but mistakes or wrong steps will never hurt us." In the JO, we provide you with many opportunities to try, to make mistakes and thus to grow faster and stronger. **✉**

JO PRE-QUALIFICATION STRUCTURED LEARNING (PQSL) SERIES

As our key initiative for 2002, we will embark on an extensive program of PQSL, hoping that through a series of structured talks in an informal group discussion format our practitioners can be well-versed with the industry practice and knowledge, and as a result, well-prepared for the APC.

Each PQSL will be held on a Saturday afternoon; from 2 pm to 4 pm at the conference room of HKIS. Experienced members or external consultants will be invited to chair the PQSL and the number of participants is limited to 30. The fee for each topic is HK\$50.

The schedule of the first 4 PQSL:

Date	Topic	Speaker
2 Feb	Lease modification & premium Assessment	Tony Wan
23 Feb	Matters arising from village house transactions	K. T. Liu
2 Mar	Project management practice in developers	Alex Wong
9 Mar	Development in NT	Ronald Cheung

For details please contact our PQSL convener Justin Wong at 9225 1410.



THE APPRAISING GRACE

AN APPRAISER GETTING THROUGH BAD TIMES

Jim Yip, AHKIS, MRICS, JO Editorial Board Representative

On the last day of 2001, David Cheung, valuation director of First Pacific Davies Savills, received the best news he could get: he passed the Chinese Institute of Real Estate Appraiser Qualification Exam - an achievement ever made by a Hong Kong valuer. For a man with more than 15 years' valuation experience in the China property market and the country's first batch of foreign valuers in the early 90s, the new accolade has an additional meaning. It marks the triumphant end of his 30-month fight against the biggest career crisis in his life.

Two and half years ago, David Cheung was the senior area manager with MTRC on a 2-year contract. He was responsible for one station property development project along the new Tseung Kwan O (TKO) line. An ambitious residential development scheme was planned in Area 86, TKO and upon completion it could well become the largest private estate in Hong Kong.

The Master Layout Plan for the 21,500-residential unit-project was kept being revised and negotiation works with the Lands Department on land grant were in full swing. Determined to move the project schedule even faster, workaholic David worked day and night in the office.

But in June 1999, his contract was not renewed. All of a sudden, he was out of job, something that the once equity partner of Vigers had never thought of. Hiring property professionals at the time of a property slump was few and far between. David was immediately faced with uncertainty and his prospects looked increasingly precarious. "It was the worst time of my career," says the father of a 5-year-old daughter. The family soon moved out and sold their posh flat near the Shatin racecourse.

THE UNBEATEN PARTNER

Before this stroke of bad luck, David's highflying property career was the envy of everyone. He declined an offer from the computer department of the Chinese University and picked surveying from the Hong Kong Polytechnic because of the advice of his uncle who worked in the construction sector. "The chronic shortage of land for the ever-rising population would only push property prices up, property is your future," his uncle told him. He made the right choice.

After his graduation in 1983, he first had a brief stint in Jones Lang Wootton and then spent the next ten years in Vigers, aggressively building up one of the largest valuation practices in Hong Kong. At 31, he had already taken the helm of the valuation department and was made equity partner, the youngest one amongst seven shareholders.

"At that time we had more than 40 staff, at least 10 of whom were chartered surveyors, in the valuation department, all under his supervision," recalls one of his ex-Vigers colleagues. "He kept encouraging us to pursue a surveying qualification."

It would be incomplete on David Cheung's track record without mentioning his feat in China property valuation. In 1993, under his leadership, Vigers was the one of the first four recognized appraisal companies for China enterprises, which were seeking to float their shares on the Hong Kong Stock Exchange.

One of his crowning moments in China valuation was when in the early 90s he was invited as a speaker in a Beijing national conference for Chinese valuers. He delivered a talk on intangible asset valuation. "My Mandarin then was dreadful," he says.

In 1995, the property booms in the region attracted outside investors to acquire Vigers, which had already well established itself as a sizable regional player in property consultancy. The changeover of ownership also provided David opportunities to explore new career heights elsewhere.

Profile: David Cheung, General Practice Surveyor

David graduated from the Hong Kong Polytechnic with a degree in surveying in 1983. After the initial two years in Jones Lang Wootton's valuation department, he joined Vigers where he was named to head its valuation department in 1990. After 10 years in Vigers, David worked for developers Guangzhou Investment and MTRC. Currently, he is the director of valuation and consultancy with FPD Savills. In 2002, David became the first Hong Kong surveyor to obtain the license of China Institute of Real Estate Appraisers after passing its qualification exam.



SOUL SEARCHING

The bumpy ride of the property market since the Asia Financial Crisis has derailed many a surveyor's career. David was one of them. "I kept telling myself not to give up and kept asking myself: "What is my market edge?" and "Do I have the confidence to make a comeback?" he says.

After leaving MTRC, David spent some time traveling around China. His important task on the road was to recuperate his mental powers and identify his new career strategy.

David shared a strong interest in the study of Chinese physiology. "Confucius preaches morality, while Buddhism advocates simplicity and Taoism centers on respect to natural forces," he says.

"Lao Tsu, founder of Taoism, says all strivings are counterproductive and one should endeavor to do nothing. Make no mistake: this is not a negative teaching. If we look closely, it has a powerful meaning: it means not to literally do nothing, but to discern and follow the natural forces - to follow and shape the flow of events and not to pit oneself against the natural order of things."

The ancient wisdom proves a saving grace for David. In 2000, David joined FPD Savills as director of the valuation and consultancy department. He returned to where he had first made his name.

HONG KONG SURVEYOR'S PRIDE

HKIS approved a reciprocity agreement with the China Institute of Real Estate Appraisers at the end of 2001. Though the detailed arrangements of the agreement has yet to be finalized and announced, it won't be too long for Hong Kong surveyors to obtain a recognized valuer status in the China market.

Yet David didn't wait for the day to come. He took the hard way. In mid-October last year, he flew to Beijing to sit for a two-day written exam. "It was quite a demanding test as we needed to answer 4 papers, each 2 1/2 hours long during the two days.

Before the test, David took part in an intensive preparatory course in Shenzhen, which ran from 8 am to 5 pm every Saturday and Sunday for two months.

"Through the course, the exchange with local practitioners and the test, plus my past valuation assignments in the China market, I had more knowledge of the valuation techniques in the China property market, which after many years of developments have differed much from our system. China has its unique property law, accounting methods and tax rules for different enterprises, which all have implications to the valuation and the methods employed."

WRITTEN TEST OF CIREA

Five subjects were offered in the course: Real Estate Law and Policy; Real Estate Property Development and Management; Valuation Theory and Method; Valuation Practical Case Studies and Analysis; and Valuation and Ancillary Knowledge. There were four papers in the written test, with the last subject combining with the first one into one paper. Candidates had to write in simplified Chinese characters.

"It is a totally different matter when you get your China appraiser license by taking the local exam, rather than by obtaining it through the reciprocal arrangement. You know how to apply your knowledge into work practice after the course. Besides, there are more than 100 classmates, providing a valuable source for building up your personal network," says the erudite David.

CROUCHING TIGERS AND HIDDEN DRAGONS

David had worked in China valuation for 15 years. He was deeply impressed with the huge advancement made by Chinese professionals in the past ten years. "They are very hardworking and have an unquenchable thirst for new knowledge," admires David.

"In my recent business trip from Shanghai to Nanjing, a little more than a 3-hour train ride, I saw many people working on the train. Some were typing proposals on their notebooks and sending them out via e-mail; some were reading professional books, such as law, computer and accounting. I could tell from their faces that they were not from these professions, but they were interested to acquire knowledge in the other areas."

"In China there are thousands of candidates fighting for one job. You have to be exceedingly smart to outrun others and aggressive, sometimes creative, in fishing and seizing opportunities. They keep constantly reminding themselves that they have to stay ahead, and they have a strong sense for crisis. As a result, China graduates today are very competitive. Not only do they have good language skills in both English and Chinese, they work smart and have a strong local network - some of their classmates work in the local government - an advantage which can not be offered by Hong Kong people."

David is another fine example of putting himself on a relentless drive to improve his own competitiveness. He is now in the final year of his MSc study in Construction Management from the University of Bath, approaching the thesis stage and he also regularly teaches at the HKMA and City University of Hong Kong. ■

BEAUTY OR BULLDOZER

THE GOVERNMENT'S NEW INITIATIVE ON TRANSFER ON DEVELOPMENT RIGHT (TDR) IS HERALDED AS A MAJOR BREAKTHROUGH IN HERITAGE PRESERVATION POLICY.

Jeffrey Wong and Jim Yip

Smiling, with arms-crossed over the chest, chin slightly up and eyes looking straight ahead, with the school structure in the background, both the father and son surprisingly chose the same posture in a photo taken on their last school days, despite a 30-year gap between them.

The school building in the father's print is 19th Century neo-classical in style featured with a majestic dome while the son's is a gigantic compound flanked by an artificial turf football pitch. Only the statue of the school founder in front of the building provides a reminder that this is in fact the same school.

John Tsang and his son had both studied in La Salle College. But the son could hardly experience his father's bravado: venturing gallantly through the long corridor of the old "haunted" campus which was once requisitioned by the British Government as an internment for the Japanese during WWII.

La Salle College



Old Building



New Building

In 1979, because of the concerns for the aging school facilities and rising maintenance costs, the old building was knocked down and a new school was built, with the help of a leading developer.

"The old building, built in 1932, was a great piece of architecture. It had a sense of grandeur and permanence unknown to most of the modern

buildings," says Francis Lau Tak, director of Goldrich Planners and Surveyors Ltd and a La Salle old boy who graduated in the 60's.

Not surprisingly, in less than six months to his post - Secretary for Planning and Lands Bureau (PLB), John Tsang threw in his first major policy initiative called Transfer of Development Rights (TDR) for preserving historic buildings, the long-awaited proposal immediately hailed by industry leaders as a breakthrough in heritage policy.

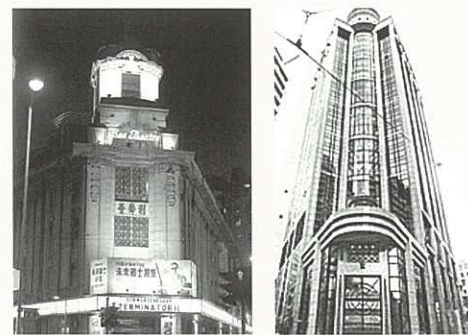
When he says 'Heritage preservation is an issue that is very close to my heart,' he doesn't need to explain it further.

THE PROBLEMS IN OUR EXISTING HERITAGE POLICY

In the summer of 1992, when the curtain came down to end the final show in Lee Theatre, the renowned Chinese opera house, bulldozers immediately moved in and pulled down the historic building. Two years later, a 25-storey retail complex opened on the same site called Lee Theatre Plaza, but bought no memento of the old theatre.

A mock-up facade of Lee Theatre, displayed in the Hong Kong Heritage Museum in Shatin, provides a glimpse of its former glory.

Its developer, Hysan, has a substantial land ownership in Causeway Bay. Before the demolition of the theatre, Hysan had applied to the Government for a transfer of plot ratio from the theatre to the former Lee Garden Hotel site, which was also under redevelopment at the same time. But the Government declined because current statutory plans and buildings ordinance did not allow a transfer of development rights from a non-contiguous site.



The old Lee Theatre and the Lee Theatre Plaza

The society is still mourning the tragic loss of the old Lee Theatre, which could have been saved if we had the TDR concept in use.



Jeffrey Wong



Jim Yip



JOHN TSANG: A LAND SECRETARY WITH A RAPIER'S WIT

"Slash, parry, block, riposte, dive and fle`che". John Tsang might have well used his swordsman's skills swiftly destroying the villainous pirates when he was the chief at the Customs and Excise Department.

But in the fight to protect our historic buildings, he needs a new tactic. The Government has made clear its position not to use its own money to acquire all heritage sites. Owners and developers, on the other hand, without rewards, would not be expected to volunteer to preserve historic buildings.

It looks as if both sides are held in impasse and the society is counting the mounting casualties in the loss of historic buildings. Who will make the first move? Transfer of Development Rights (TDR) for preservation of historic buildings, an initiative recently proposed by the Planning and Lands Bureau (PLB), could be an effective approach to break the deadlock.

By providing an incentive for property owners, PLB aims to employ market forces to pay for the preservation of historic buildings.

The main proposals for TDR scheme include:

- Transfer unused development rights on heritage sites to other sites in the same Outline Zoning Plan (OZP) area;

Without compensation on GFA, Hysan had no choice but to redevelop the site for one good reason: the investment value of a shopping centre in one of the most expensive retail areas in the world is much higher than a theatre on the site.

Profit or preservation? This is the dilemma for owners of heritage sites which the new PLB's TDR proposal would like to tackle.

The Government department on heritage affairs - Antiquities and Monuments Office (AMO) currently classifies buildings based on their historic and architectural merits. But the grading system is only good for internal reference use and it has no teeth on private owners.

Chapter 53, Antiquities and Monuments Ordinance gives statutory power to the Antiquities Advisory Board (AAB) to declare buildings of historical significance as monuments. If buildings were declared monuments, no alteration or demolition works would be allowed.

- The heritage site will then be declared as a monument and no redevelopment is allowed;
- Owners obtain an entitlement certificate for the unused development rights and the entitlement can be sold and transferred;
- The calculation of GFA entitled for transfer is by deducting the existing GFA of a historic building from the maximum GFA permitted under the land lease, the OZP or the Buildings Ordinance, whichever is the least;
- There may be a bonus plot ratio of up to 5-10% of the original GFA granted and land premium is waived.
- The total GFA of a building development on a receiving site should not exceed 20% of the maximum GFA normally permitted;
- The vistas of landmark historical buildings and Hong Kong's older neighbourhoods could also be protected by TDR.

"I think the TDR concept is both reasonable and workable. I have thrown open the debate at an early stage in order to gauge the opinion from the public and the professional groups as well as to solicit ideas on its implementation," says Secretary John Tsang. "There is still a long road ahead but I have every confidence that we will be able to bring this idea to fruition."

Would the TDR initiative be a magic sword for John Tsang?

As of late, AAB and its administrative arm-AMO have declared 75 monuments, but most of them are public properties.

"To declare a monument on private land, we need to have the owner's consent or the Chief Executive's order, but no past governor had ever given such order since the law was enacted in 1976," says HKU Professor-in-architecture, David Lung, who also chairs the AAB.

That was the fate of the Hong Kong Club, the splendid center of colonial society for 84 years, in 1981.



Old Mental Hospital, 2 High Street

It is now used as Sai Ying Pun Community Complex after demolishing most of the inner parts of the Mental House while retaining the L-shaped stone facade and the arched verandahs. Built in 1892, the old building was used as foreign nursing staff quarters until 1945.



PROFESSOR DAVID LUNG: STRUGGLE FOR THE COMMON GOOD

In times of difficulties, Professor David Lung always finds strength and solace from the famous words of the late U.S. President John Kennedy: "Ask not what your country can do for you; ask what you can do for your country."

Lung, Professor of Architecture at The University of Hong Kong as well as Chairman of the Antiquities Advisory Board (AAB) and Non-executive Director of the Urban Renewal Authority (URA), has been doing his part for Hong Kong's built heritage for well over a decade. Needless to say, it has been an uphill struggle, in particular, during the property boom years of the 1980s and early 1990s, when conservation of historical buildings and sites was seen as an unjustifiable hindrance to property development in which huge financial reward could be reaped. Today, despite the burst of the property-market bubble, and despite the increasing recognition of the need for long-term sustainability of Hong Kong's cultural heritage resources through conservation of our existing built heritage, the indifference to Hong Kong's common future and lingering greed in the property market persist.

Since the return of Hong Kong to Chinese sovereignty almost five years ago, the Chief Executive, Mr. Tung Chee Hwa, has been stressing the importance of heritage conservation in his Policy Address - year after year. Despite the grand mission statements, no concrete initiative from the Government has been formulated so far. What is going on, many wonder. The problem, as Lung elaborates, lies from within rather than from without: "Despite

being blessed with a powerful government organization with the resources and expertise to enforce heritage conservation, we are stumbled by a complete lack of concerted efforts among different government departments and a policy to carry out heritage conservation work."

As the Chairman of AAB since 1991, Lung has to work with property owners and developers and coax them to retain historic buildings. As Lung laments, it is a daunting task to try to flog a half-dead conservation horse that has no legal muscle and fed with a meagre budget. Even worse, the horse has to plough in a societal field that has a long tradition of making profit from the continual cycle of building, demolition and rebuilding. Hence, besides having to struggle for the public good, AAB also has to consider the needs of developers, who, for better or for worse, are still the anchor business people in Hong Kong's land-driven economy.

However, it is not a lost cause to try to persuade developers to see the conservation light. Many developers are beginning to acknowledge the societal needs for heritage conservation in the development of Hong Kong. For example, in 2000, Sun Hung Kai Properties decided to re-draw its plans for an urban redevelopment project in Yau Ma Tei in order to preserve an old building on the project site after it was identified as one of the oldest engineering buildings in Hong Kong (it was part of the first pumphouse complex in the district). In 2001, Cheung Kong struck a deal with the Government in the redevelopment of Tiger Balm Gardens to retain the Haw Par Mansions and its private garden even though the developer had every legal right to level the entire site.

Despite the changing societal attitude towards heritage conservation, life is still far from rosy for the AAB, which sometimes

has to make difficult decisions that go against the grain. Such was the case with the 12th century walled village of Nga Tsin Wai, of which the AAB decided against conservation, except to preserve the original stone gate entrance and the village's Tin Hau Temple. The rationale for this decision was that even though the village pattern was intact, the vast majority of the existing houses in the village were not original. This decision immediately caused a public outcry and has remained controversial to this day.

In the post-colonial and post-property-boom Hong Kong, Lung's relentless and persistent efforts have finally borne fruit in which the Hong Kong people are beginning to see the short-sightedness of sacrificing our cultural heritage for short-term monetary gain that really benefits only a small fraction of the population. The case of Nga Tsin Wai has revealed the increasing public demand for conserving what little that is left of our built heritage. The earlier mentioned redevelopment projects in Yau Ma Tei and Tiger Balm Gardens demonstrate that developers have recognized the fact that wanton destruction of our precious little architectural heritage in the name of economic progress is no longer acceptable.

"The good news is that developers are getting more and more supportive to the course of heritage conservation," says Lung, "but the bad news is that we are still hampered by an inflexible and often ineffective heritage policy." "Many people have asked the question why we cannot learn from the conservation experience of countries where there are complete centres, districts or even cities full of legally protected historical buildings?" Lung cautions such an approach: "Unfortunately, Hong Kong is a small place with an ever-

expanding population and limited land resources; every square inch of land we have, even a piece of farmland in the New Territories, is very expensive. Because of this, we cannot simply adopt the heritage conservation policies of other countries that advocate wholesale conservation. We should instead have our own policy which is compatible with our geographical limitations, social circumstances and economic realities."

Recognizing the long-term need to educate future generations in the matter of heritage conservation, and the immediate need to provide practicing professionals with knowledge and expertise in conservation, Lung finally took matters in his own hands. In 1998, he recruited two like-minded colleagues, Dr. Lynne DiStefano and Dr. Lee Ho Yin, to help set up a self-funded postgraduate curriculum in conservation at The University of Hong Kong. Today, Lung is the Programme Director of the Architectural Conservation Programme (ACP), which offers postgraduate diploma and master degree courses in conservation. In a society where financial gain is often considered the yardstick of success, what has Lung's continual effort in promoting conservation gained him? Lung said, "From 1998 to 1999, my close colleagues and I offered ourselves as conservation consultants for several government projects, and we made about HK\$1.5 million." He continued, with hands raised to the sky, "But we gave away all our profits to the cause of conservation - the money we made all went towards the setting up of ACP, which was launched in 2000."

Details of the Architectural Conservation Programme can be found in the web site: <http://courses.arch.hku.hk/conservation/>

A FEW GOOD GUYS

After carrying out extensive restoration works in 1999, The Ohel Leah Synagogue, the oldest Jewish synagogue built in 1901, won an outstanding project award in the Asia-Pacific Heritage Awards 2000. The selection committee was praised for its meticulous works to restore the Synagogue to its pristine original condition. The Synagogue site is part of the expansive site in Robinson Road. In the early 90's the owner of the Synagogue agreed to lease the site at the decrepit Jewish Recreation Center building to a developer for a luxurious residential development while keeping the Synagogue intact.

Sun Hung Kai Properties have development rights in Ma Wan Island for a theme park and residential development. The company voluntarily surveyed the site for cultural artifacts and preserved a temple and other buildings.

THE ROAD AHEAD

"The Government should have adopted the TDR system much earlier to give an incentive to private owners to retain the historic buildings," says Roger Nissim, project planning manager for Sun Hung Kai Properties. "What comes out positively from the Long Valley case is the rising level of public awareness and compassion towards environment and heritage conservation and this, I believe, will work in favour of the Government in its later stage of public consultation for the TDR."

The TDR initiative at the moment is still a sketchy proposal, short on details on its implementation. One key hurdle to climb is to overhaul existing heritage preservation policy and lay down new rules on what and how historic buildings should be listed as well as on the extent of entrusting statutory enforcement power. The Home Affairs Bureau is currently conducting a review on heritage policy.

"In Hong Kong, there are some 8,000 pre-1950s buildings and some 500 to 700 are deemed worthy of consideration for conservation," says Professor Lung.

"A lot of work remains to be done. From the policy perspective of my bureau, we need to discuss with those concerned, both inside and outside of Government, on how we could employ the TDR to achieve our objectives," says Secretary John Tsang.

"We need to make the proper adjustments in the existing governing framework in planning, building and lands to accommodate this concept. We need to convince the developers that TDR is a good thing. We are indeed embarking on a long journey."

Opportunities for Surveyors under the Initiative for TDR for Historic Buildings

- Advisory work for owners of historic buildings and the neighboring buildings on redevelopment potential
- Application and valuation for entitlements
- Sale and acquisition for the entitlements
- Lease modification work for the owners of receiving site, with advisory on optimum use of entitlements, bonus plot ratio and exempted land premium
- Increased maintenance and enhancement works on historic buildings
- Marketing and estate management work on heritage preservation

USE OF TDRs IN CONTIGUOUS SITES - THE SILVER LINING FROM THE LEE THEATRE DEBACLE

While we may have to possibly wait for another 2 years before seeing the application of TDR in non-contiguous development sites, the Lands Department has succeeded in experimenting a new breed of TDR last year, though within the same development site, to preserve heritage.

By merging the historic Tiger Balm Gardens site in Tai Hang, which it acquired a few years ago with some nearby government land, Cheung Kong proposed to build 4 residential towers on the enlarged site. Plot ratio (PR) of 5 was approved for the site zoned R(B) in the OZP. However, under the existing lease conditions, maximum PR permitted is far less than 5 as stipulated in the OZP. A land exchange application was submitted to the Lands Department.

The garish Tiger Balm Gardens was a fantasy playground of the billionaire Aw Boon Haw who wanted to use the park to educate overseas Chinese about their culture.

NICHOLAS BROOKE: MAN OF ROBINSON ROAD



Mr. Brooke lives in Robinson Road and jogs everyday around the neighborhood that has a rich historic past. Through his direct and indirect efforts, two landmark historic sites in Robinson Road i.e. the Ohel Leah Synagogue, the oldest Jewish synagogue in Hong Kong and the former London Missionary house, have been preserved.

In the early 90's when he was the deputy-managing director for Swire Properties, he negotiated with the owner of 70 Robinson Road - the Incorporated Trustees of the Jewish Community of Hong Kong - for a redevelopment package on the site. Subsequently, two high-rise residential towers, now known as Robinson Place, were built whereas the old synagogue remains intact.

Five years later, after acquiring the former Nethersole Hospital site at 80 Robinson Road, Nan Fung Properties intended to redevelop the site for residential development. The developer submitted two planning applications but were all rejected by the Town Planning Board. It was only until the third attempt in which the developer dropped the plan to demolish the former London Missionary Building at the site that the Town Planning Board approved the proposed redevelopment. The historic London Missionary Building is now preserved and converted into, after renovation, a clubhouse for residential development, thanks to the collaboration works between the developer and the planners.

"The Town Planning Board has the right not to grant planning approval but no right to bar owners from demolishing their historic buildings," says Mr. Brooke, a member in the Town Planning Board.

"In this case the developer sacrificed plot ratios in preserving the historic building and the system for protecting Hong Kong's heritage lies in the benevolence of private developers, which is unfair and not effective."

After a collaboration of efforts from AAB, the Lands Department and the developer, Cheung Kong, finally got approval for the proposed residential development of 512,455 sq.ft with a land premium of \$930mn paid to the Government coffer. Meanwhile, the Haw Par

Mansion and its private garden will be retained and surrendered to the Government.

"The size of the regrant lot is reduced as a result of land exchange," says Simon Wang, senior estate surveyor of the Lands Department. "But the absolute maximum GFA remains unchanged."

The significance of this project is that it is the first in-situ TDR case using land premium reduction incentive to protect heritage. "The subject land exchange is a result of the Government's effort in preserving an invaluable historic building for the benefit of the whole community," adds Simon.

For historic buildings in private ownership, we basically do not have much statutory power to stop owners from demolishing the buildings. However, in the past few years we have seen few examples of planners and developers working together, using TDR measures to save historic buildings that would have disappeared like the Lee Theatre. Examples are the former London Missionary Building, Pun Uk and Cheung Kong Center.

The new TDR initiative, as it will be applicable to non-contiguous sites, will represent a major leap in the Government's attitude on heritage conservation policy.

When the old Chicago Stock Exchange, 1893 architecture, was demolished for redevelopment in 1972, it sparked huge outcries and debates in the society on the protection of historic buildings. One scholar, John Costonis, wrote a book "Space Adrift: Landmark Preservation and the Marketplace" in which a Chicago Plan was spelt out to save historic buildings.

When will we see our version of a Hong Kong Plan?



The former London Missionary Building, 80 Robinson Road

The former London Missionary Society (LMS) has significant influences on China's intellectual, social and political developments. Its minister, Robert Morrison, the first Protestant missionary to China, translated the first Chinese bible in 1810. To learn Chinese, Robert immersed himself in Chinese cultures and language. He even dressed in Chinese costume and wore a false pigtail and let his fingernails grow long. LMS had also collected a large number of Chinese works that are now stored in the library of the School of Oriental and African Study, London.

Dr. Ho Kai, a devout Christian, donated money to LMS to run the Alice Memorial Hospital, the first hospital that served local Chinese with western medicine. He also set up the College of Medicine for Chinese inside the Hospital. One of his students in the medical college was Dr. Suen Yat-sen, the founding father of modern China.



JEFFREY CODY: ADVOCATE FOR MORE IMAGINATIVE USES OF TDR

Professor Jeffrey Cody is an associate professor in the architecture department of the Chinese University. He is also a member of the Antiquities Advisory Board.

In his study paper "Transfer of Development Rights as an Incentive for Historic Preservation: the Hong Kong Case" (<http://www.unescobkk.org/culture/pdf-files/T5Cody.pdf>), he examines five cases related to the use of TDRs in Hong Kong.

TDR within the same contiguous site is allowed, as demonstrated by three cases: the former London Missionary Building in Mid-Levels, the Pun Uk in Yuen Long and the Cheung Kong Centre development. The Government should not repeat the Lee Theatre debacle where the non in-situ TDR should have been used. There is indeed a Government precedent for non in-situ TDR, albeit in a different form. Here, Professor Cody cites the example of the now-defunct Letter B system.

"Given current concerns about offsetting the economic downturn, if TDRs can be demonstrated to be catalysts for investment, then the political will might materialize so that the necessary, positive changes can be made to current planning regulations and more creative transfers can occur," he says.

HERITAGE PROJECTS COMPARISONS: FORMER LONDON MISSIONARY SITE AND TIGER BALM GARDENS SITE

	Former London Missionary Site	Tiger Balm Gardens Site
Location	80 Robinson Road	Tai Hang
Developer	Nan Fung	Cheung Kong
Use before redevelopment	Nethersole Hospital	Private residence with part of the gardens open to the public
Heritage Building in concern	Former London Missionary Building	Haw Par Mansion and its private garden
Heritage merit	London Missionary found the earliest hospital and school for local Chinese in Hong Kong (Grade III)	One of the very few remaining private residences of 1930's (Grade II)
Main redevelopment hurdle	Change of town planning from GIC use to residential use on an unrestricted lease	Lease modification to relax the GFA restriction
Solutions	<ol style="list-style-type: none"> 1. Planning approval for residential development 2. Restore the London Missionary Building and convert into a clubhouse 3. Remain in private ownership 4. Existing GFA of the historic building is counted on redevelopment, i.e. Developer has less commercial GFA than what would be permitted 	<ol style="list-style-type: none"> 1. Developer agrees to retain the Haw Par Mansion and its private garden 2. Surrender the heritage part of the site to AAB upon redevelopment 3. GFA transfer to the rest of site 4. No loss of GFA for developer 5. Successful land exchange and land premium payable for additional GFA 6. Land premium reduction for the reduced site area in the re-grant lot
Achievement	Town planners avert the fate of demolition of a historic building	Flexible land administrative policy to provide an incentive to the developer for heritage preservation

TOURISM REVIVAL ON HERITAGE - A REGIONAL CONTEXT

In mid last year the Macau Government applied to World Heritage to inscribe some of its landmark historic sites into the list of World Heritage Projects 2002.

The application included several classified monuments of major historic, architectural and cultural interest along a route starting at Barra Temple and passing the Moorish Barracks, St. Lawrence's Church, Dom Pedro V Theatre, among others, and ending at the Ruins of St. Paul's and Monte Fortress.

Shops in and around the Leal Senado Square, which is a classical Mediterranean architecture style, command over 60% of the total retail sales in Macau.

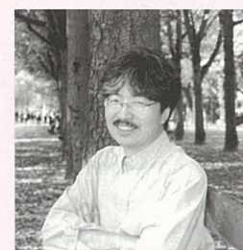
Singapore has successful examples in restoring historic buildings and

converting for retail use. Chijmes, is converted from a former convent into a plaza of retail theme and F & B outlets interspersed with ample outdoor space and courtyards, cloistered walls and long covered walkways.

Bugis Junction, once Singapore's transvestite locale, has had its shop houses renovated and integrated into a gleaming, air-conditioned shopping complex featured with Straits-Chinese facades.

Hong Kong lags behind in its efforts in heritage tourism. The historic Central Police Station site in Hollywood Road has long been targeted for tourism use but yet the Police Department has no timetable to vacate from the site.

Yau Ma Tei's fruit market and the area around the old cinema could be our Hong Kong's Bugis Junction in future. The Urban Renewal Authority has taken up the project. But its good intention may well be foiled by the latest announcement from the Government to demolish the old Yau Ma Tei police station.



WAN MAN YEE : NAM SANG WAI ARMAGEDDON

M.Y., former chairman for Youth Outreach, puts his heart into helping 'at-risk' kids. But when it comes to environmental issues, he fights equally hard with heart and soul.

However, no one could seem more controversial than M.Y. Wan in environmental conservation. M.Y. won the planning appeal case for Henderson Land against the Government in the Privy Council London (then the Court of Final Appeal for Hong Kong) in 1996. The case in dispute involved a golf course-residential development application on a 137-ha site within the Inner Deep Bay hinterland, a zoning area that the planning department intended to drive out developments for natural conservation purpose. M.Y. believes this is not the best way in conserving our environment. Without active protective measures, the already endangered situation would only deteriorate, he says.

M.Y. put his job at stake when he switched tactics at the final battle in London by firing their original high-powered legal council whom would "yell in the courtroom with his finger pointing towards the judge's nose."

Inspired by Paris's Louvre Museum extension project, M.Y. thinks we need to have a new mindset in preserving our historic buildings. But in one consulting meeting on the future use of the Central Police Station, the majority, including Allan Zeman, the boss behind his Lan Kwai Fong empire, was enraged at his plan to tear down the clinic building that sits at the roundabout between Hollywood Road and Arbuthnot Road.

"The existing conditions in Hollywood Road simply could not cater for the increased traffic if we converted the Central Police Station for tourism purpose. Relocation of the clinic building to the back of Victoria Prison was the sensible solution," he says.

Contrary to what most believe that creating a watering-hole concept within the compound is the most viable use, M.Y. proposes to lease some of the space for language workshops and cultural exchanges. "People learning foreign languages tend to have a profound respect for cultures and history. The Central Police Station, rich in its architectural design and history, will provide a perfect setting for this purpose."

As a member of the Housing Authority, he suggests to retain the first public housing building which will be in its 50th anniversary in 2004. The big fire in Shek Kip Mei in 1953, which left 500,000 people homeless, is a milestone in the history of Hong Kong's housing policy. This time few would argue with him on its significance.



Pun House, Au Tau, Yuen Long

This Hakka house was once the residence for the powerful Chinese marshal, Ye Jian-ying, where he and his son were the former governors for Guangdong province. In exchange for retaining the Pun House, which was built in a traditional Chinese village style with courtyards and a semi-circular pond in front, the developer got planning approval for building several blocks of residential towers right next to the house. The use of TDR in this contiguous site is not a perfect example for preserving heritage as the tranquil character of the Pun House could well be destroyed by the towering blocks behind. With the developer now in a receivership and the new TDR proposal, a new hope for preserving the Pun House is increasing.

Concerted efforts from various departments are vital for tourism and heritage conservation. It only took 6¹/₂ months to complete Shanghai's newest trendy area Xintiandi, which features restored "Shikumen" houses. Over 3,800 families were re-housed to other areas.

HOW THE USE OF TDR FOR HERITAGE COULD EVOLVE IN FUTURE?

There is an opportunity for a widening use of TDR, if proved successful, not only for heritage conservation projects, but also for environmental conservation projects. "TDR is a powerful tool to preserve historic buildings which have private owners as it gives incentives for developers to consider alternative development proposals without foregoing their development rights. It works well with the Government as well because they don't have to pay out money to retain these heritage treasures," says Roger.

Unlike in the past, public support towards heritage protection is on the rise. If it happened today, the Government could never get away to raze some of our landmark buildings such as the grandiose, neo-Mediterranean-style General Post Office (now Worldwide House) and the Kowloon-Canton Railway Terminal, an Indo-Byzantine structure built in 1915.

Apart from heritage concerns, Hong Kong is searching for new ways of protecting the living environment, which we call sustainable developments. Joint efforts from the public, professional groups and the developers have forced the Government to revise plans on harbour reclamation as well as the OZP at the former Kai Tak airport.

“Long Valley, Sha Lo Tung, Tai Long Wan, Tai Ho and Luk Keng are the five biggest areas that have very high conservation values and need to be protected. The TDR scheme can be used to encourage private owners to surrender their lands so that serious conservation works can be taken in the area,” says Roger.

Roger proposes that the 5 PSPS sites that have been suspended for sale in auction could be used to absorb the entitlements from the villagers in these areas.



ROGER NISSIM: SHATIN'S CHOREOGRAPHER

Roger served as District Lands Officer in Shatin in the early 70's when Shatin was earmarked for a new town development. One remarkable contribution he did for Shatin was limiting its maximum plot ratio to not

more than 5. Compared with the development intensity in Tseung Kwan O, another new town where the maximum plot ratio is 8, Shatin is much less cramped and enjoys a more open and green view. Despite its vibrant skyline and sprawling developments, Shatin still preserves some of its traditional village characters. Roger was a choreographer in retaining Shatin's rural beauty. He once revoked a plan to raze the Tin Sam Village in Tai Wai.

He supports the Government's proposed TDR initiative. He hails: “At long last someone senior in the Government is seriously considering a change of policy to positively assist heritage protection. Three cheers!!”

Citing two examples of tragic losses of colonial architectures: the Murray House in Central and the Old Mental House in Western District, Roger adds: “Hong Kong's colonial past is part of its history and it makes what Hong Kong is today. We should strive to preserve the architectural reminders of its colonial days.”

SINGAPORE ART MUSEUM CONJURES UP NOSTALGIC LA SALLE MEMORIES

This year is the 70th Anniversary of La Salle College. Some of its alumni suggest constructing a replica of the old school dome to celebrate the school's glorious history. There is a better alternative. Our humble suggestion is: go and visit Singapore's Art Museum, right opposite to Chijmes, and to make sure to take a snapshot in front of the silver dome and the bronze statue of St. John Baptist de La Salle - the founder of La Salle College. Singapore Art Museum building, built in 1852, is the former home of St. Joseph's Institution, Singapore's La Salle school. In 1989 the school moved out to a new town premise and handed the old building to the Singapore Government for restoration. A tale of two La Salle schools, beauty or bulldozer?

A BRIEF ANALYSIS OF TDR FOR HISTORIC BUILDINGS

Key Initiatives	Advantages	Concerns
Non-contiguous site	Incentive for developers to retain historic buildings without losing GFA; More historic buildings can be saved	Existing Building codes does not allow for such transfer; the maximum plot ratio and site coverage permissible under existing BPR and OZP will have to be relaxed
Sale and transfer of entitlements	Use market force and increase transaction liquidity for heritage site owners	May produce undesirable speculation on entitlements without conducive benefit to the preservation of the historic buildings
Bonus Plot Ratio/Land premium waiver	More firepower for heritage preservation	Likely to cause uncertain entitlement value, its value can only be ascertained until knowing how it is applied in the receiving site, for example: transferring TDR entitlements from a back street site to a commercial project, or a residential project near MTR may imply a large difference in values
Within same OZP	Maintain coherence of planning intention in the same OZP; avoid developments over-crowding into one zoning area	Will limit the number of sites using TDR
Not exceed 20% of the GFA	Avoid over-building	A small receiving site is less favourable; will limit the number of sites using TDR
Protect the vistas of landmark historical buildings	Preserve the character of the whole neighborhood and render the conservation work more effective	Resistance from the neighbor owners as they may not wish their properties be listed and barred from redevelopment

Send your comments to Jeffrey Wong (jeffrey.wong@ap.joneslanglasalle.com) or Jim Yip (jimyipk@yahoo.com) 



MSc/PgD IN PROJECT MANAGEMENT DEPARTMENT OF BUILDING AND REAL ESTATE

Programme Aim

This is a self-financed postgraduate programme, which targets for construction professionals in Hong Kong. The primary aim of this programme is to provide an opportunity for practising architects, construction managers, engineers, surveyors, planners, technologists, and other related professionals to broaden and deepen their knowledge in project management, in the construction context.

Entrance Requirements

Bachelor degree in construction related disciplines or equivalent*, preferably with relevant working experience in project management. (*Relevant professional qualifications will be considered as equivalent)

Credits and Fees

Credits required for graduation: 30 for MSc award and 21 for PgD award.

The fee for each credit is at HK\$2,700 (current). (MSc: norm 3 years/ PgD: norm 2 years)

Application Period (2 February - 15 March 2002)

Please collect the application form at the Academic Secretariat Podium Office (near Chung Sze Yuen Building), The Hong Kong Polytechnic University, Hung Hom, Kowloon; and return the completed form on or before 15 March 2002. For enquiry, please call Ms Irene Wu at 2766 4367 (Department of Building and Real Estate) or at 2333 0600 (Academic Secretariat).

Web site: <http://www.polyu.edu.hk/admission>

Information Session:

Date and Venue: 2 March 2002 (Sat) at Room M105

Time: 3:00p.m. - 4:30p.m.

The Hong Kong Polytechnic University, Hung Hom.



THE ROLE OF AN ESTATE SURVEYOR IN PRESERVING HERITAGE

HAW PAR MANSION, TAI HANG

Wang Sin Wing, MRICS, AHKIS, Senior Estate Surveyor, Lands Department
Photographs by Patrick FAN

BACKGROUND

A famous merchant from South-east Asia, Mr. Aw Bon-haw, created the Tiger Balm Gardens in Tai Hang in 1935. Mr. Aw was a wealthy philanthropist and was also known as the inventor of Tiger Balm Ointment. He filled the garden next to his house (known as Haw Par Mansion) with statues and frescos of historical legends and folk stories. He then opened it to the public, probably making it the first theme park to have been created in Hong Kong.

The main features of the Tiger Balm Gardens are its frescos, colourful grottos, legendary characterizations and sculptures/murals, pavilions, caves, bridges, stone carvings and auspicious motifs. Amongst them, the most prominent fresco is one depicting the ten courts of Hell. In addition, historical figures and scenes from mythological stories are vividly presented. There is a 145 feet, 7-storey tiger pagoda in the Garden as a focal point, and it is the only white pagoda in Hong Kong.

While the Tiger Balm Gardens is open to the public, the Haw Par Mansion (HPM) and its private garden was the private residence of Aw family. Visitors can only view it from a distance. The Mansion is one of the very few remaining private residences of 1930's, built in Chinese Renaissance Style with a unique mixture of the prevailing Chinese and Western ideas in artistic decoration. The Tiger Balm Gardens had been a long standing tourist attraction but its popularity had waned over the years.



Haw Par Mansion



Private garden

PROPOSED LAND EXCHANGE

In July 1999, an application was received from the Purchaser of IL 3564 & Ext. and IL 5330 RP & Ext. for a land exchange to amalgamate some government land to merge for a residential development. The redevelopment proposal required the demolition of the entire complex.

HISTORICAL VALUE

The whole of the site including the house, the garden and the structures within it, are considered to be "Grade II" historical value; this is defined as "buildings and sites of special merit; effort should be made to selectively preserve them intact". In view of its historical and architectural merits, as well as the rarity and integrity of the Mansion, the Antiquities Advisory Board recommended its preservation in-situ. (Please refer to Appendix for the definition of monuments and the grading of historical buildings.)

APPROVED LAND EXCHANGE

As the site is zoned "R(B)" on the relevant Outline Zoning Plan and falls within Density Zoning 2, a Plot Ratio (PR) of 5 was approved for the land exchange.

The administration decided that it should endeavour to preserve the HPM and its private garden. A proposal has been drawn up that the HPM and its private garden would be surrendered by the applicant in the land exchange. The size of regrant lot would be reduced accordingly. Although the absolute maximum GFA of 47,300m² remains unchanged, the PR of the regranted site would be increased from PR5 to PR of about 6.54. However, it is still within the maximum permitted under Building (Planning) Regulations (i.e. 8 for a Class A site).

OUTCOME

The negotiation for the Special Conditions and the amount of land premium finally drew to a close. The HPM and its private garden was returned to the Government upon the execution of the land exchange i.e. 10 September 2001. It was immediately handed over to the Leisure and Cultural Services Department to restore the period house atmosphere at the HPM with photographic and artifacts displays.

The future use of HPM and its private garden is being examined and the Government intends to put the Mansion to an appropriate public use through joint venture with the private sector.

It is also intended to declare the HPM and the adjacent private garden as a monument under the Antiquities and Monuments Ordinance (Cap. 53).

With regard to the existing sculptures that have to be dismantled for redevelopment, the developer has made an agreement with the Government to carry out cartographic and photographic recording of the Tiger Balm Gardens. Moreover, the developer has agreed with the Society for the Aid and Rehabilitation of Drug Abusers to remove some of murals and figures to their centre in Shek Kwu Chau.

CONCLUSION

Through the joint effort of Government Bureaux and departments, and the co-operation of the developer, the Government has successfully retained a major landmark of significant heritage value. Nonetheless, the preservation of the HPM and its private garden is only successful if the administrative permitted PR under lease is less than that permitted under the Building (Planning) Regulations.

In the Chief Executive's statement in his 1999 Policy Address, he stressed that the preservation of our heritage is important "as this not only accords with our objective of sustainable development but also facilitates the retention of the inherent characteristics of different districts and helps promote tourism. The concept of preserving our heritage should be incorporated into all projects of redeveloping old areas." The subject land exchange is a result of the Government's effort in preserving an invaluable historic building for the benefit of the whole community. ■

APPENDIX

Preservation of Monuments

- Human artifacts, relics and built structures may be gazetted and protected as monuments under the Antiquities and Monuments Ordinance (Cap. 53) ("the Ordinance"). Under the Ordinance, the Antiquities Authority, after consultation with the Antiquities Advisory Board and with the approval of the Chief Executive, may declare any place, building site or structure which the Authority considers to be of public interest by reason of its historical, archaeological or palaeontological significance, to be a monument, historical building, archaeological or palaeontological site or structure.
- The Antiquities Advisory Board also assigns gradings to historical buildings and structures, ranging from Grade I to Grade III.
- Definitions of the Grading of Historical Buildings:
 - Grade I
Buildings of outstanding merit; every effort should be made to preserve the building if possible.
 - Grade II
Buildings of special merit; efforts should be made to selectively preserve.
 - Grade III
Buildings of some merit; but not yet qualified for consideration as possible monuments. These are to be recorded and used as a pool for future selection.



ARCHITECT - THE AGENT OF THE EMPLOYER?

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



It is well understood that an architect (or engineer) under a construction contract has a dual function. In the landmark case of **Sutcliffe v Thackrah [1974]** A.C. 727, Lord Reid said:

"In many matters he is bound to act on his client's instructions, whether he agrees with them or not, but in many other matters requiring professional skills he must form and act on his own opinion."

These dual functions were elaborated upon in another very important case of **London Borough of Merton v Stanley Hugh Leach Limited [1985]** 32 Build.L.R.51, a case concerning a claim that the architect had not acted diligently in respect of the contractor's claims for loss and expense and delay. Vinelott J commented as follows:

"It is to my clear mind that under the standard conditions the architect acts as the servant or agent of the building owner in supplying the contractor with the necessary drawings, instructions, levels and the like and in supervising the progress of the work and in ensuring that it is properly carried out.....The contract also confers on the architect discretionary powers which he must exercise with due regard to the interests of the contractor and the building owner."

The difference between these two roles is important in the event that claims arise that the architect has failed in either role. If it is proven that he has failed in his role as the agent of the building owner, then the contractor's claim is a claim against the building owner for breach of contract. If however it is proven that he has failed in his role as the independent professional then the action is not for breach of contract by the employer but an action for an arbitrator to make an amendment to the architect's decision.

The difference between these two positions can be important for the difference in the remedies available under the two respective actions.

When it comes to the architect's role in certifying payments due to the contractor, the main authorities that have examined the position of

the architect have involved claims that he has under certified the sums due to the contractor. In such a scenario it is clearly established that the architect, when assessing the sums due to the contractor is acting in his independent professional role, and not as the agent of the employer.

Accordingly, in the event that the architect is accused of incorrect certification the employer is not held to be in breach of contract, because the architect is not acting as his agent in such matters. The only exception to this position is where the employer has in some manner sought to influence the architect in exercising his discretionary powers by, say, instructing him to certify a lower sum than that which is due.

Now, however, a case has come before the Court of Appeal in Singapore that has re-considered the architect's function in certification but in this case it was the timing of such certification and not the amount of the certificate that was in issue.

In the case of **Hiap Hong and Company Pte Limited v Hong Huat Development Company Pte Limited** the Court of Appeal in Singapore considered the architect's certifying function with regard to a claim from the contractor (Hiap Hong) that the architect had placed the employer (Hong Huat) in breach of contract by certifying interim payments under the contract later than the specified dates causing the contractor to lose S\$397,788.88 in interest. If the matter was not a claim for breach of contract, but a dispute as to the architect's independent certification then interest would not have been a valid head of claim, due to the wording of the particular arbitration clause in this contract.

As is typical in cases such as these the dispute went to arbitration and was then appealed to the courts. In the Court of Appeal, counsel for the employer argued, on the basis of established authorities that the architect, in certifying payments under the contract was acting in an

independent certifying role and not as the agent of the employer and therefore the employer was not in breach of contract and the claim for interest was not valid.

Counsel for the contractor, whilst accepting that the architect acted in an independent role whilst assessing the amount of the payment due, maintained that the architect was required to issue a certificate in accordance with the timing set out in the contract, and thus in this capacity was not acting as an independent certifier but as an agent of the employer, i.e. he had no discretion over the actual issue of the certificate, only the amount of it.

The Singapore Court of Appeal agreed with the employer and held that the late certification of the architect was not a breach of contract of the employer. They held:

"It is not the duty of the owner/employer to oversee the architect in the discharge of that [the certifying] function. In fact, he should not be doing that as it could undermine the independent nature of that function."

This decision has drawn criticism from no lesser an authority than Mr. Ian Duncan Wallace (author of Hudson's Building and Engineering Contracts). In an article in the Construction Law Journal (Volume 27 No 6) Mr. Duncan Wallace suggests that the Singapore Court of Appeal got the decision wrong and that it took the independent role of the

architect in certification too far.

Mr. Duncan Wallace considers that the architect's role in certification is twofold. Firstly the assessment of the sums due, which is clearly an area where the architect is not acting as the agent of the employer but as the independent professional, and secondly in the actual issue of the certificate on the required date where there is an express warranty to the contractor that he will receive an assessment at a certain time, and where the Architect must be acting as the employer's agent.

On a simple analysis of the wording of the contract (and most similar forms of contract), Mr. Duncan Wallace must be correct in his view. Clause 30 of the Hong Kong Private Form (which is similar to the form used in the Singapore case) provides:

"At the Period of Interim Certificates named in the appendix to these Conditions the Architect shall issue a certificate...."

The contract imposes an obligation on the architect to certify payment in accordance with the timing set out in the contract. There is no discretion in this matter, it is a requirement of the contract. In this role the architect must be acting as the agent of the employer.

An interesting case and one that shows that the courts, whether in Singapore or indeed anywhere, do not always get it right, but from the case the dual role of the architect becomes more easily understood. ■

Qualify by Distance Learning *with*

OPEN EVENING - 26 February 2002

Meet College tutors at the British Council (Rm. 701-702). Discuss how you can obtain internationally recognised professional qualifications or undertake in-depth post-qualification study - through web enhanced distance learning.

Courses include

- **The University of Reading BSc in Estate Management**
- Registration no. 250148(3)
- **CEM Diploma in Surveying** - Registration no. 250146(3)
Both the above courses meet the academic requirements of the *Hong Kong Institute of Surveyors* and the *Royal Institution of Chartered Surveyors, United Kingdom*.
- **The University of Reading BSc in Quantity Surveying** - Registration Pending
- **CEM Diploma in Construction** - Registration no. 250145(3)
Meets the academic requirement of the *Chartered Institute of Building, United Kingdom*. DMX Course also available.
- **MBA in Construction and Real Estate (University of Reading)**
- Registration no. 250149
- **MSc in Real Estate (University of Reading)** - Registration no. 250606
- **RICS Postgraduate Diploma in Project Management** - Registration no. 350147

It is a matter of discretion for individual employers to recognise any qualification to which these courses may lead.

Registered in England as a charity no. 209131

Open Evening

Meet with College tutors
at the British Council
from 6.30pm to 8.30pm in Room 701-702

For a brochure and reservation, please contact:

The British Council, Distance Learning Programmes,
3 Supreme Court Road, Admiralty, Hong Kong
Tel: 2913 5110 Fax: 2913 5115
Email: distance.learning@britishcouncil.org.hk
Web: <http://www.britishcouncil.org.hk/distancelearning>



CONTRACTOR DESIGN REVISITED

Brian E. Rawling, Brian E. Rawling & Associates



Having returned from Christmas vacation, I found that the time to pen this month's article was short, therefore I shall return to a previous subject, being contractor design, which I referred to in the article entitled "Co-ordination and Design Development", which was printed in Volume 10 Issue 8, of the September 2001 edition of Surveying Newsletter.

CONTRACTOR'S DESIGN DEVELOPMENT

I have recently received a copy of the latest draft general conditions of building contract [private edition, with quantities] which, when finalized, are to be published for use in Hong Kong. These conditions refer to this matter as "design development", which term preserves an architect's traditional right (and obligation) to design the works whilst at the same time allowing an architect to take advantage of contractors' skills and experience in defining working details. As I mentioned in the earlier article, most architects do not want to allow a contractor or sub-contractor to design the works as the architect has preconceived ideas about what the works should look like and how the works should perform on completion. If an architect were to surrender his design responsibility to others then he jeopardizes his preconceptions. What most architects require is someone to carry out detailed design as opposed to conceptual design. In the draft new conditions, it appears that this is catered for (subject to comments below) in clause 2.1(1)(d) which states that the contractor shall:-

"develop the design of the permanent works to the extent required by the Contract;"

Hence, the way in which this should work (I refer later to what should be "required by the Contract") is that an architect includes in "the Contract" what is in effect a design brief which the contractor has to develop, within the architect's pre-defined restrictions and conceptual design ideas, into a buildable and workable design. This minimises an architect's costs but it means that the detailed design development is carried out concurrently with construction work on site. Careful control over the design development process is, therefore, essential otherwise delays could occur.

As contractors are to be informed of an architect's requirements for design development at tender stage then they have every opportunity to determine what is required and to price in the tender the design development requirements, which could mean a design team for several months. In fact, the tender documents may require tenderers to provide proposals of their design development team so it can be vetted in the same way as a project management team or a quality control team is vetted.

Developers may raise questions as to why they should pay two design fees, one to an architect and another to a contractor. However, if at the time of the contract between the developer and architect, this arrangement was clearly spelt out, then the developer is not paying twice for design work.

As I stated in the earlier article, the architect's design brief should state how conflicts, ambiguities and discrepancies are to be dealt with during contractor design development including interfaces between different elements and between architect-developed and contractor-developed designs.

Further, the architect's design brief included in the contract should be comprehensive if requests from the contractor for further information are to be avoided or minimised. The architect's design brief should be such that an experienced design detailer working for the contractor can produce working drawings, and even shop drawings, without having to revert to the architect for clarification of design brief inadequacies.

According to the excellent article by Mr. David Greenwood and Mr. Avan Fan Chi Wai in the CIOB (HK) Journal issue dated 4 November 2001, the majority of contractor claims for variations arise from design development and not from employer-ordered changes. Therefore, contractor design development should reduce this majority by, at least, dispensing with claims associated with the late provision of detailed design information, even if there are still claims associated with variations.

In this respect, contractor design development can cause a blur when considering what forms variations. Some issues will be clear-cut but others associated with interpretation or loosely unspecified terms in the contract may not be so clear-cut. A bold step for the new contract would be to make contractors allow in their tenders for variations arising during contractor design development where such variations are not instigated by employer-ordered changes or changes to the architect's design brief, but arise through the development of working details. As the contractor has control over design development then the contractor can also control the cost thereof.

CONTRACTOR TO TAKE RESPONSIBILITY FOR THE DESIGN

In clauses 2.1(1)(e) and (f) of the draft new conditions, part of the Contractor's obligations is to:-

"take responsibility for the design ... where the design ... is required by the sub-contract / contract of sale"

This provision raises several questions concerning legality and desirability.

With regard to legality, the architect should not relinquish his design responsibility where the element is covered by the Buildings Ordinance or other statutory regulations as being the responsibility of the Authorised Person, e.g. curtain walling, stone cladding. Surrendering such design responsibility would be a breach of the Buildings Ordinance and statutory regulations by the Authorised Person.

If a general building contractor is made to "take responsibility for the design" of a specialist item of work then, if he is to properly carry out that responsibility, he will need an experienced design consultant, either as an advisor or in-house staff, who is familiar with that specialist item of work.

For the contractor to price such responsibilities in its tender then the main contract tender documents should identify this obligation and

not leave it for the contractor to discover after contract award, when issued, by the architect, with a proposal for a nominated or named sub-contractor or supplier where the contractor has to assume responsibility for a design which had hitherto been carried out by others.

There is also the possibility that nominated or named sub-contractors or suppliers will not wish to divulge the details (secrets) of its product designs, particularly new, innovative products used in high-tech buildings.

If an architect relinquishes his traditional design responsibilities, as it is suggested that he might by the wording in clause 2.1(1)(e) and (f) of the draft new conditions, then he also relinquishes total control on the finished product. Albeit that the work is to be carried out to the architect's satisfaction, that satisfaction must be tempered by the design freedom which the contractor must have to give effect to the obligation to design. Most architects are not prepared to permit others to take over conceptual design nor do most architects wish others to do so. It is also doubtful if a developer would be content for its architect to wash his hands of the design and let the contractor conceive of something which will serve its purpose.

Further, the contractor should have an influence upon what he is to take responsibility for. If, as is usually the case, the design concept of the nominated sub-contract works is already established at the time when the architect issues to the contractor the nomination proposal then it would be an unwise contractor who accepted responsibility for the design of others without first having that design fully checked by an experienced designer. This could lead to delays in the appointment of the proposed nominated sub-contractor whilst the contractor had the design fully investigated, queries raised and answered and, generally, satisfied itself that the design was adequate before the contractor accepted the nomination proposal. If the requirement for design responsibility was not spelt out in the main contract then there could be a claims situation.



SURVEYOR'S SURF

Stephen Chung, Zeppelin Real Estate Analysis Limited

During primary school, your author was part of the 'establishment' i.e. the school administration by being a class 'monitor' i.e. in today's terminology, a class representative. Representative of the classmates? Hell no, that would be unthinkable but more like a teacher's rep, you know, kind of like a sheepdog to a shepherd. Apart from the logistic duty of having to carry 40 classmates x 6 homework assignments each day to and from the teachers, the monitor was also expected to help discipline fellow classmates e.g. by watching who had been talking during the 1-minute gap between change of classes and marking down their names for some eventual punitive measures. To the younger members of our institution, this may seem shockingly idiotic but 'no talking anytime except during recesses' was pretty common in those days. Yes, it was idiotic. Hence, your author refused to be a part of the establishment anymore during high school and actually had a few exchanges with another branch of the school administration, the "prefects" (usually senior high school students picked for their obedience quality and the ability to recite all 9,999 school regulations - unlike class monitors, they covered the 'common areas' such as playgrounds too), in short the School Gestapo, which regarded itself as being "almost perfect". While it is not known if having a "confess else you will be severely punished" mentality makes people perfect, the following sites are indeed near perfection:

<http://directrooms-china.com/>

It is believed that quite a few of our members travel to China regularly and while one can book the hotels through a travel agent, one may also do this online. This site offers several city locations in China including Beijing, Shanghai and Guangzhou. Bon Voyage.

<http://www.bundesbank.de>

This is the Deutsche Bundesbanke website and offers articles on banking, currencies and many more. It offers an English version too. With the Euro Dollar in place, maybe it is worthwhile to read something about it and what better than to learn it from one of the major banking institutions there.

<http://www.statistics.gov.uk/>

This site is obvious and offers statistics on the United Kingdom. As it is an important European economy, gaining an understanding of the country may be useful, especially for those investing in her stocks and real estate.

<http://www.OfficeQuest.com/Search.asp>

Need a temporary office in the USA and quick, be it a meeting room, a workstation, or some elegant executive suite, ask this site. Just for one day? Or even just a couple of hours? No problem and you can reserve online as well. Real estate agents, take note.

<http://www.muldavin.com/articles.html>

This site belongs to the Muldavin Company and contains professionally written articles and analyses on the US real estate investment and capital markets. Their key executives consist of PhDs, Harvard MBAs and the like. Also, the site is well laid out and easy to navigate.

<http://www.marketmavens.com/>

This is basically a subscription service for US stock analyses and newsletters, though there are some contents that can be accessed freely. Gives you an idea of how commonplace and easy information and knowledge can be obtained today. Just sign up and presto you're on.

<http://kra-net.com/humor/humor.htm>

This site is operated by Kensington Realty Advisors and amid the company introduction, client lists and so on, they have a section on "Real Estate Humor"! The author has not read it all but the "frog prince" and the "shopping mall" were funny. Take a shot.

<http://www.soyouwanna.com/site/index.html>

This site tells or teaches you things that you 'wanna' know or learn more. Topics range from real estate buying, house decorating, fashion and beauty, all the way to rare stuff such as how to have a sex change. There are also links to commercial sites too in case you need to purchase some items related to your topic of interest.

Speaking of schools, your author had also noticed one big change in parents' affiliation. Decades ago, your mom / pop would without doubt have sided with your teachers, especially when it came to disciplinary issues and poor academic results. "Pong oar da gaud shui tsai / lui la" (your parents' plead to the teachers to help beat you up). Nowadays, some parents tend to argue 'on behalf of their kids' with the teachers, similar to what a defense lawyer would do for the accused client. "Tso mut lei wah oar gaud tsai / lui ng duck, kui sick din no yau sick tarn kom" (your parents' affidavit that you are diligent, smart, knowledgeable, multi-talented and well-behaved, just like them! The teachers are just making the accusations up). Times have changed.

Send suggestions and comments to stephenchung@real-estate-tech.com

However, in Hong Kong it appears to be the attitude of most main contractors to take on such design responsibilities without having them checked out beforehand. Thereafter, it also appears to be the attitude of most main contractors to act as postman, passing design information between architect and sub-contractor as if the main contractor had no responsibility or liability therefor. It is only when things go awry, and sometimes it has to go awfully awry, that a main contractor takes an interest. By that time it is usually too late for the main contractor to influence the extent of the liabilities which it has already taken on board. Therefore, whilst contractors continue to be uncommercial and accept potentially high risk obligations for no or insignificant financial recompense, then developers or architects cannot be criticized for downloading risk, traditionally accepted by them, onto a willing subject.

REQUIRED BY THE CONTRACT

What is meant by these words in the context in which they are used in the draft new conditions?

Clause 14.1 of the draft new conditions states:-

"The quality and quantity of the work included in the Contract Sum shall be deemed to be that which is set out in the Contract Bills which shall be read in conjunction with the Specification to amplify and supplement the descriptions in the Contract Bills."

The word "work" may be deemed to include design work in either contractor design and/or design development. That is unless such contractor design and/or design development is not viewed as "work" but as an obligation as it is designated as such under clause 2.1 of the draft new conditions.

Therefore, if such contractor design and/or design development is not deemed to be "work" to be defined in terms of quality and quantity in the contract bills, then where is it to be defined and what mechanism will there be to enable the contractor to include the cost and risk thereof in the contract sum?

Clause 14.2 of the draft new conditions states that the contract bills are to be prepared in accordance with the SMM. The present SMM contains no requirements for itemizing and quantifying contractor design and/or design development.

The documents forming the contract are defined in clause 1 of the draft new conditions and there is no reference therein to contractor design

and/or design development. The descriptions of the contract documents defined in clause 1 also do not refer to any document concerning contractor design and/or design development. Therefore, following on from the advice given in the earlier article, it is clear that the contract draughtsman, when dealing with the new conditions, still has to deal with the issues covered in the earlier article.

The writer's preference for dealing with contractor design and/or design development would be to include either a totally separate bill, or separately identified items in the preliminaries bill, to cover the contractor's obligations and for the specification to contain the design criteria, conceptual design brief and/or design performance requirements.

However, if contractor design and/or design development is deemed to be an "obligation" and, therefore, not require measurement pursuant to clause 14.1, then it should be specified in the specification and/or elsewhere in the contract.

One further point for the draft new conditions is that clause 8, dealing with materials, workmanship and work, does not mention contractor design and/or design development, that is, unless it is deemed to be "workmanship and work". If contractor design and/or design development is deemed to be "work" then it should be measured pursuant to clause 14.1.

As the drafting committee found it necessary to supplement the obligations which exist in clause 2 concerning materials, workmanship and work by the requirements in clause 8, then there is no reason why the contractor design and/or design development obligations referred to in clause 2.1 should not be similarly supplemented in clause 8. Either way, a few words of clarification in clause 8 would help users of the new conditions to understand how the draughtsmen intended it to work.

CONCLUSION

Developers and architects require contractors to provide assistance with design in many ways. Time and again, the existing conditions of contract are amended to include some form of contractor design. It is good to see that the draft new conditions will cater for this and it is hoped that this article assists the drafting committee in completing them.

For further information please contact bera@netvigator.com

BOOK REVIEW

THE GOAL, A PROCESS OF ONGOING IMPROVEMENT

Goldratt, Eliyahu M.

ISBN 088427-061-0

Cliff Tse, AHKIS, MRICS,
 Director of Valuation Advisory Services Department
 Jones Lang LaSalle Limited
 Email: cliff.tse@ap.joneslanglasalle.com



At the time of writing, lots of companies, no matter whether they are large or small, are facing critical issues like declining profits, rising inventories and lower returns on investment. Especially for most of us working in the corporate sector, executives are still being demanded to produce more with fewer headcounts, or to bring in more revenues with less resources. Under various constraints, we should try new ways to look at our business and to meet all ends. Therefore, following my previous recommendation of *The Power of Positive Thinking* (December 2001 issue), I anticipate **The Goal** to be your good companion when you are screaming for help.

The Goal, as quoted from the introduction, is about new global principles of manufacturing. The principles themselves, however, are applicable in all industries and companies including the property sector we are serving. Instead of presenting the *Theory of Constraints* in the form of typical textbook, the author used a novel to narrate the story concerning the manufacturing plant that he was managing. The first chapter started with a backlog of an overdue order from an important client whereas his divisional manager was announcing that the plant was on the verge of being closed by the head office if the author (plant

manager) was unable to turn it around in three months' time. The story was closely followed with the marital friction between him and his wife, which was almost turned into separation. And in the middle of the book, he was step-by-step guided by his physics professor, Jonah, on how he could solve the plant's problems. Lots of key words like dependent events, statistical fluctuations, bottlenecks reappear throughout the book. In this novel there are intermingled high dramas of the author's race against time - 3 months, to rescue the company and his marriage, but I would leave you to find the conclusion of this wonderful book.

Approaching a long holiday, I would recommend this 351-page paperback to all members if you have 10 to 13 hours to spend on reading. This business novel was distributed to all accounting students when I was studying in The Hong Kong University of Science and Technology. While it was not a compulsory textbook, our professor said, "Once you pick it up you will not leave it until you finish reading it". That was true! I rarely read longer than 30 minutes, but I managed to read it from page to page on my 12-hour flight to Vancouver and found the book very interesting to follow.

There are also lots of compliments on this book, and I pick this one to exemplify my recommendations above:

Punch Magazine

"Anybody who considers himself a manager should rush out, buy and devour this book immediately. If you are the only one in your place to have read it, your progress along the path to the top may suddenly accelerate...one of the most outstanding business books I have ever encountered."

UPDATE OF GOVERNMENT PRACTICE NOTES

Department	Practice Note/Reference#	Description	Date	Home Page
Lands Dept., Legal Advisory and Conveyancing Office	Circular Memorandum No. 40C	Lands Dept. Consent Scheme, Sale of units in uncompleted private residential developments (excluding Private Sector Participation Scheme, Sandwich Class Housing Scheme and Flat for Sale Scheme.	10 December 2001	
Works Bureau	Technical Circular No. 13/97A	Revised Administrative Arrangements for Reclamation Works.	20 December 2001	www.wb.gov.hk
	Technical Circular No. 18/98A	Procedures for Environmental Impact Assessment of Development Projects and Proposals.	20 December 2001	
	Technical Circular No. 9/2001A	Procedures for Gazetting under the Foreshore and Sea-bed (Reclamations) Ordinance (Chapter 127).	20 December 2001	
	Technical Circular No. 33/2001	Statutory Gazetting of Public Works Projects in parallel with the Environmental Impact Assessment Process.	20 December 2001	

Please note that the above Practice Notes can be downloaded from the corresponding home page.