

Surveying **news**ing



CHAN Hak

Message from the President

The accelerating development of technology and the fast changing social and economical environment are affecting every sector of the community. The surveying profession is no less vulnerable than others. We have to keep abreast with and to exploit the technology and to be aware of the changing needs of the community so as to provide timely and cost effective services to our clients.

Indeed, the Institute has been mindful for years that we have to keep pace with the development of the surveying profession around the world and to put ourselves in the international scene. Therefore, we have established contact or affiliated with many world organizations, e.g. WOBO, PAQS, ICEC, IVSC, FIG and ISPRS. Also, in order to ensure and to demonstrate our professional standard is comparable to the leading institutions overseas, we have made reciprocity of membership arrangement with some of them, e.g. RICS, SISV and API. Wider contact with world-renowned organizations and national institutions will continue to be made. Meanwhile, a proposal to set up an association or forum of surveying institutions in the Southeast Asian region is being studied.

The contact with Mainland China has been high on our agenda. Through our members and their firms, we have established contact with many state and provincial organizations and professional institutes/associations. There have been frequent visits to each other and conferences/seminars have been held jointly or sponsored. For example, recently we had co-organised with the HKTDC the 'Hong Kong Real Estate Services Expo, held in Shanghai. There were quite a number of our members' firms, some for the first time, setting up booths to promote their services. There was one morning seminar, chaired by the GP Division Chairman, with three member speakers on the theme of Shopping Centre. There were several hundreds of people attending and showing keen interest on the subject. It is encouraging to learn that the professional surveying services are gaining acceptance there and our Institute is generally well recognized by many of our counterparts in the Mainland. Work is in progress to explore the reciprocal recognition of membership with some institutes there. I firmly believe that having a close tie with our counterparts in the Mainland China will be of mutual benefit to the surveying profession and the practitioners/firms in Hong Kong and the Mainland China.

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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.

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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

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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.

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

Notes:-

Full names of the organisations referred to in the second paragraph (page one):

API	Australian Property Institute
FIG	International Federation of Surveyors
ICEC	International Cost Engineering Council
ISPRS	International Society of Photogrammetry and Remote Sensing
IVSC	International Valuation Standards Committee
PAQS	Pacific Association of Quantity Surveyors
RICS	The Royal Institution of Chartered Surveyors
SISV	Singapore Institute of Surveyors and Valuers
WOBO	World Organisation of Building Officials

HKIS EXTRAORDINARY GENERAL MEETING "AMENDMENTS TO THE HKIS CONSTITUTION AND BYE-LAWS"

Members are reminded of the Extraordinary General Meeting to be held at 6.00 pm on Tuesday, 7th May 2002 in Room 607 (old wing), Hong Kong Convention and Exhibition Centre, 1 Harbour Road, Wanchai, Hong Kong.

Voting of the resolutions shall be by Postal Votes only. Voting forms have already been posted. Please ensure that you return your voting form on or before 12.30 pm, Saturday, 4th May 2002. Your vote is important. For enquiries, please contact 2526 3679.

Building Surveying Division

Raymond Chan, Chairman

February was a busy month for most of us as it only contained 28 days and interrupted by the Chinese New Year Holidays in the middle. Most of us worked hard to prepare for the holiday break while some hard-working ones even worked through the holidays.

REPORTS

Meeting with Mr. S.H. Pau, Director of ASD

You may still remember that I attended a meeting with Mr. C.H. Yu, Deputy Director of ASD on 17 January 2002. I subsequently attended a meeting on 23 January 2002, organized by Mr. S.H. Pau, Director of ASD, to meet with representatives of professional bodies including Engineers, Architects, Surveyors, etc. Mr. D. Mackay (QSD) and myself representing HKIS attended the meeting. Mr. Pau informed us that ASD is to be re-engineered with the aim of outsourcing most of its consultancy work (90% for new works and 80% for maintenance works) within 7 years. The existing staff in the department will be maintained while their role will be mainly to act as client and project managers.

In the meeting, proposals for contractual/tendering arrangement and associated concerns were discussed. I expressed my concern on the arrangement for maintenance and repair works as these works have not been outsourced by the ASD before. We also discussed the assessment of consultants and consultancy tenders, problems with unreasonably low bids, organization of consultants' teams, etc. In fact, the meeting was not long enough to discuss things in detail. The BSD Council intends to arrange another meeting with ASD to discuss related matters further.

Community and Stakeholders' Perception Survey on Works Bureau and Works Departments

Mr. S.S. Lee, Secretary for Works, wrote to HKIS inviting us to attend a meeting on 1 February 2002 with their consultant, NFO WorldGroup, as part of their study to improve the services of Works Bureau and Works Departments. The meeting was attended by myself (representing HKIS), a HKIA representative, and Mr. Chan of NFO WorldGroup. The contents of the meeting are supposed to be confidential. However, I can tell you that we discussed possible ways to improve efficiency, avoid delay, minimize overlapping and improve user friendliness. It appeared that our message (and complaint) has

been received. We will have to wait to see when improvements will appear.

VISIT TO JAPAN

This visit was a study tour (in fact it was) organized jointly by BSD and WOBO (World Organisation of Building Officials). This tour took place on 4-7 February 2002. Our group members included myself, Mr. Barnabas Chung, Mr. Kenneth Chan, Mr. Alfred Chung (BD delegate), Mr. Alex Wong, Mr. Philip Tse..... This tour was originally organized to take place two years ago (if you may still remember). Due to the factor that the originally chosen dates were too near to the Chinese New Year, the response was not good. We finally managed to form a good sized team this time (about 15). We visited several interesting places and I would like to give a brief report here (I have to be brief, as it will take at least 50,000 words if a full report is to be written).



Visit to a leading paint manufacturer

We visited their factory in Tokyo. As Tokyo is an expensive place in both land cost and labour cost, their wholesale manufacturing is not in Tokyo. The factory in Tokyo mainly handles manufacturing of special paint in smaller quantities. We saw the process in manufacturing, packing, quality control, colour analysis and colour control, etc.

Visit to a Central Refuse Collection system

This is a new concept of refuse collection. In a small new town in the suburb of Tokyo, a system was built consisting of a central processing plant, large diameter underground steel tubes and collection points

at every building in the town. All daily refuse are conveyed from each building by the thrust of suction through underground tubes to the central processing plant (The Collection Centre). This eliminates the use of refuse collection trucks and achieves a highly efficient clean operation. This system should also be workable for new towns in Hong Kong.

Visit to the Japan Facility Management Promotion Association (JFMA)

We visited the JFMA with a view to explore how Facility Management operates and develops in Japan. I am interested to note from their publication that "Definition of Facility Management in Japan is equal to corporate real estate plus Facility Management in the U.S." It means that this sector of activity really demands the skill of a Building Surveyor. In the future, a maintenance manager may have to be involved more and more on Facility Management. This provides a new area for building surveyors to develop. Mr. Tse Chi Ming, Chairman of our FM Panel (BSD) gave a presentation, with the help of powerpoint, on Facility Management in Hong Kong. We had a lengthy talk afterwards and felt that we should communicate more in order to promote this developing topic.

Visit to the Ministry of Land, Infrastructure and Transport

This is the Ministry in the central government of Japan controlling land use, building, infrastructure and transport for the whole of Japan. We learned about the overall system of land use control, building control, infrastructure and transport in Japan. Japan is a small place compared to its population (approx. 120 million) and with potential threats from earthquakes. You can imagine that they need to have a very efficient system in order to achieve a satisfactory result.

Visit to the Building Control Department, Bureau of City Planning, Tokyo Metropolitan Government

This department handles the building control for Tokyo City. They explained to us the procedures in obtaining approval, outline of basic concerns, types of plans required, etc. We were



impressed to learn that all plans are approved in their first submission. Of course, discussion and amendment have to be done in meetings between government officials and building professionals prior to formal submission. It is interesting to note that all their building professionals are termed as "architects" (or "construction personnel" in direct translation) to start with while each of them will have his/her own specialism (and grade) to follow. About 3 years ago, Japan started a system to allow approval of building proposals by designated private organizations. This practice is now developing and seems to be growing in popularity.

Visit to the Building Centre of Japan (BCJ)

This is a non-profit making organization. It is authorized to evaluate and approve building materials, components, construction methods, prefabricated housing, building equipment, etc. It also carries out research in building technology, urban development and housing policies. BCJ is also an organization authorized to give approval, confirmation and inspection required for construction projects under the law.

In our visit, we were further introduced to the building control procedures and mechanism. We were shown with some of the plans they approved. We found that these plans contained a lot more information than the plans we usually submit to our Building Authority in Hong Kong.


Visit to a Urban Renewal Project - Roppongi Hills

This development project is an urban renewal project. This site is located in southwest central Tokyo, a built up urban area that used to be occupied by about 200 existing buildings. The Tokyo Metropolitan Government issued a directive for the redevelopment of this area in 1986. Thereafter, the owners of the existing buildings and land grouped together and formed a corporation with a developer company. The developer company provides finance for the project and the owners can have a share of the profit from this project.

This project is now in the construction stage. This project covers approximately 11 hectares. Development includes the construction of office buildings, residential buildings, a hotel building, a theater building, etc. Total floor area of the whole project is approximately 7.8 million sq. ft. with parking lots for about 2,450 vehicles. Total construction cost is estimated to be around 260 billion yen (approximately HK\$16 billion). The developer has previous experience in developing projects of similar nature. They still believe that they can make a profit in this project even in the present economic climate. This is a huge project and gave us a lot to learn from although we did not have much time.

Visit to a construction site for a high rise deluxe residential building

This is a building providing very expensive residential apartments in Tokyo. We visited the site and were impressed by the cleanliness and tidiness of the site. From the inspection to the inside of the building under construction, we learned a lot from their design, construction details, construction technology, site organization, safety precaution, provision for future maintenance, etc. Again, we did not have much time.

For those who did not join the tour, I can honestly tell you that you missed a lot. However, Prof. Barnabus Chung is organizing a CPD event on 25 April 2002 to talk about this study tour. Details have already been sent out separately. Please ensure you do not miss out. 

News from the Divisions

GENERAL PRACTICE DIVISION

Alexander T W Lam, Chairman

On 21 February 2002, The Hong Kong Trade Development Council organised a 4-day Education & Careers Expo in the Hong Kong Convention & Exhibition Centre, where HKIS had a booth.



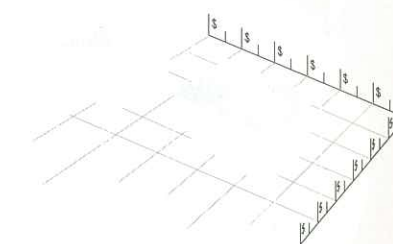
A seminar was held on 23 February and chaired by President Chan in the presence of representatives from each of the Divisions. The presentation was first conducted by the President and in turn by the BS, GP, LS and QS representatives, focusing on historic and current development of the Institute in general, and in particular, the scope of professional services each discipline could provide in the industry. On behalf of the GPD, I made a presentation.

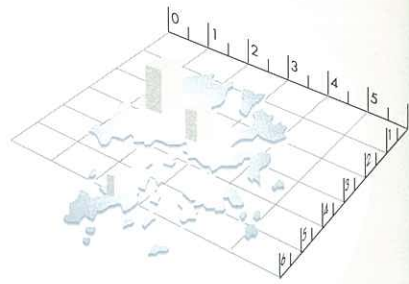
Members are reminded that the first CPD event of the Division is scheduled on 11 April 2002 from 6:45 pm in the Joint Professional Centre. The speaker is Mr. Johnny Siu who will speak on the topic of "Valuation of Development Land in Hong Kong". Your support to the event will invariably give a strong incentive to Mr. Wilson Siu, your CPD committee chairman and his members, for all their efforts in making it happen. The council will announce a program of CPD events for the rest of the year in the next issue.

Two forthcoming CPD events include:-

- 27 April 2002 One day site visit to Shenzhen, including a seminar on investment in land properties and a case study on auction sales
- 17 May 2002 A talk to be given by Mr. Bosco Fung, Director of Planning Department

Please be reminded to reply to HKIS as soon as you receive the notice in respect of the events.





LAND SURVEYING DIVISION

BOUNDARY SURVEY ADVISORY COMMITTEE (BSAC)

Rina Tsoi, BSAC Secretary

MEMBERSHIP

The Membership of BSAC for 2002 is as listed below:

Mr. LEUNG Shou-chun	Chairman
Mr. Gordon ANDREASSEND	Member
Mr. Henry H K CHAN	Member
Mr. LAM Li-wah	Member
Mr. LAW King-wai	Member
Mr. SIU Wai-ching	Member
Mr. TAN Chin-hor	Member
Mr. Conrad TANG	Member
Mr. Ian F WOOTTEN	Member

GUIDANCE NOTES (GN)

After the consolidation of comments from LSD members, the Guidance Notes (GN) have been finalized and forwarded to the General Council for endorsement. All LSD members will receive a free copy of the GN for reference and retention shortly.

Once again, thank you for your support and valuable comments on the GN.

LAND TITLE BILL (LTB)

Members from BSAC have discussed the revised LTB drafted from The Land Registry. The major comment from BSAC was to maintain a correct

description of the land parcel, which is as important as the correct record of the landowners. This is to become a mandatory requirement whenever a land lot is converted from the deed registration system to the title registration.

Details of the comment have been submitted to the HKIS Council through the LSD Council in late February 2002.

CODE OF PRACTICE (COP) (OF THE LAND SURVEY ORDINANCE)

BSAC has been asked by the HKIS Council to review the COP for submission to the Land Survey Authority to consider. Please could members comment on the current COP for BSAC to study.

CPD EVENT

Rina Tsoi

Mr. Ian Wootten (Managing Director of Wu Hill & Associates Limited) has had over 30 years experience in cadastral surveying in New South Wales, Australia and in Hong Kong as well. He will share his experience of "Cadastral Survey in New South Wales, Australia" with us on Thursday, 18 April 2002 from 6.45-8.30 pm in Room 605 (Old Wing), HK Convention and Exhibition Centre, 1 Harbour Road, Wanchai, Hong Kong.

The event fee is HK\$100.00 per person. All members and non-members from HKIS are welcome to attend the CPD event. If you have any enquiries about the event, please contact Miss LO Hon-yin, Maris, at telephone number 2683 9216.

AN INTERVIEW WITH MR. CHAN HAK ON THE HONG KONG LAND BOUNDARY SYSTEM

(An interview with Mr. Chan Hak, Deputy Director/Survey and Mapping of Lands Department; reported by Conrad Tang on 15 January 2002)

Question: Mr. Chan, how would you describe the current land boundary system performance in Hong Kong?

Answer: Generally speaking, the current land boundary system works well in Hong Kong. In the urban area, the SMO (Survey and Mapping Office) has adequate information for defining the boundary of all the lots. Given the time and resources, the SMO is able to set out any urban lot boundary. However, due to limited resources, the current practice is that landowners requiring boundary survey work are requested to approach the private practicing surveyors for the service. For those old schedule lots in the Demarcation Districts in the New Territories (NT) surveyed 100 years ago, only graphical boundary information is available. Therefore, a boundary survey will be required to define them numerically in the present co-ordinate system. At this moment, the Government has no plan for a major change on the land boundary system in the near future.



Mr. Chan Hak in his office

Question: Are you fully satisfied with the boundary situation in the urban area?

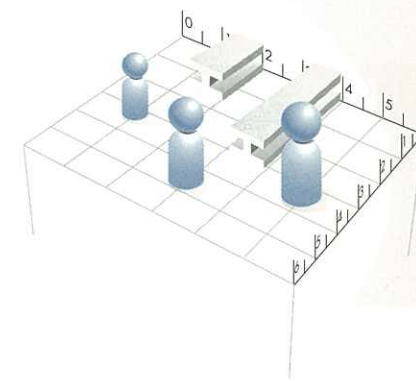
Answer: Land grants since 1980 are surveyed using the current co-ordinate system. The SMO is fully capable of locating the boundary described in a land grant plan. By complying with a common code of land surveying practices, land surveyors in both the Government and private sectors are capable of providing accurate and acceptable results.

Regarding the very old grants with only area and dimension shown, it may need much time and effort to carry out the boundary survey to upgrade the boundary information to today's standard. But on the whole, the current system is workable and able to support land administration. There have been very few complaints regarding lot boundaries from the general public. Although there is room for improvement in the urban boundary system such as realigning those boundary surveys carried out before the Second World War to the present day standard, yet the time and resources required from Government would need strong justification.

Question: Mr. Chan, would you highlight the rooms for improvement in our urban land boundary system?

Answer: I can highlight two areas where extra effort can be put in, namely the alignment of the surveys under various co-ordinate systems and the survey of those land subdivisions carried out before 1996.

Over the past 150 years, New Grant lots have been defined in various co-ordinate systems, such as 1980 grid (1980-), Metric coordinates (1970-1980), New Imperial coordinates (1960-1970) and Old Imperial coordinates (pre-1960). Trying to align all these surveys with the current system will take the time and effort of a professional land surveyor to collect and collate all the relevant information including the physical occupation, knowledge of residents and documentary records and then make the best professional determination on the boundary.



QUANTITY SURVEYING DIVISION

Nelson Cheng, Chairman

Subdivision of land has been allowed in many land grants and until recently permission has to be sought from the Government as specified in the sale condition. In fact, the SMO had no direct information or legal responsibility on the subdivision lot boundaries before the enactment of the Land Survey Ordinance in 1996. The Ordinance is a means to ensure land subdivision survey and plans are up to the required standard. But, for the previous subdivisions, in the absence of a code of practice, there is bound to be inaccuracy or uncertainty in the subdivision boundary.

Question: Do you think that, without a lease survey, it would bring harmful effects into the urban land boundary record?

Answer: Well, a lease survey is of course preferable, but it is seldom carried out due to the rapidly changing development pattern in Hong Kong. In the 50's and 60's, typical blocks of low-rise buildings on a single lot were developed and owned by one landowner. A site check survey was carried out when the foundation was completed and a lease survey was carried out upon compliance with all sales conditions and finally a government lease was issued. However, in the later years, with the land subdivision and multi-ownership becoming more common, the issue of government lease became impracticable and henceforth was almost suspended. The 1984 Conveyancing and Property Ordinance accepts the transaction of a legal title without a lease. Minor discrepancy between a land grant and an occupation may exist and that can only be revealed upon a land boundary survey. However, government lease is still being issued for some public projects, like the Home Ownership Scheme, that requires a final area for executing the transaction.

To align the land boundary surveys of all lots in the urban area certainly has advantages, such as to speed up building and infrastructure development. Right now it is being done in a piecemeal manner.

Question: Mr. Chan, would you like to brief us on the difficulties of the New Territories land boundary system?

Answer: The 1900 to 1904 Demarcation District (DD) Surveys were carried out in the New Territories to record the occupations for rent assessment purpose. For example, the third class agriculture land was taxed at 1 dollar per acre. The minimum land tax was one cent, therefore the area was rounded off and recorded to one hundredth of an acre.

The survey was done using plane table method and the plotting scales were in sixteen inches to a mile (1:3960) and thirty-two inches to one mile (1:1980). The lot area was then derived from the plan by simple measuring methods and recorded on the Field Area Statement and Schedule as registered area. In the 60's, for the purpose of calculating land resumption payments and other land administrative purposes, the area of 0.01 acre was converted as 435.6 square feet and subsequently in metric terms. Thus, in many land administration processes, the area of the New Territories land lot used for calculation was converted from the registered figure and which was derived from a graphical survey. Differences between the registered area, graphical area and the site area are to be expected.

Question: And, what could be done to upgrade the New Territories land boundary record?

Answer: In view of these DD lots lying in clusters and many with common boundaries and depicted by physical features, such as field bunds and village houses, one cost-effective solution is to survey these lots systematically area-by-area, district-by-district. This systematic survey may be regarded the same as the first survey carried out 100 years ago, but this time using accurate survey equipment and method and following current standards. The survey will not change any of the original boundaries, but only define these in higher precision and more certain terms.

It goes without saying the availability of a more precise boundary information will facilitate the land administration work, avoid litigation over boundary and areas, protect and enhance land value and fully exploit the land resource. Indeed, an updated land boundary record will serve all players concerned and for a long long time, beyond 2047. The readily available land boundary information at current technical standard will definitely facilitate the land development and land administration. Many of the big cities around the world are building up their Spatial Data Infrastructure containing accurate property boundary information for these purposes. Possibly, this is something that Hong Kong should look forward to.

At the moment, the possible ways forward are still to be explored, taking into consideration the prevailing financial condition, the resources of the Survey and Mapping Office, and the employment situation of the industry. ■

QSD COUNCIL MEMBERS LIST

In the January issue of 'Surveying', Mr. Tommy Yim, the past QSD chairman was missed out from the co-opt council member list.

CPD

The following CPD events have been conducted:-

- | | |
|-------------|--|
| 10 Jan 2002 | An Introduction to the Rules and Guidelines of Construction Mediation in Hong Kong
(Speaker : Mr. Stephen D. Mau) |
| 22 Feb 2002 | Talk on Cyber-port
(Speaker : Mr. Kenneth W. Nip) |

The coming CPD events include the following:-

- | | |
|-----------------|---|
| 16 Mar 2002 | Speaker (Mr. Yang Si-Zhong) from PRC |
| 21 Mar 2002 | PM Symposium (organised by HKPU) |
| April 2002 | Smart living |
| May 2002 | Partnering Talk
(Speakers : Mr. Brett Vincent and Mr. Philip Nunn) |
| June 2002 | Site Visit to IFC II, Northern Mega Tower |
| June 2002 | Talk by a Real Estate Investment Fund Manager |
| To be confirmed | Use of Mediation (in Chinese) |
| To be confirmed | Site Visit to Swire House Redevelopment |
| To be confirmed | Talk on Insurance |

CECA'S VISIT TO HKIS ON 15-16 MARCH 2002

The President of the China Engineering Cost Association (CECA), Mr Yang Si-Zhong who was elected as HKIS Honorary Fellow Member, led a team of 14 officers from Beijing, Shanghai and Tianjin in a visit to HKIS on 15

and 16 March 2002. A dinner was organized on 15 March and the Honorary Fellow Diploma was presented to Mr. Yang Si-Zhong at the Dinner. A technical seminar was held on 16 March at the City University of Hong Kong on the quantity surveying practice and development in China.

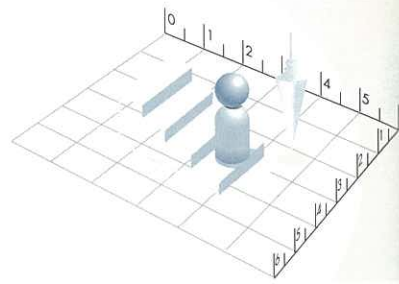
VISIT BY GUANGZHOU CONSTRUCTION BUREAU DELEGATION

On 4 March, the Guangzhou Construction Bureau 廣州市建設委員會 led a delegation on a visit to the HKIS office. The delegation comprised Government officials from various Government Departments, which included the following departments:-

- 廣州市經濟法規研究中心
- 廣州市建設委員會計劃資金處
- 廣州市建設投資發展公司
- 廣州市道路擴建工程辦公室
- 廣州白雲區江高鎮人民政府
- 廣州市人防辦
- 廣州市道路擴建工程辦公室
- 廣州市市政設計院
- 廣州市建設工程交易中心

Our Divisional Office Bearers plus our mainland sub-committee chairman met the delegation. It was decided that the HKIS will lead a team to visit Guangzhou in the coming future and technical seminars will be organized to introduce to the Guangzhou Government and corporations on how our surveying profession could assist in the property and economic development of Guangzhou city.





JUNIOR ORGANIZATION

MOTIVATION, MOTIVATION, MOTIVATION

Jim Yip, Hon. Secretary

THE NEW MANTRA IN WORK

While the adage "location, location, location" is not losing its place in the world of property, here in JO we only honour this one: "motivation, motivation and motivation."

We, the 2002 JO committee, are motivated to look after the interests of our members: we are motivated to stage our Saturday-PQSL campaign all year long in the HKIS office; we are motivated to be able to tell those members working in Shanghai or somewhere up in PRC that our door is open for them; we are motivated to see our aspiring members in estate management practice not losing their dream - that they can be as great surveyors as others; we are also motivated to walk our boys and girls in university out of the tunnel.

We are motivated to do anything to raise the profile of young surveyors.

NEW GENERATION OF LEADERS IN THE MAKING

In the JO community we have members who display excellent qualities. This month we introduce another five of them:

Linchpins of JO education machine - Justin Wong and George Cheung. Both are serving as conveners for PQSL and CPD respectively. This year we resolve to expand our education program aggressively and we plan to have over 40 PQSLs in addition to 10 CPD events. This means Justin and George, two BS practitioners, have to give up most of their Saturdays off for the year. Poor mates!

Schedule of next 5 PQSLs

Date	Topic	Speaker
6 April	Occupation Permit - Final Stage?	Junkers Lam
13 April	Rating Valuation	Simon Lynch
20 April	Property Acquisition	Kent Fong
27 April	Writing Workshop	Jim Yip
6 May	Development Control	C K Lau

C.Y. Fung - In search of excellence. C.Y. is our representative to QSD. A contractual consultant himself, he has a law degree in addition to his QS qualification. He is currently studying in a language course by the British Council, which recognises the candidate's proficiency of English to a native's standard upon course completion.

Y.C. Chan - Ain't No Boundary. YC, former JO chairman and still an active member, can tell a lot of tales associated with land surveyors. Once upon a time he was dropped from a helicopter to a peak blanketed by heavy fog, thanks to his knowledge in GPS, he eventually found his way out. YC also tells the opportunities of making further use of land surveyors' skill, such as in the area of hydraulic, marine survey, topography and environmental protection.

Altruistic Thomas Cheung. Thomas Cheung passed his APC last year, after much hard work. On the day he was notified of his APC results, he started writing a full manual on how to tackle the APC. He believes his experience can be valuable to others, and more importantly, he wants to help out those who have yet to find their luck in the APC. His Complete Guide for APC can be downloaded from the JO website.

In his speech (some view it as one of his best speeches in recent years) on the 90th Anniversary of the Hong Kong University, Chief Executive Tung Chee Wah said: "What I am rooting for is the new kind of elitism - open, meritocratic and strongly altruistic in outlook." Perhaps next time when he visits HKIS, he may find the answers in our JO members.

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

"SURVEYOR SERVE" COMMUNITY PROJECT UPDATE

In February, the Government approved funding of HK\$300m for voluntary projects centred on community building. We think "Surveyor Serve" - a voluntary service project by surveyors, has good reasons to apply for funding from the Government.

We hold the view that owners and organisations need to actively manage their assets. An efficient use of assets not only helps reduce costs but also increase productivity. We don't think the non-profit making organisations, which have no resources to hire professional surveyors, should miss out from the picture.

We have assessed the scope of works we could provide to the community and we are delighted at the fact that compared with other

professionals, voluntary services offered by surveyors are more wide-ranging and practical to the social needs. This gives us a leading edge in promoting our service and professionalism. It also underpins the surveyors' role and influence in modern society.

The benefits do not solely involve the strengthening of relationships with local communities and promoting surveyor's image to a wider audience. They also create opportunities for effective team building, increase motivation and help boost morale for our members, which again, has a direct effect on revving up surveyors' competitiveness.

We have contacted personnel from RICS, which has organised a similar voluntary service by surveyors since 1977. We studied their scheme and service involvement. They deliver their services through the local Citizens Advice Bureau (CAB) and other advice agencies.

We are exploring ways to find the right platform to deliver our service. We welcome any opinions from our members. Please send your views to us at jimyiphk@yahoo.com.

DRINKING DELIGHT

The French actress, Juliette Binoche (The best supporting actress in English Patient), has never visited Hong Kong, but her beauty was enough to attract several surveyors, seven years ago to open a wine bar named after her in Causeway Bay. Unbelievable? At least this was the story unfolded to us by one of the owners in sober mind.

The night was in no shortage of high-spirited dramas. The Drinking Binge, JO's first social event held on 17 January, had attracted 40 members. We were delighted at the qualities of the selected red wines from different continents. We enjoyed the fine cheese and shared jokes with fellow surveyors in a cosy ambience.

The two presentations by our student members stole the limelight of the evening. A team of GP members, i.e. Martin Leung, Kenneth Au and Wesley Chan, made an interesting presentation of the key elements for a successful wine bar, based on the evidence of rentals, location and consumer trends. Kenneth Au, the chief presenter, showed his true colour as he was once a speaker in the Poly U debate team.

Vincent Man, a BS graduate trainee in the Housing Department, guided us through the procedures in obtaining a pub licence. We brought down the licence frame mounted on the wall to illustrate that a light refreshment licence is also required for any establishment selling alcohol.



The party wasn't ended until the wine bar finally ran out of stocks.

SUNSHINE IN POLY U

As the local economy and job markets are in the grip of recession, our surveying students have already felt the chill. A ray of hope is badly needed. "Opportunities still abound," says surveyor Ronald Cheung, cheering up 40 surveying students from Poly U who will graduate in less than 6 month's time. "But you need to have an indomitable will."

As our pilot scheme, JO organised the first school visit to the final year students in the Department of Building and Real Estate, Hong Kong Polytechnic University ("Poly U") on 24 January. Ronald Cheung, Tony Wan and Jim Yip were invited to share their working experience with students from the GP stream.

"The meeting provided an important opportunity for us to tell our students what skills they would need in order to survive in today's work place," says Tony Wan, the event organiser.

Through a role-play game, Ronald highlighted the importance of the language skill, while Tony spoke on a proactive working attitude. In a small group discussion, Jim led students into debating the pros and cons of a 24-hour border opening and its impact on the local property market. He stressed that analytical and presentation skills are surveyors' two powerful weapons.

"The meeting was very useful for me," says student Elliot, who chased one of the speakers for comments on his dissertation.

The students' overwhelming response even beat the speakers' expectation. "At the outset, they were very shy and scared to come onto stage to make a presentation. But once they got into gear, their

performance really impressed me. I think our students have a lot of potential and they are highly motivated," says Jim.

JO will plan to have more similar exercises in different surveying streams and universities later this year.

TRADITION LIVES ON

Four persons practising in completely different areas all call themselves under one single profession - surveyor. What is this profession really about? Surveying students have more headaches than others do when it comes to their career choice. To our students the works of surveyors are as mysterious as ever.



Ricky Lai talked to students in Land Surveying

And so year after year practicing surveyors go back to the colleges and talk about the career prospects of surveyors in different divisions. This fine tradition has its roots traced back to the founders of HKIS whom stressed the importance of cultivating students as the best way to promote Hong Kong surveyors.

On 6 February, in a career talk organised by the Poly U student union in Land Surveying, Building and Real Estate Department, assisted by the JO, 10 surveyors, namely Mr. Nelson Cheng, Mr. C.Y. Fung and Ms. Sandy Tang from QS Division, Mr. Ricky Lai from LS Division, Mr. Nathan Lee, Mr. James Pong and Mr. Gary Yeung from BS Division, Mr. Simon Lai, Ms. Lee-lee Chiu and Mr. Ip Pak Keung from GP Division, shared their work experience with over 150 students. Surveyors talked about

the work challenges of their respective streams, working opportunities in PRC and more importantly the key attributes of graduates to survive in the current job market.



CY Fung shared his contractual management experience

The communication and exchange was two ways. Mr. Simon Lai was struck by one question in which he found no easy answer. "Can I qualify as a surveyor if I take the only job offer I have in property management?" Mr. Lai, the vice-chairman of GPD, raised the student's concern in the subsequent GP council meeting.


The response from students was remarkable, perhaps seen in the fashion as not less overwhelming than the opening speech of Nathan Lee, the JO chairman, who said: "A couple of years ago I was like you sitting in this hall and listening to some senior surveyors' advice. My fate was sealed two hours later."



Nathan Lee with the student organising committee

REVIVAL OF OUR "CAN DO" SPIRIT IN JO COMMUNITY

In one recent property seminar, the moderator asked three speakers of one wish he would make for 2002. One said economic prosperity, the other pointed to job security and one senior surveyor answered he wanted to see a revival of "Can Do" spirit in the Hong Kong society.

Quite true, that is what we mostly need. And in JO we are just doing that! 

JO SOCIAL EVENT: BLAZE THE LEADERSHIP TRAIL

New York mayor Rudy Giuliani is a hero to many New Yorkers. The 2001 Man of the Year named by Time Magazine, Giuliani has his own hero - Winston Churchill, another Man of the Year in 1940. At midnight on September 11, he drank in the Prime Minister's words: "I have nothing to offer you but blood, toils, tears and sweat." He couldn't find a better inspiration than Churchill and the people of London during the Blitz in 1940, who had to keep up their spirit during this sustained bombing - the almost identical situation faced in New York in the aftermaths of the terrorist attack.

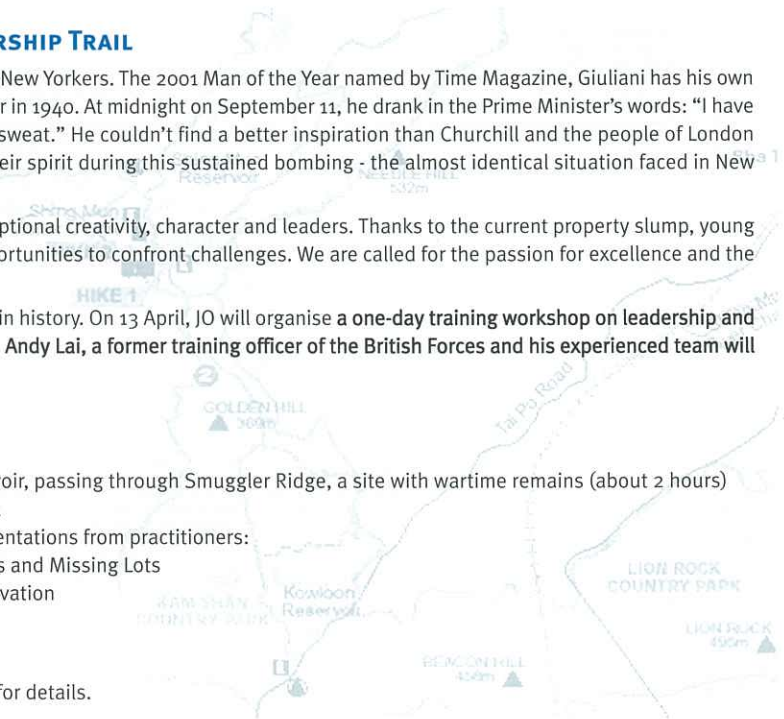
Adversity, as everyone knows, only breeds exceptional creativity, character and leaders. Thanks to the current property slump, young surveyors are blessed with unprecedented opportunities to confront challenges. We are called for the passion for excellence and the resolve to strive, to seek and not to yield.

This time we need leaders more than any other in history. On 13 April, JO will organise a one-day training workshop on leadership and team building skills in Shing Mun Country Park. Andy Lai, a former training officer of the British Forces and his experienced team will help organise the program.

Features:

- Fun games and fitness exercises
- Hiking from Beacon Hill to Shing Mun Reservoir, passing through Smuggler Ridge, a site with wartime remains (about 2 hours)
- Leadership training task during the trail walk
- Lunch at a scenic setting, there are two presentations from practitioners:
 - LS Division: Land Boundary, Mapping Skills and Missing Lots
 - GP Division: The Role of Surveyor in Conservation
- Role-play games on team building
- Group sharing session

Please call event organiser Jim Yip (61285469) for details.



News from the Secretariat



HONG KONG REAL ESTATE SERVICES EXPO 2002, SHANGHAI

The third Hong Kong Real Estate Services Expo, organized by the Hong Kong Trade Development Council, was held on 6-9 March 2002 at 1/F, Shanghaimit, Hung Qiao, Shanghai. The Expo was first held in Shanghai in 2000, in Beijing last year and returned to Shanghai this year. HKIS was one of the co-organizers and the GPD Chairman, Mr. Alexander Lam, the Junior Vice President, Mr. Tony Tse, together with 2 other members, namely Mr. Wyatt Choy and Mr. Robert Wong, delivered a morning seminar on 7 March on the subject of "Shopping Centre, Surveyors Experience", promoting the surveying profession to trade visitors of Shanghai and other provinces. HKIS hosted an exhibition booth in the Expo to introduce the organisation and governance of the Institute as well as the career path and core expertises of professional surveyors. There were a total of 7 surveying firms amongst the 47 exhibitors hosting exhibition booths in the Expo. The President, Mr. Hak Chan, was pleased and gave his support and encouragement to member surveyors in the Expo.



EDUCATION AND CAREERS EXPO 2002

This year, the Education and Careers Expo 2002 was held from 21-24 February. HKIS had a double corner booth not far away from the entrance and many students and visitors came to our booth. On Saturday, 23 February 2002, The President, Mr. Hak Chan and divisional chairmen and representatives gave a career seminar to an audience of about 80.

The BSD in their first attempt to attract a younger audience had asked 2 young members (of the opposite sex) to introduce the career prospect of the Building Surveyors. The Working Group for the Expo, chaired by Senior Vice President, Mr. Kenneth Chan, had come up with new ideas such as a new introduction leaflet, a quiz with HKIS caps as prizes for the right answers. The carrier bags were very popular, achieving the purpose of mass publicity. Lastly, a note of thanks to the members of the Working Group and the divisional members who spared their time to attend the booth to promote the Institute and the surveying profession.



VISIT TO HKIS

FIG Vice-Chairman of Commission 5, Mr Matt Higgins, visited HKIS on 12 March 2002.



Mr. Matt Higgins (centre) with the President, Mr. Hak Chan (on the right) and the Chairman of the International Committee, Mr. T. N. Wong (on the left)



On 31 January 2002 a visit was made by the Chief of Chongqing Municipal Construction Commission, Mr. Wang Gen Fong 重慶市建設委員會王根芳主任 (5th from left) to the Institute. The President and representatives briefed Mr. Wang on the role of the surveying profession in development and construction works. Mr. Wang was particularly interested in the cost management and valuation of works in construction projects.



The President and Prof. Lin Zeng Jie

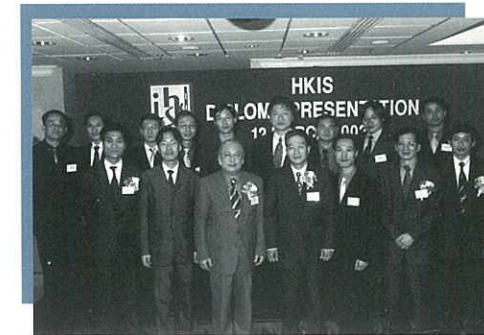
HKIS DIPLOMA PRESENTATION

A Diploma Presentation together with a dinner was held on 12 March 2002 for corporate members elected on 13 September 2001, 8 November 2001 and 28 February 2002. A total of 134 members turned up for the night. The President, Mr. Hak Chan, presented diplomas individually. Amongst the members, the President was most happy to welcome Prof. Lin Zeng Jie 林增杰 who was admitted as an Honorary Fellow in the General Practice Division at the Annual General Meeting on 11 December 2001. The Chairman of Quantity Surveying Division also presented the QSD APC Best Performance Prize 2001 to Ms. Ho Chui San, Shirley.

Following the Presentation was a welcome dinner. General Council members, new members and their guests and family members sat in the 16 tables to fill the evening with cheers and joy. Half-way through the dinner, the Divisional Chairmen stood up on the stage and encouraged members to be proud of themselves, to make use of their rights as corporate members and urged them to participate in institutional and council affairs. The dinner ended with group photos. The QSD had so many new members that the photographer could barely get everyone in the picture.



QSD chairman, Mr. Nelson Cheng and Ms Shirley Ho



BS members



LS members



GP members



QS members





CONGRATULATIONS TO THE FOLLOWING WHO WERE ELECTED AS HKIS MEMBERS ON 28 FEBRUARY 2002

FELLOWS (6)

GP DIVISION

Lam Ka Fai, Francis

LS DIVISION

Siu Wai Ching

QS DIVISION

Cheng Chi Wah
Chiang Wai, John
O'Donnell, Brian
To Kwai Chiu, Jeff

ASSOCIATES (145)

BS DIVISION

Chan Wai Leung
Cheung Yan Kwai, Eddy
Choi Ming Yuen
Chu Chi Ming, Samson
Hui Mei Wai
Leung Chin Pang
Leung Wai Yiu
Luk Wai Hang
Ng Mei Ling
Tsoi Lap San
Wong Ka Yi
Yiu Chung Yim

GP DIVISION

Au Wai Hung
Chan Chung Kay

Chan Muk Keung, Ringo
Chan Oi Kwan, Josephine

Chan Shuk Chi
Chan So Ting
Chan Tat Choi
Chan Wai Ming
Chan Wai Yip
Chau Man Leuk

Cheng Hin Kong, Ernest
Cheung Chi Kwong, Anthony
Cheung Kiu Cho, Vincent
Cheung Man Kam, Thomas
Chiu Sze Ming, Simon
Chiu Wai Mun

Chu Wai Hung
Chui Chi Shing
Deng Chi Yung, Jonathan
Fong Ki

Ho Hing Wah
Ho Ka Fai
Ho Shui Yung
Ip Wai Kei, Silvia
Ko Suet Ying
Lai Yuen Man
Lam Chun Kin
Lau Pik Yu
Lee Po King
Lee Pui Yin, Raymond

Leung Suk Fun
Leung Tsui Sze
Li Man Kam
Li Pui Cheung, Peter
Lun Kwok San
Lyn Wing Sze
Ng Ka Yip

Ng Yuk Ping, Fanny

Ngo Thanh Lien
Pang Wing Yan
Pong Yuen Fong
Siu Hing Tat

So Chi Kwan
So Siu Ting, Kucina
So Yuen Shan
Tam Chi Yan, Gregory

To Yu Kei
Tsang Chun Tat
Tsang Tak Fai, Alby
Tsang Yuk Chung, Edwin

Tse Hoi, Alex
Tse Wilson

Wong Man Yi
Wong Wai Sze
Wu Yick Hung, Helen
Yan Man Ni
Yip Ka Yin
Yip Siu Kee
Yu Chun Kit

LS DIVISION

Kwong Che Sing
Wong Yiu Cho, Joseph
Yuen Patrick Po Tsun

QS DIVISION

Adams, Nicolas
Au Ka Wing
Au Ming Cheong
Chan Ching Leung
Chan Chun Wai, Gary
Chan Ka Cheong

Chan Ka Yee

Chan Kim Ming, Carmen
Chan Man Hong, Anderson
Chan Ping Hung
Chan San Keung
Chan Siu Kei, Peter

Chan Wah Kwan
Chan Yuk Man
Chan Yuk Sim, Katherine
Cheung Pui Sze, Yoko

Chiu Po Ling
Cho Hong Ching
Chor Chi Man
Chow Wai Kei

Chu Lun Chor, Alan
Chu Man Chung
Chu Nga Ying, Salina
Ho Chui San, Shirley
Ho Kwan Hon
Hui Ho Wai, Clement

Kwan Kam Yung
Kwan Man Yee
Kwan Pansy
Lam May Fun, Sarah

Lam Tak San, Joe
Lam Wai Han
Lam Wai Kit
Lam Ying Wai

Lau Mei Ping
Law Man Wah, Emma
Lee Chi Yan
Lee Seung Kei

Leung Wan Lung
Li Hung Man
Lo Fai, Fifi

Lo Kin On

Lo Kwan Lam
Lo Wai Ming, Agnes
Mak Wai Man
Ng Chi Wai, Vincent

Ng Man Yan, Mandy
Siu Tak Yue
So Richard
Sy Cho Wing

Tam Man Ying

Tam Wing Lok

Tang Man Leung
Tang Shuk Mei
Wan Pui Sze
Wong Ching Yin

Wong Chok Yin
Wong Hoi Yin

Wong Hon Chung, Winson
Wong On Ping
Wong Shing Tak

Wong Yu On

Wu Shun Chi
Yau Kwok Shing
Yip Lai Shan
Yip Siu Hung

Yip Tsz Hong
Young Hoi Ho, Ivo
Yu Oi Ning, Irene
Yue Hau Yin

Yung Ming Keung, William

RESIGNATIONS (6)

Kam Kin Pong
Lau Kam Lung, Darren
Li Yuen Yan, Loretta
Lo Shiu Chung
Ng Kar Yan
Wu Ka Man, Carmen

DRAGON BOAT COMPETITION 2002



100% Cotton Dragon Boat Crew Uniforms need suitable owners.

Please contact Freddy Wan or Ivan Chang at 9414 4462 and 9887 4197 respectively for fitting.



DTZ Debenham Tie Leung Project Services Ltd

To cope with our continuing expansion, we are looking for dynamic personnel for the following positions in our Project Services.

Building Surveyors/ Assistant Building Surveyors (Ref: BS/ABS)

Requirements:

- Degree Holder in Building Surveying
- 2-3 years post-qualification/ post-graduate experience
- Photoshop, Microsoft Project, Powerpoint and AutoCAD skills are advantages
- Good practical experience in condition survey, project management, A & A Works
- Work on own initiative and willing to work under pressure

Please apply with full resume and expected salary to Ms Sandra Tam, DTZ Debenham Tie Leung Project Services Ltd, 16/F, 1063 King's Road, Central, or via our confidential email at prj@dtz.com.hk.



List Of HKIS MEMBERS EXPUNGED FOR NON-PAYMENT OF SUBSCRIPTIONS 2001/2002

Approval was given by the General Council to expunge the following members for non-payment of subscriptions for the year 2001/2002 with effect from 28 February 2002.

DIVISION	NAME	HKIS NO.	CLASS
BS	Chan Wan Bong	81098	Student B
BS	Chang Hong Lam	81561	Student B
BS	Chau Yau Lung	83615	Student B
BS	Cheung Chun Man	83563	Student A
BS	Fong Ka Fu, Boris	83414	Student B
BS	Fung Kam Luk	82905	Student B
BS	Fung Wai Hung	81524	Student B
BS	Ho Kwai Wai	83488	Student B
BS	Hui Fu On	82564	Student B
BS	Kao Shan Shan	83984	Student B
BS	Lai Pak Wei	82639	Student B
BS	Lau Wai Kam	84000	Student B
BS	Lau Wing Sze	83766	Student B
BS	Lee Yip Chung	82920	Student B
BS	Leung Ho Yin	83553	Student B
BS	Luk Yuen, Ian Helio	81139	Student B
BS	Man Wai Man, Mandy	83495	Student B
BS	Pun Chi Yip	83610	Student A
BS	Tam Kin Wai	83098	Student B
BS	Tang Siu Hin	83758	Student B
BS	Wong Ka Kin	83498	Student B
BS	Wong Ming Kin, Kenneth	83999	Student B
BS	Wong Pak Kei	83499	Student B
BS	Wong Pak Ning	82457	Student B
GP	Archibald Christopher James	82805	Student B
GP	Chan Hin Tung	81595	Student B
GP	Chan Wan Yin	83423	Student B
GP	Chan Ying Keung	80447	Student B
GP	Chiu Man Yik	81116	Student B
GP	Chu Hiu Ting	83874	Student B
GP	Chung Kin Keung	81118	Student B
GP	Goddard Richard John	1246	Associate
GP	Ho Wing Kei	83752	Student B
GP	Huen Wing Pun	83920	Student B
GP	Hui Hong Wang	81915	Student B
GP	Lam Kai Kai	82821	Student A
GP	Lau Ki Chung	81651	Student B
GP	Lau Wai Yee	82259	Student B
GP	Lee Ho Man	82205	Student B
GP	Leung Kin Bong	82941	Student B
GP	Leung Kwok Hin	2491	Associate
GP	Leung Yin Ying	81987	Student B
GP	Ling Wai Kit	82021	Student B
GP	Lo Yat Fung	83379	Student B
GP	Luk Kin Man, Ricardo	81682	Student B
GP	Lum Ka Lok	82534	Student B
GP	Mckie John	2806	Associate
GP	Mok Kam Kau	82227	Student B
GP	Ng Chi Fai	81000	Student B
GP	Ng King Wan, Alexander	82497	Student B
GP	Sit Sai Hung, Billy	82758	Student B
GP	So Ming Vee, Charmaine	81392	Student B
GP	Tam Ka Nin	82194	Student B
GP	Tam Suk Wai, Kenny	82454	Student B
GP	Tse Ho Fai	83433	Student B
GP	Wat Ka Fai, Joshua	83369	Student B
GP	Wheatman Charles Hugh	1276	Associate
GP	Wong Hip Pong, James	81606	Student B
GP	Wong Kai Hung	82237	Student B
GP	Wong Kit Lun	2567	Associate
GP	Wong Kwok Kong	82270	Student B
GP	Wong Wai Chung	80718	Student B
GP	Wu Wai Fan, Brenda	81862	Student B
GP	Yeung Chau Kin	80985	Student B
GP	Yien Den Wei, Leonard	81088	Student B
GP	Yin Hiu Yu	83971	Student B
GP	Yiu Kei Sing, Gary	81094	Student B
LS	Cheung Hon Kit	81598	Student B
LS	Chow Ka Wo	81117	Student B
LS	Chow Wai Nga	82957	Student B
LS	Fok Suk Fai	0150	Associate
LS	Hoops David William	1420	Fellow
LS	Lai Ting Ching, Jeannie	83725	Student B
LS	Ng Ching Pang	80855	Student B
LS	Ng Yau Keung	80821	Student B
LS	Wong Nga Yin	82713	Student A
QS	Chan Chu Kong, Anthony	82232	Student B
QS	Chan Kin Wa	82835	Student B
QS	Chan King Yip	80476	Student B
QS	Chan Koon Yip, Ronald	83805	Student B
QS	Cheng Ching Hoi	82843	Student B
QS	Cheung Ting Kai, Francis	0427	Associate
QS	Chin Oi Yee	83445	Student B
QS	Cho Hin Ying	82846	Student B
QS	Chow Yui Kwong	82553	Student B
QS	Fung Ching Ping	81891	Student B
QS	Fung Kwok Wai	80479	Student B
QS	Harris Stephen Richard	84005	Student B
QS	Ho Tsz Leung	2611	Associate
QS	Kai Hung Ching	82752	Student B
QS	Kee Kam Ming	81873	Student B
QS	Ko Ka Wa	83773	Student B
QS	Lam Chi Yuen	83393	Student B
QS	Lam Mei Man	82985	Student B
QS	Lam Siu Ying	82986	Student B
QS	Lau Kwok Chuen, Andy	2252	Associate
QS	Lee Oi Lam	82994	Student B
QS	Leung Hoi Ching	83903	Student B
QS	Li Ping Han, Ben	82246	Student B
QS	Li Pui Yee	83711	Student B
QS	Lo Tin Shun	81950	Student B
QS	Ng King Lun	83005	Student B
QS	Ng Kit Ping	83066	Student B
QS	Poon Kim Hung	81832	Student B
QS	Rae Stephen William	3112	Associate
QS	Rayment Douglas John	2817	Associate
QS	Shum Kwok Keung	81912	Student B
QS	Tai Fu Sun	82766	Student B
QS	Tam Lam Pun	82170	Student B
QS	Tsoi Wing Sze	83348	Student B
QS	Wan Siu Keung	81151	Student B
QS	Wat Yui Pan	83324	Student B
QS	Wong Kin Ming	83020	Student B
QS	Wong Lai Mei	83310	Student A
QS	Wong Tuen Yuk	82285	Student B
QS	Yeung Ka Po, Galli	83770	Student B
QS	Yeung Wai Chun	83265	Student B
QS	Yu Chi Loi	81240	Student B



Gallop to Glory

THEY ARE THE DAREDEVIL BREED AND COME FROM STABLES NEVER SHY TO SHOW RECORDS OF WINNING IN CHASING GAMES. LATE-STARTERS TO THE TURF OF SURVEYING PRACTICE THOUGH, THEY ARE A FORCE TO BE RECKONED WITH.

Jim Yip, AHKIS, MRICS, JO Editorial Board Representative



Entering the home bend, still nine lengths off from the leader and favourite Jeune King Prawn, Olympic Express accelerated and swept past his rivals irresistibly like a speed boat passing a row of sampans. He won the \$8mn Classic Mile Race with odds of just over 13/2.

While punters were celebrating their first big dividend prize in the Year of Horse, somewhere not far from the racecourse, Ronald Cheung was signing a big contract with a developer to market a newly - completed development. The thunderous roars from the stand sounded like champagne corks popping.

Meanwhile, Victor Lai, in his Central office, was busy giving out valuation instructions. Home sales were at a blistering pace during the last three days of the Lunar New Year Holiday and banks were calling in for verbal valuations.

Business is as usual for surveyors in Midland and Centaline, even on holidays. As late-starters in the field of property consultancy they know all too well that the going is tough and fraught with challenges. With a rare sense of foresight and fortitude, they have successfully carved market niches. They are determined to mount a serious challenge to the established players.

If one were to make bets on who would come out on top, the odds would have to be on them.

MIDLAND SURVEYOR RONALD CHEUNG: A DARK HORSE



Ronald Cheung, head of Midland Surveyors

Ronald Cheung didn't take heart in the Chinese saying: "A good horse will never return to its old barn好馬不吃回頭草." When he returned to Midland Surveyors Ltd. in late 2000, he knew that it was the right stable for him and he was determined to fight hard.

As head of the surveying and project management department, he had overseen a

spate of hectic developments in the past year: fee incomes rose four-fold, departmental headcount increased from 3 to 10, concluded four tender sales, successfully ventured into new business arenas such as China valuation, appraisal for Initial Public Offer (IPO) and project sales consultancy - all these achievements are remarkable at a time when the industry is enduring the most severe property slump and rivals are relentlessly cutting prices in the fiercely competitive market.

"We are very busy these days and there are some new projects in the pipeline. At the same time we are also involved in identifying new strategies for the Group's future expansion," says Ronald. Last week, he hired a PhD graduate in real estate from HKU to cope with his expanding workload.

Ronald sets his eyes to tap the vast business potential from Midland's over 200 branch networks in Hong Kong and China. "Each day over one thousand of our colleagues talk to property owners and developers, they would give us tremendous opportunities for cross-selling our professional services," he says.

The first thing he did after re-joining the firm was meeting all the branch managers to introduce the work of his department. But that was not enough. He persuaded the management to strengthen the role of his department in offering professional support to the sales teams and revamp the pay structure.

"We need to project a strong professional image to them that we are able to help them, to get more fees and grab market shares," says Ronald. After the restructuring, the working relationship between the front line and the supporting group was much improved and individual agents were happy to bring in a referral business. They began to see the fruits of it, as they concluded several big deals and signed a number of sole agency contracts.

The successful sales launch of two sole agency projects, namely, Millennium Court in Kennedy Town and Tin Sum Villa in Yuen Long,

were good examples. They were two single residential blocks each providing about 30 units. Ronald had already approached their owners well before the building completion.

His team advised the developers on the market trend, sales plan and the incentive package. Based on their advice of the buyers' latest preference on building specifications and the best timing for sales launch, these two developments were 100% sold-out on its first launch.

"Our clients were most impressed with our sales-force and our ability to deliver the results," says Ronald. "We also saw the beauty and power with our new fee structure."

In a break with tradition, Ronald relinquished his share of profits from the deals to the agents, despite his major effort in sourcing the deals. "We envisaged that it was the right time to sell and we wanted to sell it fast. Putting my client's interest first is my top priority, I don't want to do anything to slow my agency colleagues' drive to market the project," he says. His department instead was remunerated through the group as a whole, which means a much smaller sum.

But Ronald came out a winner in the end. A strong sales force from Midland agency helped his team to expand aggressively on project sales consultancy. They have snapped up several similar deals since.

Ronald has an ability to make far-sighted decisions. In less than one month after graduating from Greenwich University, UK, in 1994, he already had five job offers. He chose to work for international property consultants Brooke Hillier Parker (BHP) as development surveyor. "Though it was not the offer with highest pay, it did offer me excellent training and job prospects," he says. The solid experience in one of the highly-acclaimed property consultancies helped him to develop professional advisory service in land matters and town planning in Midland when he joined the company three years later.

After two years in Midland, he worked for Sallmanns where he did a lot of asset valuation works for the to-be-listed PRC companies. No doubt, he brought new business to Midland when he was back there in late 2000.

Besides sound technical skills, unrivalled interpersonal skills and strong business acumen are important attributes for one to survive in today's tough market. Ronald can definitely testify such significance as he was invited by Victor Cheung, managing director of Midland Realty Group, to rejoin the company one year after he left.

Ronald is a born Mandarin speaker. "My family moved from Beijing to

Hong Kong when I was 2 years of age. At home my parents only spoke in Mandarin to me," he says.

Unlike his Mandarin skills, his English skills are being acquired by much hard work and application. As he recalls, he used to practice his spoken English by reciting the UK's Prime Minister John Major's speech in front of a mirror everyday when he was studying in UK.

In one recent careers seminar organised by HKIS Junior Organisation, in which Ronald was a guest speaker (Ronald is a member of 2002 JO committee), the students at the Polytechnic University were caught by surprise when Ronald asked each one of them to make a presentation in both Mandarin and English before the class. "We need to bring a very clear message to our students of what qualities today's employers are looking for in the graduates. I would rank language skills as a top priority," he says. "They have to play by the rule or lose in the job market." In fact his new hire was a graduate from the Mainland China.

He is also an avid reader. These days it is hard to find Ronald without a book in hand. Last month it was *Harry Potter and the Goblet of Fire* and the current one is *The Lord of The Rings*.

CENTALINE SURVEYOR VICTOR LAI: WITH HIS HORSE SENSE

On 27 October 1999, the auction room was jam-packed with bargain hunters. The room was so overcrowded that one could barely breathe. A woman fainted and was sent away by ambulance only two minutes before the first bidding.

Victor Lai, the auctioneer - on his first experience - for the sale of 20 properties foreclosed by banks, was undeterred by the scene and concentrated on reading the latest pricing instruction from the bank.

"Because we had no previous experience of it, we went into great details in our preparation," says Victor. They had even gone to the Police Department the day before to check whether it was a legal assembly.

Despite the encouraging turnout figure, the initial mood of buyers was far from impressive. They were reluctant to raise their bid.

Coming off the block, Victor persuaded the bank to switch to another strategy - his original proposal - of offering a lower bidding price. There was an immediate turnaround in sentiment and bidding went up very



Victor Lai, managing director of Centaline Surveyors

quickly. Some properties were sold at a price far higher than the reserved price.

15 out of a total of 20 properties were sold, fetching sales revenue of \$40mn, a fantastic result for Victor and Centaline. It was also the first auction ever held by Centaline.

"In 1999 there were a lot of repossessed properties flooding into the market. Despite our efforts to market them through our local sales network, sales were sluggish. Because most of the offered price was lower than the bank's valuation, banks can't let them go," says Victor.

Two indicative values of the property are normally provided for in a standard valuation report. Apart from the open market value, there is also a forced sale value, which reflects the sales price at a restrictive market condition. However, banks seldom apply the forced sale figure.

Victor smartly worked out a plan to break the impasse. He proposed using auction as an alternative disposal strategy. "For those properties where sale by private negotiation has not been successful, we put them on the block. In an open bidding environment, banks are much more ready to adopt a realistic market price," he says.

Unlike his competitors, Victor waived all the marketing cost and arrangement fees for the auction. "Since we have a large pool of potential buyers through our strong local network, we are more interested on the 2% commission rate we charged at each successful sale," he says.

Victor has almost 15 years of experience in property. After graduating from Bristol Polytechnic with a degree in estate management, he joined Richard Ellis and spent 8 years in the valuation department with his last appointment as Senior Valuation Manager. In the middle of 1997, just before the property market crash, he joined Centaline Surveyors with responsibility initially on project consultancy and investment, then subsequently expanding to asset valuation.

His valuation department currently has a headcount of 30, including four chartered surveyors.

In recent years he has seen a growing market share in the mortgage valuation business. There are two reasons for it.

First, his team is working on all weekends including holidays, which fits nicely with the banks' requirement. Due to the intense competition in the mortgage market, banks also open on weekends and their policy to approve mortgage application on-the-spot means they need instant access to verbal valuation.

Secondly, Centaline has developed a sophisticated database tracking up-to-date market transactions handled by its agents. The information does not have the time lag problem as the data from the Land Registry (approximately one month behind). With its large market share, about 27% of total property turnovers in Hong Kong at 2001 year-end, it provides, in general, a rather accurate picture of the going price trend. This almost real-time market information gives his team a leading edge in serving their clients.

Data is cash. Victor admits they also sell information on rental comparables to other consultants to generate additional revenues.

Victor's next challenge is moving fast into the PRC market. "Making use of our strong sales network and local contacts in all major cities in PRC, we want to be a major player in the property advisory work," he says.

The Chinese Legend: Ba Lok and Great Horse 伯樂與千里馬

Horse symbolises strength and royalty. The Chinese simply like horses and the affection goes beyond the racecourse, witnessed by many of our folktales on horses. One famous legend tells of a man called Ba Lok who has an uncanny ability to pick the winning horse. Nowadays, Ba Lok is synonymous with a good boss.

Both Ronald and Victor attribute their success to their Ba Lok. Had it not been the faith that was shown towards them and the free rein to run the business, they wouldn't have thrived on the job.

While having a Ba Lok is important, it is the great astuteness, hard experience, and infinitely detailed labour - the qualities that they have shown - that set them apart from the others.

They exemplify the truism implicit in the assertion of US poet, Henry Wadsworth Longfellow, that "the heights by great men reached and kept were not attained by sudden flight; but they, while their companions slept, were toiling upward in the night".

HONG KONG SURVEYOR'S PRIDE

Following the publication of the article "The Appraising Grace" in the February issue of the Newsletter, it has come to the author's attention that, in fact, there are more than five Hong Kong surveyors who have also successfully passed the CIREA written paper held last year. Two of them are Miss Serena Lau and Mr. Tse Wai Leung, both from RHL Appraisal Ltd. Congratulations!



THE PITFALLS OF PAYING A SUB-CONTRACTOR DIRECTLY

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



These are difficult times in the Hong Kong construction industry. Difficult times lead to contractors with financial problems, and contractors with financial problems often result in sub-contractors not being paid or being paid late.

This is clearly an unsatisfactory position and it is one which causes the employer considerable anxiety because of the inevitable disturbance to the contract programme by the departure of dissatisfied unpaid sub-contractors.

It concerns employers most when the sub-contractors concerned are nominated sub-contractors because these are generally the most important sub-contractors on the project and will be ones that have specifically have been chosen by the employer.

This is one of the reasons that contracts provide for certificates to be issued to the main contractor detailing what proportion of the sums certified are due to nominated suppliers or sub-contractors. This is done with a view to assisting them to obtain payment from the main contractor and to prevent the latter from contending, as an excuse for delay in payment, that he has not been paid for the work.

However, if this does not work and nominated sub-contractors are still not being paid or are being paid late, then employers, often frustrated with slow progress, or following representation from unpaid nominated sub-contractors will consider paying the nominated sub-contractor directly and then deducting the sums from the payments due to the main contractor.

But employers, who do this, do so at their peril, because the whole area of direct payment is a minefield for the unwary.

Unless there is a clause in the main contract giving the employer the power to pay a nominated sub-contractor directly and to deduct the

sums so paid from moneys due to the main contractor, an employer who carries out such an action will remain liable to pay the main contractor for the same work, i.e. he faces the risk of paying twice for the work concerned. Authority for this position can be found in the case of **Re Holt, ex p Gray (1888)**.

However, most forms of construction contracts do include express provisions giving the employer the right to pay a nominated sub-contractor directly. For example, the Hong Kong Government forms of contract provide at clause 69(b):

(b) If the Contractor fails to satisfy the Engineer that he has reasonable cause for withholding or refusing to make any payment to any Nominated Sub-contractor as aforesaid, the Employer, following notice in writing to the Contractor, shall be entitled:-

(i) to pay any Nominated Sub-contractor direct, upon the certificate of the Engineer, all payments, less retention provided for in the sub-contract, which the Contractor has failed to make to any Nominated Sub-contractor and all such sums paid direct shall be recoverable by the Employer from the Contractor and or

and the local Private Forms contains similar provisions at clause 27(c).

Where the main contractor is simply withholding payment to improve his cash flow or to exert some influence over the nominated sub-contractor then a clause such as the above operates satisfactorily to enable the employer to make a payment directly to the nominated sub-contractor and deduct the sums paid from the main contractor. Notwithstanding this, even in such situations a sensible and cautious employer will never operate such a clause without first having obtained an indemnity from the nominated sub-contractor to cover the possibility

of the direct payment being challenged by the main contractor, even if the success of such a course of action is remote.

However, serious problems arise with these direct payment provisions where the failure to pay on the part of the main contractor arises as a result of its insolvency as there has traditionally been concern that such direct payment provisions would be considered contrary to insolvency law.

In accordance with insolvency law, when a party becomes insolvent, and subject to provisions as to preferential payments, if the insolvent party's liabilities can not be paid in full due to insufficient funds, then the funds that are available are divided in equal proportions between creditors. This is often known as the 'pari passu' rule, meaning that payments must be made in equal proportions at the same time.

These concerns were firstly thoroughly examined in a non-construction case involving airlines providing services to each other in the House of Lords decision in **British Eagle Limited v Air France (1975) 2 ALL ER 390**, where the court held that the general rules of insolvency law must prevail over contractual direct payment type arrangements.

The matter has now been re-visited in the case of **B Mullen and Sons (Contractors) v John Ross and Malcolm London**, a construction case heard in the High Court of Justice in Northern Ireland in 1995.

Lawyers for the employer argued that this was not a case like the **British Eagle** case where the conditions of the agreement were considered by the courts to be an attempt to contract out of the insolvency law provisions, and which were considered to be contrary to public policy.

Under the JCCT form of contract it was argued there was no attempt to contract out. Further, the employer's lawyers argued that at the time

of the liquidation the contractor was not entitled to claim the sums due to the sub-contractor and therefore it had no proprietary right to that money, so the direct payment was perfectly valid.

The judge was however not impressed by these arguments. He considered that the essential issue was whether the expectation of payment from the employer to the main contractor of sums due for works carried out by the sub-contractor meant that the sums due became the property of the main contractor for the purposes of insolvency law.

After considering these issues the judge held that the insolvency law, and in particular the pari passu rule concerning equal distribution of an insolvent's funds must prevail over the conditions of the contract, and accordingly the employer was not entitled to make payment of the sums directly to the sub-contractor.

Accordingly advisers of employers in construction contracts must be very careful when making recommendations to their client regarding the advisability of exercising the direct payment provisions in the local forms of contract. Where the main contractor is solvent it is acceptable to make direct payment and deduct such sums from the contractor, although an indemnity from the sub-contractor is advisable. However, where the nominated sub-contractor is insolvent direct payment should not be made because this will be contrary to the laws of insolvency and may result in the employer having to pay twice (once to the main contractor's liquidators and once to the sub-contractor). ❏

JOINT VENTURES

Patrick O'Neill, Brian E. Rawling & Associates



Only the largest construction companies have the ability to resource everything they need when seeking to expand their contracting business. Other contractors without this ability may need to resource capital, technology, expertise, people, plant and machinery or enter new market places in order to continue development of their contracting business. One of the best ways of entering into new contracting fields or market places is joint venturing, whether it be in a foreign country where the contractor does not currently have a business network (Mainland China being an obvious example), a prestigious high value project which exceeds the financial capability of a single contractor (e.g. a turnkey power plant), or a potential construction project in which the contractor possesses a particular expertise or a particular item of plant (e.g. dredging and reclamation projects in Hong Kong). Indeed, in some parts of the developing world, government policy dictates that joint venturing, with a local business partner, is the only means available whereby a foreign contractor can do business within that market place.

Whilst joint venturing has the potential of providing a contractor with access to potentially lucrative new market places that would otherwise remain closed, it also has the potential of providing an employer with the experience and expertise not usually found in the home market at a lower cost than seeking prices from totally external sources. Whatever expertise a construction project needs, there will be someone who possesses that expertise and that someone is a potential joint venture partner.

The attractions of joint venturing, particularly on large civil engineering projects in South East Asia, have been tempting to contractors and employers alike. Risks do exist which is particular to joint venture arrangements, and which employers and potential joint venture partners should be aware of prior to entering into contracts or joint venture agreements.

This article considers employer's and joint venturer's interests and some of the provisions in the relevant agreements, which are often entered into.

JOINT AND SEVERALLY

An employer's first concern when approached by or seeking tenders from joint venturers is to safeguard against the dissolution of the joint venture before it has completed the works. If this is allowed to occur, then an employer could be faced with significant additional costs in getting someone else to finish the work and being unable to recover those extra costs from the joint venture as it has been dissolved with no remaining assets and no legal means of recovery against the individual joint venture partners.

Such a situation could arise through accident (the bankruptcy of one of the joint venture partners) or intentionally if the work being performed by the joint venture becomes unprofitable and the partners agree to dissolve their relationship.

To protect an employer's interests, a guarantee from the joint venture partners is needed whereby the joint venture partners bind themselves, jointly and severally, to completing the work and the liabilities for their actions and defaults.

Therefore, with such a guarantee in place, an employer has satisfaction that the project can be completed by the joint venture even if one of the partners defaults and even if the project becomes unprofitable.

JOINT VENTURE GUARANTEE

The joint venture guarantee is the document whereby the joint venture partners guarantee, jointly and severally, their performance as main contractor under the construction contract. The guarantee also indemnifies the employer against all liabilities, losses, damages, costs and expenses etc, by reason of failure or default on the part of one (or more) of the joint venture partners in performing the contractor's obligations under the construction contract.

It is recommended that joint venture guarantees be obtained at tender stage rather than after contract award. The wording in the Form of Tender requiring a joint venture tenderer to submit such a document could be as follows:-

"For joint venture tenderers, the tender is to be accompanied by an undertaking from each parent company forming the joint venture to jointly and severally guarantee the fulfillment of all of the Main Contractor's obligations under the Contract and to complete the form appearing at Appendix to the Conditions as required by clause of the said Conditions."

With regard to the main contract documents, it is usual to include clauses, which require the joint venture partners to provide the joint venture guarantee as follows:-

"In the event that the Main Contractor is a joint venture, either in the form of a joint venture agreement or a limited liability joint venture company, then the parent companies forming the joint venture shall, within seven (7) days of acceptance by the Employer of the Main Contractor's tender deliver, at no cost to the Employer, the duly executed Joint Venture Guarantee, in the form appearing at Appendix to these Conditions duly executed by the parent companies forming the joint venture warranting the due performance of the Main Contractor under the Contract."

"In the event that the Main Contractor fails to furnish a guarantee in accordance with the requirements of this clause, the Employer shall, without prejudice to any other rights:-

(a) be entitled to withhold payment of any sums certified pursuant to Clause until such failure shall have been fully rectified."

To jointly and severally bind the joint venture partners to completing the construction contract, the joint venture guarantee itself should contain wording similar to the following which:-

"2. The Guarantors have agreed to guarantee jointly and severally the due performance of the Main Contract in the manner hereinafter appearing.

NOW THIS DEED WITNESSETH that in consideration of the Employer entering into the Main Contract with the Main Contractor the Guarantors DO hereby jointly and severally agree and covenant with the Employer as follows:

1. The Guarantors hereby irrevocably and unconditionally guarantee to the Employer the due and punctual performance by the Main Contractor, its successors and assigns, under the Main Contract of each and all the obligations, duties and undertakings of the Main Contractor under and pursuant to the Main Contract when and if such obligations, duties and undertakings shall become due and performable according to the terms of the Main Contract. The Guarantors hereby undertake to indemnify the Employer, its successors and assigns against all liabilities, losses, damages, costs and expenses suffered or incurred by it by reason of any act, failure, default or omission on the part of the Main Contractor in performing and observing its obligations under and in connection with the Main Contract."

The foregoing guarantee not only guarantees the performance of the contract, jointly and severally, by the guarantors (the parent companies of the joint venture partners), it also guarantees the performance of the joint venture. In effect, the guarantee also acts as a parent company guarantee.

In addition, at tender stage, a written statement should be requested from each of the joint venture partners warranting that:

"The joint venture agreement provided with the tender represents the entire agreement between the partners comprising the joint venture tenderer.

There are no other agreements relating to the joint venture tenderer's incorporation, powers, organization or ability to carry out the Contract.

No changes will be made to such joint venture agreement during the tender and construction periods without first obtaining the employer's agreement, in writing, to the proposed changes."

DIFFERENT TYPES OF JOINT VENTURES

There are several types of joint ventures which joint venture partners may decide to enter into:-

- (i) a joint venture agreement;
- (ii) a limited liability joint venture company;
- (iii) a consortium [either incorporated or un-incorporated]; or
- (iv) a partnership [either incorporated or un-incorporated].

From an employer's point of view, a simple joint venture agreement, entered into jointly and severally by the partners, is an acceptable arrangement for a construction contract.

This paper now reviews a fully integrated joint venture agreement whereby the partners have a pre-determined and agreed share in the construction contract, which is the subject of the joint venture agreement.

THE JOINT VENTURE AGREEMENT

The joint venture partners enter into a joint venture agreement - a contractual agreement that is very often the only document governing the relationship between the partners. The purpose of the joint venture agreement is for the joint venture partners to set out their understanding of how the relationships in the joint venture will be governed in both preparing and submitting a tender for the works and, if successful, fulfilling the obligations of the construction contract once it has been awarded.

The joint venture agreement will usually set out the apportionment of risk between the partners and may identify the shared proportions of items such as:-

- Funding the tender and, if successful, the construction contract;
- The degree of initial participation;
- Financial interests;
- Rights;
- Liabilities;
- Obligations;
- Responsibilities;
- Risks;
- Costs;

- Expenses;
- Profits and losses.

A typical joint venture agreement clause would set out the joint venture partners' financial interests and exposure to risk as simply and straightforwardly as possible consequent upon the agreement. The following is an example:-

"The respective financial interests of the Joint Venturer's is to be as follows:

<i>Partner A</i>	<i>90%</i>
<i>Partner B</i>	<i>10%</i>

All rights, interests, liabilities, obligations, profits and losses in connection with or arising out of the Contract and the joint venture works shall be shared by the partners in accordance with the above percentage shares."

The financial interests and exposure of each partner under the joint venture agreement therefore appears perfectly clear and precise. Indeed, it couldn't be spelt out more clearly. No matter how profitable the joint venture eventually becomes, and irrespective of which of the partners is responsible for generating those profits, partner B will only ever be entitled to 10% of the total profits earned. Similarly, no matter how "pear shaped" the joint venture becomes, partner B will only ever be liable for 10% of the losses incurred, irrespective of which of the partners caused those losses. This principle of certainty is one of the primary reasons why partners enter into joint venture arrangements, since it provides a pre-determined ceiling, at least in percentage terms, for the partners' exposure to risk. The partners can, therefore, be assured, and can likewise assure their financiers, of the maximum percentage exposure they could be liable for under the contract.

In a well-drafted joint venture agreement, it is usual to provide a clause to the effect that the joint venture partners' positions are defined in the event that unexpected circumstances arise. A clause within a joint venture agreement providing that a defaulting joint venture partner fully indemnifies a non-defaulting partner is just such a provision. Whilst it appears, in some ways, to contradict the joint venture

agreement in respect of their respective financial interests in the joint venture, it nevertheless provides a safeguard for the injured partner(s) in the event of default by another of the partners.

In addition, matters such as bonds and insurances arrangements may be dealt with, identifying which party is to be responsible and to what extent.

DEFAULT

The limited liability arrangements in the joint venture agreement do not address the repercussions of default by any partner to the other(s). A typical default clause in a joint venture agreement should establish the responsibility for default of either partner and could be worded as follows:-

"Where either of the joint venturers is in default of this agreement which shall, or could result in the Employer expelling the Joint Venture (Contractor) from site, the defaulting partner shall fully indemnify the other partner against all cost, loss, expense and damage suffered as a result of such default."

A simple and straightforward clause, but note the absence of any reference to any limitations on liability, or even a reference to the sharing of losses between the partners. The term used here is "*shall fully indemnify the other party*" thus, under this clause, partner B is facing a potential liability of 100% in respect of all costs, losses, expenses and damages in the event that partner B defaults.

BANKRUPTCY OF A JOINT VENTURE PARTNER

In the case of bankruptcy, it is sensible for the joint venture agreement to include a provision where the surviving non-bankrupt joint venture partner continues and completes the works despite the bankruptcy of one of the joint venture partners.

Under the construction contract, such arrangement is covered by the obligation of the joint venture partners to jointly and severally complete the works. In most circumstances, the surviving joint venture partner will be able to assume the mantle of overall responsibility and complete the works.

DEFAULT BY THE JOINT VENTURE

Forms of contract usually confer upon the employer the power to determine the contractor's employment in instances of the contractor:-

- (i) becoming bankrupt;
- (ii) having a receiving order made against him (except for the purpose of reconstruction);
- (iii) abandoning the site;
- (iv) failing to proceed with the works with due diligence; or
- (v) etc.

This is equally true in a joint venture where the contractor is made up of two or more joint venture partners.

Whilst the joint venture agreement may make provision for a continuing joint venture partner to complete the works of a defaulting or bankrupt partner, the employer nonetheless may expel the contractor from site altogether (provided such power has been defined in the main contract and the engineer / architect / employer has complied with the procedural requirements set out in the contract with regard to notices, compliance with time limits, etc), if the circumstances dictate that the default is sufficiently serious to warrant such action.

The power to determine and expel the contractor from site does not release the joint venture partners from their liabilities and obligations under the contract. Nor does it affect the rights and powers conferred on the employer or the engineer / architect under that contract. It is not termination of the contract but termination of the contractor's employment under the contract that is at issue. The contract survives the determination of the contractor's employment under it and, as such, the employer's right to have the works completed under the contract is maintained whether he decides to complete the works himself or employ others to complete the works on his behalf.

Even though one of the joint venture partners defaults (either bankruptcy or some other default) an employer can insist upon the surviving partner(s) completing the contract. Provided that the

RENTAL COUPON SCHEME - AN ALTERNATIVE TO BRICK AND MORTAR APPROACH

THE GOVERNMENT IS TESTING THE WATER FOR THE PROPOSED RENTAL COUPON SCHEME

Joyce Ng and Jeffrey Wong

surviving joint venture partner(s) are capable of completing the contract, then it would be in the employer's interests to allow them to do so. In fact, if the surviving joint venture partner(s) were progressing the contract works as required by the contract and were not in default then an employer could not determine their employment under the contract irrespective of the demise of one of the joint venture partners.

LIABILITY OF A JOINT VENTURE PARTNER

If an employer decided to terminate the joint venture's employment under a contract, how does the joint venture agreement deal with the consequences of this termination, and who is ultimately responsible for reimbursing the employer?

If partner B's default is the reason for the employer expelling the contractor from site, partner B can take no comfort from the limited liabilities under the joint venture agreement that are capped at 10%. As referred to above, the joint venture agreement usually contains a default clause which would have the effect of making partner B responsible for much more than 10% of the cost arising from partner B's default. However, if partner B went into liquidation with no assets then partner A has to absorb all the joint ventures costs and complete the contract works.

In the event of default by partner B, it is inevitable that there will be some element of increased or additional costs incurred by partner A associated with the employment of others to complete the work. Partner B may find himself liable for the full costs of items such as:

- increased costs of completing outstanding works;
- outstanding payments to creditors;
- damages for delay in completion;
- miscellaneous debts, costs or charges due to the employer under the contract;
- legal and consultants fees.

If the default by one of the joint venture partners resulted in additional cost to the employer then the employer would no doubt seek to recover the amounts from monies otherwise due to the contractor and pursue the recovery of any excess amounts as a debt.

Further, in the event of determination, the costs that could be expected to flow therefrom could result in a substantial bill for the joint venture and, in all likelihood, would be recoverable from the surviving joint venture partner even though he did not default.


THE RISK OF DEFAULT BY A MINORITY JOINT VENTURE PARTNER

The risk of default by a minority joint venture partner should never be judged against that partners' apparently small financial interest in the joint venture. Partner B's 10% financial interest may bear no relationship at all to the importance or criticality of the work that partner B agreed to perform as his contribution to the joint venture. Many situations could exist whereby the default of the minority joint venture partner would put the continuation of the whole contract at risk, for example, where the minority partner has a receiving order made against him and the other joint venture partner is incapable of continuing the works in his absence.

Nevertheless, the possibility of determination of the contractor's employment under the contract remains for certain acts of default, even where a joint venture partner with a minority interest causes those acts of default.

SUMMING UP

The ACP contracts were generally let to joint ventures. In Hong Kong today, there are still joint ventures working on the large railway projects. In the future, there will still be room in Hong Kong for joint ventures and there are no reasons why such arrangements should not continue to thrive.

For further information please contact bera@netvigator.com 

INTRODUCTION

Recently, the Housing Authority (HA) announced a new pilot scheme in the public rental housing (PRH): a rental coupon scheme (RCH) to assist applicants on the public housing waiting list to rent private flats.

That itself represents a major change in HA's traditional brick and mortar approach in the PRH sector. Would that signal a new direction in the housing policy in future?

We interviewed Dr. Eddie Hui, associate professor of the Department of Building and Real Estate, Hong Kong Polytechnic University and Mr. Marco Wu, deputy director of the Housing Department for their views on the proposed rental coupon scheme.

WHAT IS THE PROPOSED RENTAL COUPON SCHEME?

- Offers a financial subsidy to PRH applicants to rent flats in the private market
- It will cover 60% of the market rent; cash allowance between \$1,100 - \$ 4,100 a month
- The scheme will be implemented in mid-2002 and initially have a quota of 2,000
- Currently, HA operates a similar scheme for the elderly, but attracts a lukewarm response: only 239 applications received for the 500 quotas. Currently, there are some 8,000 eligible elderly applicants on the PRH waiting list. HA has decided to revise up the allowance by 8% and relax the application restriction

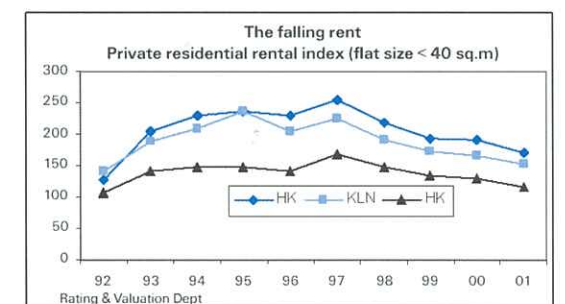
ADVANTAGES OF THE RENTAL COUPON SCHEME

- Applicants can have more choices in the dwelling type and its location
- Shorten the waiting queue
- Make use of the resources in the private market and stimulate the rental market in the private sector
- Much cheaper cost for HA to run

TIME IS RIPE FOR TAPPING RESOURCES IN THE PRIVATE SECTOR

At the current state of property market, we see opportunities to make use of the stocks in the private sector for social housing provision, such preposition could hardly be perceived in the past. There are two main reasons supporting our view:

- Private rents are falling



• **Vacancy is rising**



OUR ANALYSIS OF COST SAVING USING A CASH ALLOWANCE APPROACH FOR HOUSING PROVISION

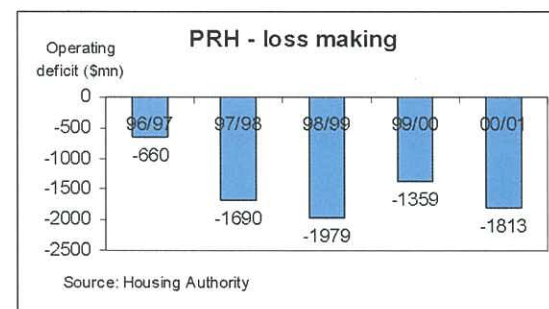
- According to HA, the average cost for providing a PRH unit is \$1.05mn, HOS \$0.65mn and HPL scheme \$0.21mn
- Currently, more than 70% of the PRH household pays a rent less than \$1,500 per month, including rates and management fees. Average rent was \$1,200 per month as at end March 2001
- Management cost for a PRH flat is \$6,254 p.a. and maintenance cost \$5,088 p.a.
- PRH rent has been frozen for 4 years. According to s16-1A of the Housing Ordinance, rent should not exceed 10% of the median-rent-income-ratio (MRIR). The current MRIR is 11.5%, making it impossible for rental increase in 2002 (over 110,000 - 120,000 households or 20% of those in PRH are on social welfare benefits, HA is seeking to review whether the calculation of MRIR should include this class.)

Substantial cost saving

Assume a standard 500 sq.ft. PRH unit on a life expectancy of 30 years

Land cost @AV \$1,000 p.s.f.	1,000,000
Construction cost @\$500 p.s.f.	250,000
	<hr/>
	1,250,000
Monthly cost	\$3,472
Plus	
Management cost	522
Maintenance cost	424
Rates	30
Total cost	<hr/>
	\$4,448
Less rent received	1,200
Loss in providing a PRH unit	\$3,248
Assume a cash allowance p.m.	\$2,500
Saving	\$1,143
%	23%

Our analysis shows that using the cash allowance approach will save HA 23% in costs compared with the brick and mortar approach in housing provision.



NEW OPPORTUNITIES UNDER THE RENTAL COUPON SCHEME TO SPUR HOME DEMAND

Some may argue the cash allowance is too small for one to rent in the private market, however, we see two new sectors that can be encouraged to cater for wider application of the rental coupon scheme:

- The former PRH units which have been sold under the Tenant Purchase Scheme (TPS)
- The secondary HOS market

The Government has been selling PRH flats to sitting tenants at a large price discount and the holding cost for the owners is low. Renting out to rental coupon holders would yield attractive returns. One possible effect from that: these owners would be pushed to buy new homes in the private sector.

LESSON LEARNT FROM THE HOME PURCHASE LOAN SCHEME (HPLS)

HPLS, first introduced in 1988, is a subsidy scheme to provide interest free loans to assist exiting PRH tenants or eligible families to buy a flat in the private market. During the early 90s the HPLS was not too popular with homebuyers, because the loan amount could only cover 10% of the upfront payment and homebuyers needed to fork out another 20% of property price to complete the transaction, which deterred their interests. Of course, property prices at that time were much higher than it is today.

Over the years, HA has raised the loan amount and currently the loan for a Green Form applicant (sitting PRH tenants) is \$600,000 and for a White Form Applicant (other eligible homebuyers) \$310,000, both on a 20-year payment period.

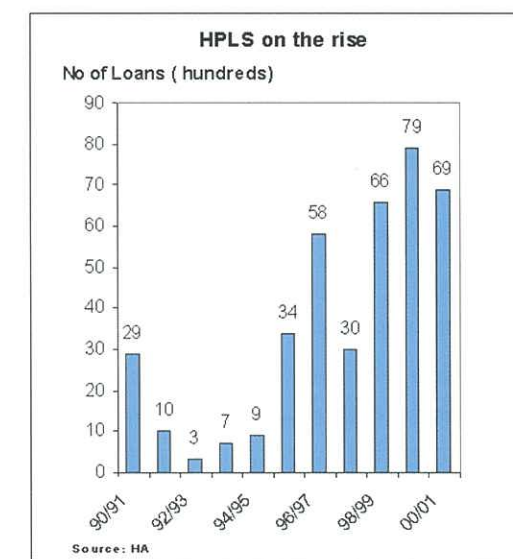
Since the property price has fallen from the peak by 50%, the loan amount compared with the home price has looked attractive for eligible homebuyers. As a result, the number of HPLS loans approved increased in the late 90s.

HA can save substantially in providing a HPLS, compared with the cost of a HOS unit. Also, the more the HPLS, the less is the intervention into the property market by the Government.

Currently, over 39,400 loans have been approved. Last year, the quota of HPLS increased from 4,500 to 16,500. The addition of 12,000 loans was to replace the number of HOS flats withdrawn from sale.

The story of HPLS has shown that a scheme designed to suit the users' needs and market condition would prove to be the winner.

Would the rental coupon scheme emulate the success of HPLS in future? If so, it will help HA to find a new tool to rein in the chronic operating deficits in the public rental housing sector. It will also give a boost to the private rental market.



*The authors would like to thank Dr. Eddie Hui, associate professor of the Building and Real Estate Department, Hong Kong Polytechnic University and Mr. Marco Wu, deputy director of the Housing Department for the interviews. ■



REVISIT THE HOME OWNERSHIP SCHEME (HOS) Policy

DESPITE LOSING JUSTIFICATIONS FOR BUILDING HOS UNITS, THE HOUSING AUTHORITY'S SOLE FINANCIAL RELIANCE ON ITS REVENUES MAKES IT IMPOSSIBLE TO BITE THE BULLET

Jim Yip, MRICS, AHKIS, Senior Property Analyst, Asia Financial Securities Ltd.



What has proved right for the past five years is that one should not overlook the impact of housing policy on the property market, arguably it carries the most weight amongst all other factors such as economic outlook, supply figure or interest rate at the present climate.

Housing policy has long been criticized for creating confusion in the property market and failing to put in the right measures in the wake of the ongoing major structural changes in the local property market.

OUR CURRENT VIEWS ON THE STATE OF THE PROPERTY MARKET

Cyclical

- Supply overhang lingers
- Recession, coupled with rising unemployment and voluntary/involuntary pay cuts sink sentiment further
- The deflationary environment dilutes any positive effects of the historic-low mortgage rate and historic-high affordability ratio
- Rents are falling, causing unsustainable yields and possible viscous effect on price

Structural

- Prolonged demise in the secondary market
- More than 30% of private owners in negative equity enough to dampen any meaningful recovery drive
- Home demand mainly comes from first time buyers. As developers are in a rush to revise plans for smaller flats, future supply will be bigger than expected
- Despite the Government's good intention to continue to scale back land sales, future supply is still in plenty, and largely unchecked.

Railway and URA projects that could amount to 30,000 units would be offered to the market in the coming two years

- Market in general overlooks the impact of competition from the property markets across our border and its impact is likely to be more potent in the long run. While housing demands from those at the lower rung of the housing ladder will stay, as they are well taken care under PRH, HOS or HPL schemes, up-graders and frustrated negative equity owners will probably not, attracted by lower price and improving infrastructure in Shenzhen and nearby regions

Given such a grim view on the market outlook, we expect the time for property recovery will be far off. Though not much can be done, efforts to clear up the market inefficiency should be considered. For example, the Government should cut its tie in market intervention, especially in the HOS market and entrust the private sector with more responsibility in housing provision.

PUBLIC HOUSING POLICIES IN A GLANCE

Home Ownership Scheme (HOS)

- A money-spinner for HA. The objective of HOS goes beyond promoting wider home ownership. Sales revenues from HOS are indispensable for the operation of PRH
- Falling property price in the private sector has made private homes more affordable than before; HA and private developers are chasing the same batch of home buyers - resulting in overlap of housing resources
- No longer warrants for its direct intervention approach in the home market but HA still persists
- Although it can recover its site formation cost, the Government loses land revenues on HOS sites

Public Rental Housing (PRH)

- A colossal housing stock of 632,100 units, the number of households comprising over 30% of population
- The Hong Kong Government is the world's largest public landlord even though we are one of the most affluent countries
- Sets rents below 10% of the median rent-to-income-ratio
- Operating deficits for years in PRH
- Relies on HOS incomes

Tenant Purchase Scheme (TPS)

- Resource mismatch - while there are over 100,000 households queuing up for PRH, instead of taking back the flats from those no longer having the need for PRH, it sells the rental flats to sitting tenants
- Unrestrained growth - to meet the new demand, it resorts to increase flat production for PRH and expand the PRH sector, incurring further operating loss
- Reduce mobility in the home market and distort market mechanism - TPS absorbs potential home demand that could move into the private sector. 49,800 units have been sold under TPS since 1998

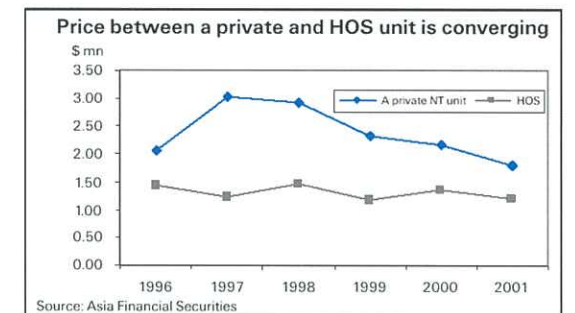
CREATION OF OVERLAPPING IN HOUSING RESOURCES BY HOS

HOS was created almost twenty years ago. Since its inception in 1978, HOS has provided home ownership for over 278,800 households whom might not be able to do so in the private market. 4 years after the property crash, the property market has undergone dramatic changes and the current landscape has rendered those eligible for HOS able to acquire homes in the private market.

We see HOS/PSPS sales compete against the private market:

(1) In price

Our study compares the average sale price of a HOS unit with the average sale price of an NT flat in the secondary market. Choosing a second-hand NT flat for comparison with a brand-new HOS unit is reasonable, not only are they more comparable in terms of quality, but also we don't think that using public money to finance one's dream of homeownership should necessarily target the first hand property.

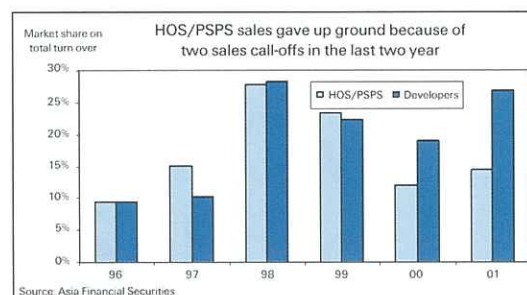


Kingswood Villas in Tin Shui Wai is one of the most notable examples. The estate has topped in transaction numbers with applicants from the Home Purchase Loan Scheme (HPLS) and Home Starter Loan Scheme (HSLs) in the past years. Quality of the estate aside, it offers a very competitive price.

Our results show a converging trend in the price between HOS and private market.

(2) In market share

Property transactions have dwindled since the crash in 1997. However, HOS sales surged strongly in recent years coupled with a staggering rise in production volume.



Both HOS/PSPS and developers' sales have significantly pushed up sales volume in this property downturn, as seen by their growing market shares on total property transactions. In 1998 and 1999, the total transactions from HOS/PSPS and developers' sales amounted to almost 50% of the total market activities.

The market share for HOS could have been bigger in 2000 and 2001 had there not been a revised sales program of converting 16,000 HOS units into PRH in 2000 and a sales moratorium imposed in September 2001.

HA's HOS sales hope thwarted by Donald Tsang's twice calling in 2000 and 2001

Table: HOS/PSPS Target Sale and Actual Sale (Units)

	97/98	98/99	99/00	00/01	01/02	02/03E	03/04E	05/06E
Target sale	30,000	30,000	24,500	26,900	20,000	9,000	9,000	9,000
Actual sale	31,030	30,914	23,125	10,293	11,000			

Source: Housing Authority

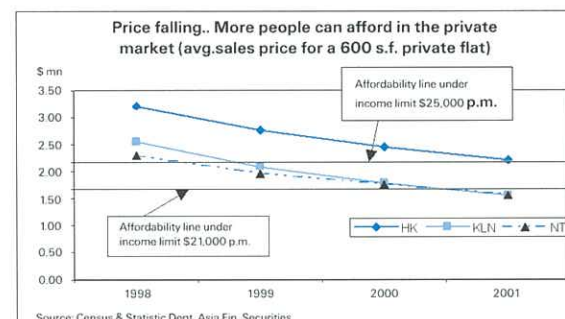
(3) In target home-buyers

Property sales market has been in the past years dominated by first time buyers, a buyer group both targeted by private developers and HOS. Most of the criticisms fall in the income limit - the yardstick for HOS eligibility, which is blamed for not being revised in a timely manner, taking in account of the change in market conditions such as falling price and mortgage rates. As a result, contrary to the intention of HOS policy, it is helping some applicants whom have the means to purchase flats in the private market.

On 1 April 2002, the household income limit for an eligible applicant will be revised down from \$25,000 per month to \$21,000 per month. At the same time last year, HA did a similar exercise to revise down the figure from \$31,000 to \$25,000.

Our study shows that last year's income limit of \$25,000 is in fact too high. Applicants at this income level could well afford homeownership in the private market.

After the downward revision to \$21,000, some 20,000 households will no longer be eligible for HOS, representing a fall of 22% in the total number of applicants from 95,800 to 74,900, estimated by the Housing Authority.



Assumptions on income limits

Assumptions	Option 1	Option 2	Option 3
Household income limit (per month)	\$31,000	\$25,000	\$21,000
Mortgage-to-household income ratio (Affordability)	40%	40%	30%
Mortgage rate (p.a.)	5%	5%	3%
Result			
Flat price can be afforded at this level of income (\$ mn)	2.68	2.15	1.63

We also assume 70% of loan financing with a standard 20-year mortgage payment term.

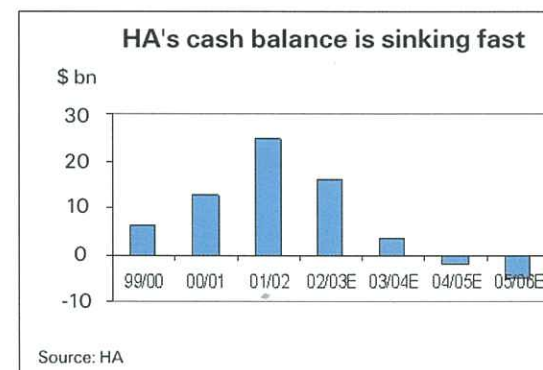
Effects of HOS sales

- Intensify competition, causing downward pressure on property price
- Undercut secondary market, as seen a fall in its market share in recent years
- Knock-on effect on land revenues, as developers delay in land premium negotiation and cautious in buying more land

WHY THE HOUSING AUTHORITY DOESN'T GIVE UP HOS MARKET?

The continuation of HOS/PSPS sales only results in overlapping of precious housing resources. We believe the reason for HA being unable to see the light of it and give up HOS market lies in its concern on the financial drain - a consequence of losing HOS incomes. After all, HOS is good business and the bread and butter for HA.

Financial woes for HA:



- Rental freeze in PRH has been in place for four years, unlikely to see a rental increase in 2002
- PRH is a loss-making business, operating deficit in 2000/02 was \$1.8 billion
- Lose sales incomes for some 10,000 HOS units in 2001/02 due to the 10-month moratorium
- After the expiry of the moratorium in June 2002 the new HOS sales target is capped at 9,000 units per year for the next three years, down from a previous cap of 20,000 units a year
- Despite a drop in income, it has committed to build not less than 23,000 PRH units as well as provide funding for HPL of 12,000 quota each year
- Expect to lose \$8.6 billion in 2002/03 and \$12.6 billion in 2003/04
- Current reserve of \$24.6 billion will be depleted by 2005

If there is no meaningful turnaround in the property market or additional source of incomes generated by HA in the coming years, the chance for additional funding from the Government to HA is very high. That will add extra financial burden to the Government, which currently has a similar fate in battling against the deficit problem.

PUT THE HOUSE IN ORDER

The role of the Housing Authority, the key part in the overall housing policy, needs to be reviewed, as it has proved in recent years that its policy didn't synchronize with the other government measures such as in land policy to stabilize the property market. The financial autonomy status of HA, in our view, needs to change. Profit from HOS sales is vital for HA to maintain and operate the expanding though loss-making public rental sector. As such we may find HA unlikely to be happy with the decision to stop HOS sales.

Send your comments to jimyiphk@yahoo.com



HOW TO REVIVE VACANT INDUSTRIAL BUILDINGS?

Ronald Y. F. Cheung
BSc(Hons), AHKIS, MRICS, RPS(GP)
Director of Midland Surveyors Limited



INTRODUCTION

Since the inevitable move to the north starting from the mid 1980s, industrial buildings in Hong Kong seem to be devoid of life. Vacancy is enormous. 1.5 million square metres of factory space, the size of about 20 Jardine Houses, are now vacant. The situation will only get worse. By 2016, the surplus space will even rise to 4.2 million square metres, according to our estimation.

We all know why. But can we do something about them?



Finding new occupants for these industrial buildings is the most obvious answer. In the new information era, high tech operators are potentially very good replacement users in these industrial buildings. For example, data centre, which houses a series of computer server racks on a raised floor with 24-hour temperature control and security system, may find existing industrial space meet their requirement. In fact, the existing industrial space is also

suitable for other users in technology-gear activities such as telecommunication, software research and development, web-page design workshop, etc. Demand from these industries are rising strong, contrary to those twilight industries like textile, toy manufactory, dyeing, plastic moulding etc., which have seen their demand for space declining in recent years.

IT AS INDUSTRIAL USE RULED OUT BY COURT

But technology users could not move in and operate in industrial buildings as freely as they could in the standard office buildings. They need to climb two hurdles, i.e. planning application and lease modification of the user clause on "Industrial" because the current definition for "Industrial" use does not include IT related uses.

If the above technology related activities were interpreted as industrial uses in the land leases, the vacancy situation in industrial buildings could be considerably reduced. These hi-tech users would welcome a move into industrial buildings for cheaper rents. However, this has been ruled out by two court cases, which do not categorize them as "industrial" use.

In **Cavendish Property Development Ltd. v. Attorney General** the High Court held that data-processing did not belong to manufacturing. By this reasoning it was not classified as industrial use and, therefore, not permitted in industrial buildings. Companies, industrial or not, cannot establish their data-processing functions in industrial buildings without the necessity of change of use and, possibly, payment of modification premium.

The recent **Raider Limited v. Secretary for Justice** case has a more significant implication. The plaintiff operated a paging centre inside its pager manufacturing premises in a factory building in Kwun Tong.

In 1999, the judge declared that the paging centre, occupying about 13% of the premises, was not in breach of "industrial" use. The SAR Government later appealed to the Court of Appeal. The Court of Appeal decided in 2000 that the paging centre portion of the premises was clearly not being used as a "factory", nor was it "ancillary" to industrial production. A paging centre is therefore not permitted in a factory building.

Such ruling certainly doesn't help relieve the vacancy situation.

In recent years the Government has relaxed its stance towards the use of industrial building by the IT industry. It has actively considered methods to solve the problem of large redundant industrial space. To circumvent the restrictions imposed by the legal ruling, it has resorted to amending the planning regulations.



GOVERNMENT'S ACTIONS IN PLANNING CHANGES

Logically, starting with planning proposals and enactment is the right move. Recent proposals/enactment by the Planning Department and Town Planning Board include:

i) Introduction of Business Zone

Following a report on industrial land usage, the Hong Kong Government in October 2000 converted 165 hectares of industrial land, out of a total 504 hectares, to "Business" use. The "Business" zone, according to the Town Planning Board, should have the flexibility to be designed and used for non-production based industrial, commercial or general office use, or a combination of them, without requiring planning permission.

There are recent examples of such conversion. In Cheung Sha Wan, the industrial zones south of Castle Peak Road have been converted to "Business" zones. In the case of Kowloon Bay, the industrial zones have all been rezoned as "Business".

A further metamorphosis is "Residential (E)" zoning, which is adopted, for instance, in Yau Tong and Aberdeen. In "Residential (E)" zones, residential development is permitted if it is accompanied with environmental mitigation measures. This trend is likely to continue in areas with favourable traffic and environmental conditions.

ii) Inclusion of IT/Telecommunication

In July 2001, the Town Planning Board has widened "industrial" use to include IT and telecommunication. These two uses can now be accommodated in industrial buildings without the necessity to apply to the Town Planning Board for approval. However, an application to the Lands Department for a waiver is still necessary and payment of a waiver fee is required.

iii) Permission of Education and Entertainment Uses

The Town Planning Board has proposed in September 2001 that "Educational Institution" and "Place of Entertainment" are to be included into Column 2 of the explanatory notes of "Industrial" zoning.

Under this proposal, these two uses may be permitted upon application to the Town Planning Board. They are even permitted without application to the Town Planning Board if they are located in a "Business" zone.

iv) Proposal to Incorporate "Home-office" use

To further increase the range of possible uses, the Government is considering the incorporation of home-office use into industrial buildings, following the idea established in New York in the 1950s where industrial buildings were vacated en masse. Similar uses recommended would include open-kitchen flat, home-office, studio, gallery, theme restaurant, bar, innovative entertainment etc.

WHAT MORE CAN BE DONE

Apart from the above planning changes, the Government can really do more to help:

i) Widening the Net

Possible types of permissible uses need to be extended in industrial buildings. The following uses can be considered:

- various types of learning institutes
- hotel / motel
- old people's home
- conference hall
- exhibition hall
- food plaza

ii) Streamline/Simplify Procedures

The process of planning change and modification of lease can be streamlined to shorten the time frame. Certain principles and policies should be adopted by Government to simplify procedures. Allow action simultaneously among various departments and set a time limit for each application.



EXPERIENCING EMERGING PROPERTY MARKETS

-FOCUS ON SOUTH KOREA

Yu Kam Hung, FRICS, FHKIS, Director of Valuation Advisory Services Department, Jones Lang LaSalle

Ewan Munro, Senior Manager of Valuation Advisory Services Department, Capital Markets, Jones Lang LaSalle



Yu Kam Hung



Ewan Munro

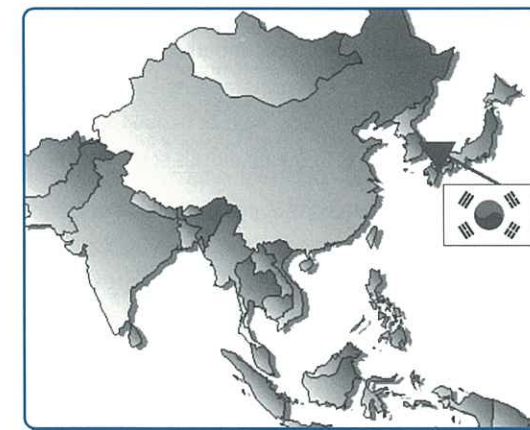
INTRODUCTION

As property consultants seek to enhance their capabilities to provide advisory services on a more regional scale, undertaking assignments in emerging markets present the consultant with a fantastic opportunity to experience "developing market practices", different cultures and exchange information with a wide range of interesting people.

Professionalism, competency, local market knowledge, and client relationship are the key ingredients in providing value added services, and each market will present unique market cultures for the consultant to learn from, interpret and advise on.

In advising clients on a wide range of property issues in some of Asia's more emerging markets, our experience in one of these markets in particular, **South Korea**, continues to provide us with a challenging and exciting workplace.

The intention of this article is to present a brief insight into some of the Seoul property market specific characteristics and latest trends.



SOUTH KOREA PROPERTY MARKET - OPPORTUNITIES

In the face of the economic crisis, the Korean Government continues its wide-ranging restructuring, which has included:

- The lifting of local business practices to international standards.
- Corporate restructuring (non-viable firms are forced to cease operations and participate in asset swaps and mergers).
- Lifting of restrictions on foreign ownership of property.

This, together with reasonably high yields, has created a more attractive environment for potential investors and there has been a significant amount of foreign investment in real estate in Seoul during 2000 and 2001 in particular.

International property consultants may now view South Korea as an emerging property market from the point of view that the opportunities for them to operate in the market are becoming greater, their clients will demand servicing on a regional scale to include such markets, the market practices are becoming more internationally recognised and the Korean market potential is considered to be one of the greatest in Asia.

UNIQUE PROPERTY MARKET PRACTICES

Whilst many property market practices or characteristics are common throughout Asia, each market will have a number of unique characteristics, which take the newcomer some time to discover and understand. Some of these Seoul market specific features include:

iii) Government to Take Up Empty Spaces

The Government can take the lead by moving some of its operations into the industrial buildings, most notably training centres, registration offices, data processing, examination halls, storage rooms, filing rooms, back-up services, staff welfare and even staff quarters etc.

iv) Welfare Uses

The Government can put some "social" uses in the vacant buildings, particularly those located close to old residential areas with substandard living conditions. Various uses such as nursery, newspaper and magazine reading room, study room, social function room, canteen, typhoon shelter and even temporary accommodation can be considered, provided that the safety and fire regulations can be met. Similarly, charitable organizations can be encouraged to establish their operations in the vacant industrial buildings.

v) Grants and Loans

To encourage owners to renovate and improve their buildings' facilities to meet the needs of new occupants, the Government can set up improvement grants, loans etc for them to upgrade their buildings. It is also necessary to ensure that the criteria and procedures for making such grants and loans should not be too onerous to discourage applicants.

CONCLUSION

A concerted effort by various Government departments is necessary to stimulate the revival of industrial buildings. Success will, of course, depend on many other factors, particularly the response from the private sector in terms of economic considerations. The Government by far has taken the first step.

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Property Title

An essential principle of the Real Property Registration Act is that the registration of interest vests title in the registered proprietor of that interest. However, there is no guarantee of title by the Government and any defect in one of the various instruments may affect title. All title information is contained in a Certificate of Title, issued and certified by the Registry Office. Dealings in the property (transfer of ownership, mortgage, caveats or other interests) are recorded on the Certificate and are secured and protected in the sequential order of registration.

Titles are divided into three types - land title, building title and multi-unit building title. The principal form of tenure is freehold ("Soyoo-Kwon") out of which lesser interests such as leasehold rights and grants can be created and over which legal claims such as mortgages and "Chonse" liens may be registered.

The Korean equivalent of a ground lease is known as "Jisang kwon" and is a recognised interest - i.e. the grant of a right to use and develop the land, subject to the terms of the grant.

Under Korean law, land does not include buildings attached to land hence titles are issued for land and buildings separately (mortgages are registered over the land and buildings separately). As a general rule, title to land and title to the building on that land are in one ownership and are not transferred separately, however each title is capable of separate ownership and transfer - except in the case of multi-unit building title where legislation provides that such land and building must not be separately transferred. In Seoul, we have come across instances where the building and land have been registered in the names of separate owners, but this was primarily a result of an administrative oversight as opposed to any defect in the title.

Based on the concept of horizontal and vertical sub-division of air space, land and buildings are enabled to be sub-divided into lots with a separate individual title to each lot. The ownership and management of multi-unit buildings are regulated, through which the creation of an agent management body is required (such as a condominium corporation). As agent or proprietors of the multi-building unit lots, the body is responsible for the maintenance and management of the building.

Tenancy in common is adopted for the joint ownership of real property, expressed either as a percentage of the whole or by reference to specific parts of the property.

Foreign Ownership

Foreign individuals, including non-residents and foreign companies are now permitted to acquire land. There are no acquisition limits on the use or area of the land acquired (except limits placed on the acquisition of farmland under the Farmland Act - a maximum of 3 hectares with a Certificate of Acquisition - and prior approval is required for land acquisitions in military installation reservations, cultural properties and other reserves).

Leasing property

In Korea there are 3 types of lease contract, in terms of the method of paying rent, for commercial or residential property.

1. **Chonse Lease** - This is where a substantial capital payment (referred to as "Key Money") is required upon lease commencement and which is returned in full when the lease expires or is terminated. The landlord should always register the Key Money against the title of the property. The interest on the Key Money accrues to the landlord, and represents the rent. The tenant pays no monthly rent on this basis. The cost to the tenant is the opportunity cost of this Key Money. With low interest rates and more foreign tenants preferring more "international standard" rental payment methods, the Chonse Lease system is becoming more out of favour.
2. **Walsei Lease** - This type of lease applies to office premises in particular and is part payment of a deposit and the balance payable by monthly rent. The landlord will typically require 10% of the Key Money to be paid upon lease commitment (referred to as the "Deposit") and the balance is paid monthly, adopting an interest rate on a monthly basis to the outstanding sum. The proportion adopted between the percentages paid as Deposit and monthly rent can vary greatly, according to the landlord's specific requirements.
3. **Sunsei Leases** - Rarely used and is mainly for expatriate residential leases. This is where a rent is paid in advance for the full period of the lease contract. The typical lease term in Korea is one or two years.

Rent

Rents are quoted in Korean Won per pyung (1 pyung = 3.3058m²) per month on the gross area and are payable monthly in advance except in the case of a Chonse Lease contract.

Service charges

Service charges are payable in addition to rent and is levied for items such as air conditioning, electricity and gas, and management services. Government taxes, including property tax and insurance, are payable by the owner but in practice, and in the absence of transparency or accountability on publishing management accounts, the service charge will often cover all expenses related to the ownership and management of the property, and may also provide the owner with an additional source of profit. Tenants are responsible for their share of these building expenses based on the proportion of the building occupied.

Standard Unit of Measurement

The area to be leased/purchased is usually quoted in pyung on the basis of Gross Floor Area (GFA) - includes not only the gross area of the leased floor and a proportion of the building common areas, but may also include the area of the (usually basement) car park. The ratio of net to lettable area of GFA varies, naturally depending on the efficiency of the superstructure and the area of the basement levels included in GFA calculations, but is generally in the range of 45% to 65%.

RECENT MARKET TRENDS

Deregulatory environment leading to an International Market

The South Korean real estate market is becoming increasingly "internationalised" both in terms of the international standard market practices it is leaning towards adopting and the amount of foreign investment in real estate, boosted by the deregulation and corporate restructuring policies adopted by the Korean Government. The Korean real estate industry also advances to a new stage by introducing Asset Backed Security (ABS), Mortgage Backed Security (MBS), and Real Estate Investment Trusts (REIT's).

K-REITs launched

The Korean Government launched K-REITs in July 2001. This is expected

to increase indirect investment in the real estate sector and assist with the diversification of real estate investment. If successful, REIT's will also enhance the openness, liquidity and transparency of the real estate market in South Korea. The Korean Government has also recently announced further measures (effective March 2002) to improve the conditions for REIT's including the reduction of the minimum amount of capital investment required, permitting the sourcing of funds from overseas and the investment in additional types of real estate related investments.

Stronger correlation between the Korean stock market and real estate market

Stock and real estate markets now moving in the same direction as the real estate market has become more sensitive to the overall economic movements after the economic crisis in 1997. Therefore, Korean stocks and real estate properties are not so much seen as good investment alternatives to each other.

Growing preference for monthly rents over Chonse leases

Landlords prefer monthly rents instead of Chonse leases as monthly rents generate higher returns than bank deposit rates and more foreign occupiers also prefer not to tie up large sums of cash when renting property.

Unit measurement

Several office buildings (including new Grade A offices owned by International investors) properties have adopted to quote and charge on areas measured excusing car-parking areas.

CONCLUSION


Doing business outside of Hong Kong as "overseas consultants" requires us to refresh our initial instincts on how we approach our work, and not to take for granted the efficiency of the Hong Kong market being available when taking on assignments overseas. The Seoul property market is becoming more sophisticated through the introduction of new legislation, new market practices, new investors etc. and as such, is a constantly evolving market place. Nevertheless, it remains a challenging place to do business and the sourcing of reliable and accurate data required to undertake property advisory services in Seoul is difficult.

Establishing, developing and maintaining relationships with local staff, clients, authorities, professionals in various business fields and the like are essential in achieving a good understanding of the South Korean market, particularly when operating on a regional role where you can not dedicate full time to one particular place. As the sourcing of transparent market information is more challenging in South Korea than in more developed markets, we would normally dedicate the same amount of time as doing the work as we would to enhancing the relationships we have in the market and ensuring that the flow of information and exchange of ideas is two way.

We have found that the majority of information sourced from public records and historical data, title documentation etc. is of course in Korean language. When forecasting an appropriate budget for the

assignment, one should definitely allocate for additional resources for translations, ideally by a real estate professional that will have the right interpretation of the data.

For a newcomer to the market, time and patience are very useful attributes. Economic sense and client demands will not permit limitless time in completing assignments, but this should be considered into the equation when proposing your services.

Should you get the opportunity to undertake regional assignments in markets such as Seoul, our advice would be to pack your bags, open your mind and take the initiative to demonstrate your value to the client in providing professional value added advice with regard to these unique and evolving markets. 

Surveyor's Surf



SURVEYOR'S SURF

Stephen Chung, Zeppelin Real Estate Analysis Limited



While a high school student, the author had read a story called "The Bottle Imp". Don't ask me what an imp is, just treat it as some kind of devil / demon. The story went like this: the bottle imp could offer its 'owner' riches (or wishes) beyond imagination, just like the lamp spirit from Aladdin but there was a major difference: the owner needed to sell the bottle within a few days else he would die AND it must be sold for a lower price. A guy (let's just call him X) bought it for \$50, X got his riches and X sold it for less than \$50. X was happy until one day his wife got a terminal disease. His only hope was to buy back the bottle

in order to save her. X found the latest owner yet the price was now down to 2 cents. If X bought it for 1 cent, he would surely die. The decision was tough. The author has forgotten what the ending was, which is irrelevant anyway. It was the logic: IF 1 cent meant definitely the end of the road (death being certain), THEN 2 cents would have no takers (i.e. buyers, assuming people were not eager to die just for a few days of riches). This means 2 cents was in fact the actual end of the road, which in turn means 3 cents would have no takers, which in turn means 3 cents was the end, and 4 cents would have no takers,

and so on and on and on. There should be no takers at any price rationally speaking, yet if in real life there was such a bottle, the author is sure someone would have taken it, if not for a few cents at least when it was still at a few dollars. This reminds the author of some high tech analysts / dot-com investors who continued to chase after stocks that were sliding down, kind of hoping for a dead cat's bounce. Our brain logic sometimes doesn't get fired up until it is too late. Good webs do not require magic, luck, or potion:

<http://www.demographia.com/db-shanghaiward.htm>

This is part of the website developed and undertaken by Wendell Cox Consultancy with a focus on public policies. Geographically, it contains economic and social information and commentaries on most, if not all, places on earth and hence could be a good resource for those involved in researches and regional comparisons. The website quoted here contains a summary on Shanghai population.

<http://www.greach.com/globstats/index.php3>

This website contains a breakdown and analysis of web traffic, page hits, and the expected growth rates on a worldwide basis. It also gives you an idea of the languages used, though expectedly English occupies the most significant portion being involved for almost close to half of the web content.

<http://www.archive.org>

This is an internet archive service and can help you trace the history / historic content development / evolution of a website / webpage. The author has tried the facility and found that not only global domains such as yahoo.com were traceable, so were many of the Hong Kong websites including hkis.org.hk. It also contains archives related to television and movies.

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

This is a commercial website and offers a subscription service. Nonetheless, it has freely accessed sections such as 'tips for tenants' giving a relatively concise idea of the pitfalls in a 'standard lease' from a tenant's viewpoint. It also has a section on the leasing process used in the USA thus providing a good reference and an opportunity for comparative researches.

<http://www.mipim.com/app/homepage.cfm?moduleid=330&appname=100016>

This website offers information on real estate related conferences and seminars worldwide, spanning from North America via Asia to South Africa. Several major world professional institutions including the RICS and Urban Land Institute seem to be supporters. A good point to start for those wishing to enhance their professional and business networks geographically.

<http://www.facilitiesnet.com/fn/WH/WHnext.html>

This is a comprehensive link webpage leading to useful and prominent real estate, building construction, ergonomics, energy, professional institutes, government departments (USA), and even career portals and websites. Data seekers and researchers, take note.

<http://www.property.com/re.asp>

This is another comprehensive USA link website but with a stronger focus on real estate companies, ranging from developers, investment funds, brokers and the like to financiers and mortgage banks. The total number of listings exceeds 1,300.

We have been told that we are now in a 'knowledge economy' era. Surely indeed and one needs to look no further than the building industry that we are involved in: the sub-contracting system, which has been causing some concerns in recent years, demonstrates this most effectively. For instance, the main contractor who signs the building contract actually does not know the people that will end up doing the actual work but instead knows person A (a sub-contractor) who knows person B (a sub-sub-contractor) who in turn knows person C (a sub-sub-sub-contractor) who knows someone called D (a sub-sub-sub-sub-contractor) who in turns knows a guy called E (a sub-sub-sub-sub-sub-contractor) who knows and has access to the people (the sub-sub-sub-sub-sub-sub-contractor) that will end up doing the work. We are way ahead. What me worry? (Courtesy of MAD magazine).

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

BOOK REVIEW

EXPLORING HONG KONG'S COUNTRYSIDE - A VISITOR'S COMPANION

Jointly published by the Hong Kong Tourist Association & Hong Kong Country and Marine Parks Authority
Edward Stokes

ISBN 962-7534-03-X

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When I was surfing the Town Planning Department's website last month, I happened to read the recent *Working Paper No. 17 (Major Development Constraints and Opportunities)*, which states the various development constraints and opportunities in Hong Kong. Due to the unpredictable population growth, there is a need to intensify development in the urban area through relaxation of plot ratio, heightening building of up to 60 storeys, possible introduction of "hyper buildings", making use of underground spaces, etc to provide accommodation to meet the population growth.

Nonetheless, the Government continues their efforts to set aside some precious lands, which has been set low priority for development purposes. From the said Working Paper, these development constraints may be divided into six broad categories including:

1. **Ecological and other natural resources** like country parks and special areas
2. **Heritage** like archaeological sites or recognized indigenous villages
3. **Water supplies** like water gathering grounds and reservoirs
4. **Safety** like geotechnical slope which is susceptible to collapse
5. **Out of bounds administrative** like military sites
6. **Inaccessible/remote locations** like outlying islands

The country park has been an important place to relieve our stress and to refresh our mental fitness, especially for most of us living in the cramped and stressful urban areas.

The recommended book for this month is **Exploring Hong Kong's Countryside - A visitor's companion**, a joint publication of the Hong

Kong Tourist Association and Hong Kong Country and Marine Parks Authority.

As its aim to promote tourism in Hong Kong, I am not surprised to find Hong Kong Tourist Association tout about countryside tourism in the introduction of the book.

Part One of the book provides general information on hiking and maps on country parks.

Chapters on The Landscape, Man and Nature, Coastal Ecology, Country and Marine Parks provide more interesting information. They are quick reference for hikers to understand the micro-dynamics of our nature before we step our feet on. Without this you may not know there are millions of hidden lives and ecological richness residing in our parks.

Part Two of the book introduces 6 major routes, such as the few sections along the Hong Kong trails, the popular routes along Lamma Island, few trails on Lantau Island, Shing Mun areas in Central NT, Sai Kung Peninsula, and the Plover Cove in Tai Po.

From my experience, Ma On Shan, Sharp Peak and Pat Sin Leng trails seem to be more challenging. All recommended trails, however, have their unique features and difficulties, but most can be done by anyone who is in reasonably good health.

In Part Three, some interesting areas like city escapes are introduced, such as the Hong Kong Park, Tai Po Kau Nature Reserve, Kadoorie Farm & Botanic Garden, and Mai Po and Deep Bay.

In a densely developed city like Hong Kong, the preservation of Mai Po and Deep Bay wetlands is a great achievement. As quoted from the book, "the (Mai Po and Deep Bay) area's significance is shown in its international status as a Ramsar Site."

The Final Part is the Special Interests on various unique animals and plants, which can be found in various country and marine parks. Chinese white dolphin, one of the local wildlife, deserves more learning on.

Though relatively short on the topic on birds, you may feel surprised by the numerous bird habitats found in Mai Po wetland and Deep Bay.

Other diversified spectrums on vegetation and wildlife are also briefly mentioned for readers' interests, and some cross-reference materials are listed for readers' further study.

The whole book is illustrated with clear explanations together with many colorful and crispy clear photographs and user-friendly simplified maps. The pictures themselves were taken professionally and all were taken in good daylight and/or lighting conditions. Some of these pictures also appear in another of Edward Stokes's book *Across Hong Kong Island - Its Natural Beauty* (published in 1998). Another popular book by him is *Hong Kong's Wild Places*.

With this book in mind, we should not ignore that Sir Murray MacLehose - Hong Kong's visionary governor in mid-1970s, initiated the local park system because of his keen interest in hiking and his drive to provide safety picnic sites to all local citizens. Together with a number of specialists, he also designed a 100-km trail after his name - MacLehose Trail.

I quoted Sir MacLehose's forward for "*The MacLehose Trail (1992)*" as saying that "the Trail was born out of the Country Parks, and the Parks were to preserve the countryside. Without them Hong Kong would have had no lung, no undeveloped areas, so a line had to be drawn."

Fortunately, amounting to around 38% of the total land area of Hong Kong are country parks and special areas - 23 country parks and 15 special areas with a total area of 41,582 ha. These preserved places are irreplaceable assets not just for us, but also for all our future generations.

No matter whether you are using this 185-page book as a general guide for outdoor hiking, or as a gift to your overseas friends to learn more about Hong Kong (rather than shopping centers in Causeway Bay), I strongly believe this is quite an entertaining book for our members. Hiking in the countryside could refresh my weeklong stressful mind and strengthen my body. On the other hand, as a profession of land (and building), I have many reasons to love this book.

GENERAL REFERENCES

- (a) Country and Marine Parks Authority web site
<http://www.info.gov.hk/afcd/parks/e/tourist/ztourist1.htm>
- (b) Planning Department web site
http://www.info.gov.hk/hk2030/hk2030content/home_eng/2030_e.htm
- (c) Hong Kong Tourist Association web site
<http://www.discoverhongkong.com/eng/touring/city/index.jhtml>

UPDATE OF GOVERNMENT PRACTICE NOTES

Department	Practice Note/Reference#	Description	Date	Home Page
Civil Engineering Dept.	GEO Technical Guidance Note No. 8	Maintenance Requirements for Natural Terrain Hazard Mitigation Measures.	20 February 2002	www.info.gov.hk/ced/eng/publications
	GEO Technical Guidance Note No. 7	Fill Slope Recomaction - Investigation, Design and Construction Considerations	10 January 2002	
Works Bureau	Technical Circular No. 15A/99	Improvement to Quality of Maintenance Works.	8 February 2002	www.wb.gov.hk
	Technical Circular No. 1/2002	Review of Public Works Dept., Lands and Works Branch, Works Branch and Works Bureau Technical Circulars.	8 February 2002	
	Technical Circular No. 5/2002	Procedures in the Selection of Consultants for Small Consultancy Assignments.	14 January 2002	
	Technical Circular No. 4/2002	Independent Auditing for Prevention of Sub-standard Works in Public Works Construction.	10 January 2002	
	Technical Circular No. 3/2002	Releasing Contract Rates or Related Information to Consultants for the Purpose of Cost Estimation or Cost Analysis.	10 January 2002	
Environmental Protection Dept.	Environmental Impact Assessment Ordinance (Cap. 499)	Launching of Cyber Help Bench for Environmental Impact Assessment.	24 January 2002	www.info.gov.hk/epd/eia
Lands Dept.	Practice Note No. 3/2002	Enquiries from Prospective Purchasers etc. relating to lots being offered for sale by public auction or tender including sites on the application list.	22 February 2002	www.info.gov.hk/landsd
	Joint Practice Note No. 2	Second Package of Incentives to Promote Green and Innovative Buildings.	22 February 2002	
	Practice Note No. 2/2002	Processing of Plans Submission before Completion of Land Exchange or Lease Modification.	16 February 2002	
	-	List of valid Practice Notes.	8 February 2002	
Rating & Valuation Dept.	-	Hong Kong Property Review - Monthly Supplement	February 2002	www.info.gov.hk/rvd/property/index.htm

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



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