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## From the Editor

### 編者話

In his 20th anniversary message, the President talked about the many roles of the surveyors in a multi-disciplinary playing field and that we have come to a juncture so fresh and so unexplored. The GPD reciprocity breakthrough in the Mainland paves ground not only for other divisions but also tested ourselves in terms of geography. When the President led the delegation to Singapore and Malaysia at the end of July, he knew that we are one of the be-seen in the region and that only we ourselves dictate how far we can go. Well, we did and it all materializes into an agreement with the SISV and ISM on the formation of an Alliance to be signed this month. When it is a global village that we all live in, we better play our part by engaging in dialogue with as many organizations as we possibly can, all of which are conclusively to our own benefits.

In 2004, we see the surveying profession expanding horizontally and vertically; the growth in terms of specialty, to recruit also the technical grades and geographically into the Mainland, Singapore and Malaysia paves the way for a challenging 2005 which is going to be important irrigation and harvesting time, a time when we see the fruits being enshrined in the Constitution of the Institute.

## CPD/PQSL Announcements

Please note that all CPD/PQSL announcements can now be found between page 17 and 18 as a centre spread of the SURVEYORS TIMES.

Members are requested to use the STANDARD REGISTRATION FORM at the back of this fold for all CPD/PQSL events registration.

Please direct enquiries to Donna at the Secretariat on 2526 3679 or email: cpd@hkis.org.hk or visit www.hkis.org.hk



# Forge Ahead into a New Setting

**Last** December in my presidential address presented to Members at the Annual General Meeting, I highlighted the great potential of the Mainland market and that the Institute should allocate more resources to promote and elevate the status of the HKIS qualification as well as the scope of quality professional services provided by Members to the Mainland. Apart from the Mainland, I also emphasized that it is of equal importance the Institute expands the link and network in other regions as well. A wide recognition of the HKIS qualification in other countries and regions is crucial in maintaining our leading edge which, in turn, could have repercussions on facilitating the Institute in gaining further grounds in the Mainland.

Through the hard work of our Members, the first batch of about one hundred Corporate Members of the General Practice Division have formally received the Practising Certificate, permitting them to practise and provide valuation services in the Mainland since August 2004. Concurrent with progress on the arrangements for the GP Division, the Institute is actively pursuing to conclude similar agreements for other divisions. It is hoped that the formal agreement for the QS Division could be signed in the coming months. The Institute is making every effort to facilitate members to capture the business opportunities in the Mainland.

Whilst we were pushing ahead in the Mainland, efforts have also been made in building up better link and communication with surveying professional organizations in other regions. Apart from holding and attending conferences, forums and seminars, the Institute had paid visits to other countries and cities. During the recent visit to the *Singapore Institute of Surveyors and Valuers* and *the Institution of Surveyors, Malaysia*, the three institutions agreed to strengthening the relationship among the surveying professional institutes in Asia. The idea of forming an alliance of surveyors was endorsed. Subject to the approval of the Council of the respective institutes, it is targeted to sign the Alliance Agreement in Hong Kong on 19 November 2004 signifying the formal setting up of the *Surveyors Alliance Asia*. The Alliance aims at recognizing the importance of the development and growth of local or national institutes as represented by the members of the Alliance. The aims and mission include:- the promotion of the best surveying practice in the Region and dialogue between member organizations; the fostering of research appropriate to the better understanding of building and property practice in the region; the rendering of assistance to Members of member Institutes working in other countries/cities; the promotion on recognition of academic qualifications stipulated by relevant courses in universities in other members' countries.

With the globalization of economies and businesses and, bearing in mind resources limitation of the Institute, there are merits in joining hands with other surveying professional organizations in Asia to promote and upkeep the surveying professionalism and standard, and to protect the interest of local institutes. With the increasing number of our Members providing services in areas outside of the Hong Kong SAR, it is most crucial for the Institute to enhance its exposure, image and influence in other regions. The Council is committed to working towards the aim and mission of the Alliance and success hinges on Members' support.

Tony Tse President

## 奮力邁向新里程

去

年十二月會員周年大會的時候，我強調了學會必須面向全國，要把工作分輕重、資源分配得宜，與現實對口，方可有效維護並提升學會所代表的專業水準。此外，我也強調除了內地市場外，亦需面向世界。因為只有獲得其他地區或國家測量同業的認同，我們才能高度捍衛行業與及鞏固專業地位。

今年八月通過各會員的努力，約一百位產業測量組會員成功獲取了『國家註冊測量師登記證』，切切實實地擁有在內地執業的資格。在此期間，學會並沒有滿足於現狀，反之更努力地與其他對口單位洽談，希望能儘快為其他組別達成相約互認協議。展望未來，學會將不遺餘力地配合會員在內地爭取最佳的商機。

與此同時，學會一直都參與國際或其他地區的學習研討會、交流會、大型會議等等，不懈地與地域或海外機構聯繫，加強與其他機構建立關係。在今年夏季到新加坡 (SISV) 及馬來西亞 (ISM) 造訪的時候，三方學會都表達了

深化彼此之間的工作關係及加強團結的良好願望；並同時達成共識，希望在年底以前通過簽訂協議，組成 **Surveyors Alliance Asia**。有關學會如取得各會理事會的正式通過，三方將於11月19日在香港特區舉行協議簽字儀式。正式成立 **Surveyors Alliance Asia** 共同綱領及目的包括：推廣及提升地域性的優秀測量事務、在科研專案上共同參與、為彼此會員提供支援、及對三方高等院校測量本科生的學術資格相互承認等等。

隨著經濟及貿易的全球化，在資源的限制下，學會與對口單位合作所產生的協同效應將更顯著。鑑於愈來愈多我會會員在特區外的地域服務，香港測量師學會在亞太地區與日俱增的社會地位對任何一方都是有利的。理事會的態度是堅定不移，達到目標則有賴各會員的支持與認同。

謝偉銓 會長

## International Referee Panel for HONG KONG SURVEYOR

The Institute's official journal, the Hong Kong Surveyor, is to become a peer-reviewed journal starting 2005. An international referee panel comprising nearly 20 academicians from throughout the world is being formed.



The Hong Kong Surveyor, which is published in June and December, tries to develop, elucidate and explore the knowledge of surveying research, to keep readers informed on current issues surveying knowledge, expertise and advancement apart from serving as a platform for exchange of ideas, knowledge and opinions among surveying professionals of all disciplines.

## HKIS Annual Dinner 19 November



The 2004 Annual Dinner takes place on Friday 19 November 2004 in the Grand Hyatt and the Guest of Honour is the Honourable Michael Suen Ming-yeung, GBS, JP, Secretary for Housing, Planning & Lands, HKSAR.

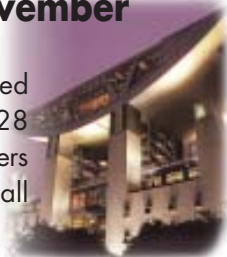
## Surveyors Luncheon 24 November

The next Surveyors Luncheon takes place on Wednesday 24 November 2004 in the Dynasty Club and the Guest Speaker is Legislative Councillor, the Hon Patrick Lau, SBS, JP.



## HKIS participates in the HKCPS Charity Walk 28 November

The 3km charity walk will be officiated by the CE at 0900 hrs on Sunday 28 November at the Peak Galleria. Members are welcome to participate, please call the Secretariat on 2526 3679.



## Constitutional Development in Hong Kong

The Institute has written to the Constitutional Development Task Force headed by the Chief Secretary for Administration that the Institute welcomes opportunities for more representation in the Legislature.

HKIS corporate members are eligible to become electors of the Architectural, Surveying and Planning Functional Constituency in the Legislative Council. With over 3,700 members in 5 divisions viz. building surveying, general practice, land surveying, quantity surveying, and planning & development, about 70% of corporate members work in the private sector and the rest in the government; the Institute has always been active in the business circle as well as in the policy formulation and given advice to the Administration on public governance in the interest of the people of Hong Kong. The Institute further urges for more details on any proposed amendments.

## Proposed Amendments to the

### Building Management Ordinance (Cap.344)



The Administration is planning to introduce an amendment bill into the Legislative Council in the 2004 – 2005 legislative year. The Institute has written to the Home Affairs Department and stated:

**Personal liabilities of members of a management committee for the decision of an OC** That the HKIS object to the proposed amendments and further details on the meaning of collective decision must be sought.

**Power of an OC to borrow money from the Government in compliance with statutory notices and orders** That the HKIS does not support to relay the duty of individual owner to pay his due share of contribution to the OC and the Government; this will only induce chances of abuse and add cost on government administration.

That the HKIS supports to follow the current Building Safety Loan Scheme.

**Termination of appointment of the manager specified in the DMC by an OC**

That the HKIS strongly object the proposed amendment as the minimum shares required to pass a resolution to terminate the DMC manager is just over 10% of the total shares; despite this is the worst case scenario, it will only be a decision of minority owners. The will of the majority should prevail at all times. Secondly, it will induce chances of Professionalism being compromised as the will of the minority owners becomes more easily manipulated. Thirdly, the HKIS support to remove the provision in the Seventh Schedule that not more than one manager's appointment can be terminated within any three consecutive years. There was no point to overly protect the manager's appointment for three years period. Emphasis should be put on their performance and professionalism.

**Appointment of a management committee**

That the HKIS support both amendments as the first one is only a procedural amendment and the second one can clear confusion arisen from whether to follow BMO or DMC provisions regarding the composition and procedure of the management committee.

**Appointment of members and holders of office of the first management committee**

That the HKIS support the 10% of owners as quorum for the formation and election of MC and secondly that the HKIS support to add flexibility in the Second Schedule to allow the MC to choose their appointment of Vice-Chairman. MC should not be prohibited to appoint their Vice-Chairman as no provision is made in the DMC.

**Appointment of members and holders of office of any subsequent management committee**

That the HKIS support the proposed amendment for all members of the MC retire at the AGM and it should also include the secretary and treasurer without exception.

**Procurement of supplies, goods and services by an OC**

That the HKIS is of the opinion to put the tender requirement into the BMO is fine but the problem here is that it has to follow the requirement of tendering and endorsement at owners meetings. Although HADF proposes to work out a list of urgent matters which do not need to go through the process of tendering and owners meeting, the Institute consider it too rigid and not practical. As a matter of fact, it will not be possible to amend the BMO in a bid to cover all possible scenarios but instead owners rights could be best protected via the existing legal system. Secondly, to set a percentage based

on units are the best solution; and lastly the Institute support to do away the punitive clause.

**Individual owners' rights to obtain copies of certain building management documents from an OC**

That the HKIS fully support the proposal.

**Appointment of proxy**

That the HKIS support the amendment as it can clear the confusion arisen from the existing common seal requirement for the proxy form and that the Institute also support the strict 24-hour timeline for submission of proxy.

**Property Marketing Award 2004**

The Ceremony will take place on 26 November 2004. Awards will go to the **Best Property Marketing Project**, the **Best Brochure** and the **Best Layout**. The Chairman of the Awards Judge Panel, the Hon CY Leung, GBS, JP and the President, Tony Tse, will be presenting the awards.

**新疆建設工程造價管理協會****及標準化協會拜訪學會**

10月30日新疆維吾爾自治區建設工程造價管理協會及標準化協會一行二十餘人遠道從大西北來到香港特區專誠拜訪學會。考察團團長是新疆標準化協會理事長魏仁祺先生。會上，高級副主席張達榮為學會做了全面的介紹；工料測量組前主席梁立基，現任主席郭靖華，義務秘書何學強，理事關天智及文志泉則對兩地標準化管理及建設工程量清單計價和客人做了探討和比較。雙方都表示得益不少並希望繼續深化聯繫的願望。



## 「第三屆中國大陸與港澳台學術研討會」報告

撰稿：喬佩華

### 引言

「第三屆中國大陸與港澳台學術研討會」於二零零四年九月十四日至十七日在中國澳門舉行。此次會議，由澳門地圖繪製暨地籍局主辦，並獲中國人民大學土地管理系，台灣政治大學地政學系和香港測量師學會共同協辦。110位來自大陸、香港、澳門和台灣不同機構的專家和代表出席本次會議。大會以「地籍科學與地籍管理」為主題，以全會及分組報告的形式圍繞地籍科學、土地管理、產權制度和地籍信息系統的應用發展等方面積極交流，分享兩岸四地在地籍、測繪、信息技術等各領域的研究及在實踐應用中的經驗，達致提高地籍管理水平的目的。

### 開幕典禮

九月十五日早上，澳門地圖繪製暨地籍局張紹基代局長首先致開幕辭，歡迎各代表參加會議。緊接，國家國土資源部地籍管理司樊志全司長致賀詞，他讚揚這個研討會提供良好的環境給各地的專家和代表，交流經驗，分享成果，共同發展，提高地籍管理水平，完善地籍法律制度。隨後，中國人民大學葉劍平教授，台灣政治大學楊松齡教授和香港測量師學會謝偉銓會長亦分別致賀詞。主禮嘉賓在熱烈的掌聲中主持開幕啟動儀式。



### 研討會全體大會

開幕典禮完畢後，研討會的全體大會旋即展開，來自大陸、香港、澳門和台灣各政府部門和專業的代表相繼發表報告。國土資源部的樊司長發表的《中國地籍的由來與發展》深入淺出地介紹中國地籍五千多年的歷史：從黃帝的經土制度，到夏禹的任土作貢；從殷商有法有典，到西周天子經略；從春秋戶籍田結，到戰國土地經界；從秦朝統一田制，到漢代田法地籍；從隋唐申牒造籍，到宋元憑籍照勘；從明朝履行清丈，到清代查田造。從地籍的發展歷史中，我們親看到中國五千年的歷史變遷，領略到前人在地籍科學歷史所作的貢獻。其它的報告有，中國人民大學林增杰教授發表的《地籍



學的基礎理論與前沿問題研究》，台灣政治大學邊泰明教授的《住宅環境屬性特徵價格與都市更新》，香港測量師學會梁守肫先生的《我們的任務Mission“OTOC”》，梁先生利用一幅漫畫生動地表達出地籍測量所面對的最癥結性問題。簡單而清晰的表達手法令與會代表們留下深刻的印象。最後是澳門物業登記局譚炳銓局長發表的《澳門特別行政區不動產登記的形式》，譚先生的介紹詳盡獨到，令與會代表們獲益良多。

### 分組論文報告

九月十五日下午和九月十六日上午是研討會的分組報告，共分四節，每節有兩個單元在不同場地同時進行。論文報告總括有下列八個單元分類：

#### 單元

- (一) 和 (三)：地籍科學、地籍資料管理與應用
- (二) 和 (四)：信息平臺研究與應用
- (五) 和 (七)：城鄉土地管理、土地利用制度、農地產權
- (六) 和 (八)：不動產產權與登記制度

研討會共收到80篇專題論文報告<sup>1</sup>，內容豐富而充實，涉及層面廣泛，詳情請參閱研討會論文集。其中35位代表在分組報告的環節中發表他們的論文。香港測量師學會的陳志端先生向大家介紹香港的地圖記錄系統及地籍資料的管理模式。大陸的代表講述農村土地的有償使用制度和政策方針，並分析研究聯邦德國在地籍管理所使用的模式及其利弊之處。澳門的代表則詳細介紹現行的地籍信息管理系統及未來發展方向，加深聽眾對澳門地籍測量、信息管理及其應用的了解。

### 閉幕典禮

分組報告會議於九月十六日中午十二時結束。主辦單位隨即舉行閉幕典禮。澳門的張局長首先致閉幕辭，他感謝各



地代表的積極參與，推動地籍科學的交流和發展，促進國民經濟發展，並宣佈下屆會議將在台灣舉行。繼而，香港測量師學會的黃仲衡副會長、中國人民大學的譚峻副教授和台灣政治大學的林英彥教授亦分別致謝辭。林教授讚賞澳門在開幕儀式的安排隆重而新穎，論文報告內容緊湊而豐富，大會工作人員的安排全面週到，令人感受到主辦單位的熱誠和親切，他並邀請代表們在下屆會議台灣再見。

### 總結

研討會在大陸、港、台、澳四地代表的攜手合作下圓滿結束。代表們秉承「凝聚良好學術氣氛、建立和諧人際關係、理論與實踐並重」的大會精神，充分交流各地的地籍測量和地籍管理在不同文化背景下的應用，探討合作發展並推動地籍科學進入新階段，也加深兩岸四地測繪同業的友好關係。



1 論文報告可從香港測量師學會的圖書館借閱。

## HKIS participated in

### Tianjin-Hong Kong Week



Following the implementation of CEPA on 1 January 2004 and the signing of the Record of Consultations on further Liberalization under CEPA on 27 August, the Mainland market has become more liberalized for the Hong Kong SAR. The Beijing Office of the Environment, Transport and Works Bureau organized this event which took place in Tianjin from 27 to 29 October with a view to assisting the service sector to establish links and explore cooperation opportunities with Mainland counterparts.

At a concurrent seminar, the President, Tony Tse, delivered a speech on 香港測量專業於房地產及物業管理服務的角色 when he exemplified the full portfolio of services that the surveying profession can offer.

### CEPA II

The Trade and Industry Department has recently given further explanatory notes on the Mainland's commitment on Liberalization of Trade in services for Hong Kong under CPEA II. These notes given below are for reference purpose only.

#### Construction Services

To assist Hong Kong service suppliers to establish construction enterprises in the Mainland, which have not yet obtained construction enterprise qualifications, the Ministry of Construction will continue to process their applications for permits for undertaking single construction project before 1 December 2004. As one of the previous CEPA commitments, Hong Kong service suppliers' performance in Hong Kong is taken into account in assessing the qualifications of the construction enterprises in the Mainland. This commitment will be extended to cover their performance in the overseas. For construction enterprises in the Mainland established by Hong Kong services suppliers, the residency requirements for Hong Kong permanent residents employed as engineering technical staff and financial managerial staff will be waived. The restriction on the proportion of Hong Kong permanent residents employed as qualified project managers will also be removed.

#### Qualification Examinations for Professionals and Technicians

Under CEPA II, the Mainland allows eligible Hong Kong residents to take the 30 qualification examinations for professionals and technicians in the Mainland.

HKIS NEWS

學會簡訊

內地  
MAINLAND

The Mainland will draw up and announce the detailed implementation measures for allowing Hong Kong residents to take the qualification examinations for

professionals and technicians in the Mainland. You may also refer to the website of the Ministry of Personnel, CPG, at <http://www.mop.gov.cn> for further details



## Surveyors Alliance Asia

The tripartite working group formed amongst the HKIS, SISV and ISM met on 11 October and a draft agreement on the formation of the proposed Alliance was discussed. The Institute was represented by the Honorary Secretary, Bernard Chan and Chairman of the International Committee, Stephen Liu.

The draft alliance agreement stipulates that the purpose of the Alliance is to strengthen the relationship between the various professional institutes in the region, to promote and upkeep the surveying professionalism and standard, to protect the interest of local institutes and to enhance cooperation among member countries.

The proposed mission of the Alliance is as follows:

- The promotion of the best surveying practice in the Region
- The promotion of dialogue between member's Institute
- The encouragement of regional cooperation in the practice of surveying
- The fostering of research appropriate to the better understanding of building and property practice in the Region
- The rendering of assistance to members of members' Institutes working in other members' countries
- The promotion of recognition of academic qualifications of relevant courses in universities in other members' countries
- Any other things as are incidental or conclusive to the above mission and approved by the Executive Council.



It is envisaged that an Executive Council will be formed to direct, set policy, implement and carry out all the duty and mission of the Alliance. The Executive Council, consisting of four representatives from each of the three founding members initially, will meet twice a year on geographically rotational basis unless otherwise agreed by the members whilst regular communication amongst member Institutes and other clerical and / or administrative work will be supported by the Secretary General or Institute's Manager of each of the Member Institute.

The Alliance is looking at facilitating the cooperation of member Institutes to:

- Increase exposure of surveying profession in each member's country / city
- Increase exposure of the local professional institute to the public and the Government
- Elevate the international image of the Alliance and its member Institutes in the Region
- Protect the interest of local professional institute and to represent regional surveying profession at international level

The Alliance also pledges that all members of each member Institute shall have the right and benefit of belonging to the Alliance; that each member Institute will endeavour to assist members working in other member Institute countries as if they were members of their own Institute.

## General Practice Division

### Chairman's Message



Yu Kam Hung  
GPD Council Chairman

#### **Education and APC (Convenor: Mr. Simon Wang)**

- The Chairman recommended maintaining consistency and transparency throughout the examination, and members agreed to appoint Mr. Lawrence Poon to update the APC rules and guidelines.

#### **Business Valuation (Convenor: Mr. K.K. Chiu)**

- The Business Valuation Standard has been confirmed and endorsed.

#### **CPD and Internal Communications (Convenor: Mr. Ronald Cheung)**

- The Chairman suggested inviting more variety guest speakers to CPD events. In addition, he also encouraged holding more internal communications, such as monthly gatherings and cocktail parties. Mr. Ronald Cheung will follow up with Steven Yip to organise a gathering at the football club on 21 October 2004.

#### **Government Practice and Local Affairs (Convenor: Mr. C.K. Lau)**

- A research paper on the Hong Kong – Zuhai – Macau Bridge was underway. The Chairman also encouraged members to participate in the government consultation process by making comments about the Tak Kai Planning Review and other upcoming Government Consultations.

#### **International Affairs (Convenor: Ms. Monita Leung)**

- Two trips to Japan and Korea had been arranged for November and Mr. K.K. Chiu would follow up their progress

#### **Mainland Affairs (Convenor: Ms. Serena Lau)**

- Members agreed to appoint Ms. Serena Lau and Mr. Alexander Lam to follow up CIREA matters.
- The reception for three visitors from Liaoning had been very successful.

#### **Public Relation (Convenor: Mr. Daniel Mak)**

- The Chairman urged that more gatherings be held between the public and private sectors, such as the Lands Department, Shun Tak, Wharf Holdings, the MTRC and the Airport Authority. Mr. Daniel Mak will follow up the next GPD annual dinner.

#### **Professional Development (Convenor: Ms. Serena Lau)**

- Ms. Serena Lau reported that 30 people had sent feedback about the survey and encouraged more members to make comments in order to make the results more representative.
- Ms. Lau also reported that the Certificates of Specialists are under study and could be issued only when all the administration work had been completed.
- In addition, she suggested amending the GP firm list and putting it on the website.

#### **Sales and Lettings (Convenor: Mr. Ronald Cheung)**

- Members agreed to appoint Mr. Ronald Cheung to follow up this year's Best Marketing Award concerning such details as the venue and the budget

#### **Assessment of Technical Competence (Convenor: Mr. Lawrence Poon)**

- To follow up the Rules and Regulations

#### **Valuation Practice (Convenor: Mr. Charles Chan)**

- A group of three Council Members comprising the Chairman, Ms. Monita Leung and Mr. Jim Lam are formed to study the existing list and to suggest any improvement, if necessary.
- The Chairman reported that the "GUIDELINES FOR ADMINISTRATION OF LIST OF PROPERTY VALUERS UNDERTAKING VALUATIONS FOR INCORPORATION OR REFERENCE IN LISTING PARTICULARS AND CIRCULARS AND VALUATIONS IN CONNECTION WITH TAKEOVERS AND MERGERS" had been established. Enquiry of the details of the Guidelines may sent to Kamhung.yu@cbre.com.hk.

#### **Valuation Standard (Convenor: Mr. Lawrence Pang)**

- The Chairman appointed Mr. Lawrence Pang and Mr. Joseph Ho to follow up the latest version of the Valuation Standard and prepare it for internal circulation before public consultation. Mr. Lawrence Pang and Mr. K K Chiu will follow up with RICS concerning obtaining a consent letter.

The GPD Council has become increasingly busy and we need more help. If you are available to assist, please call me on (+852) 2820 2932. We welcome any comments and/or suggestions on our work and practice.

## Land Surveying Division

### Chairman's Message



Lam Li Wah  
LSD Council Chairman

#### LSD Annual Dinner

The LSD Annual Dinner was successfully held on 29 October 2004 (Friday) at the Langham Place Hotel, Mongkok. Over 70 members joined this social function and shared the joyful atmosphere with our honorable guests: Mr. Au Yeung Ping-kwong, Deputy Director / Surveying & Mapping of Lands Department, Professor Chen Yong-qi of Land Surveying and Geo-informatics Hong Kong Polytechnic University, Mr. T.N. Wong, vice president of FIG and HKIS office bearers and divisional chairmen. Our senior vice president, Mr. T.T. Cheung, was invited to give a speech on his missions to promote HKIS and members' status in the society. He is committed to improving the current



communication methods amongst members with emphasis on e-communication, e-learning and e-registration for CPD events etc. With the effort of the Organizing Committee, they secured a total of six companies for sponsoring this function in terms of cash and gifts for lucky draw. All attendants had a 50% chance of winning a prize. I must take this opportunity to thank the guests, members and companies for their keen support and the organizing committee for their dedication and hard work.



#### 二零零四年粵港澳測量學術交流活動 — 訪問韶關市



香港測量師學會土地測量組和澳門特區政府地圖繪製暨地籍局資料處代表於十一月四日至七日訪問粵北韶關市，了解當地的測繪事業發展，城市規劃和土地管理及互相交流切磋和增進友誼。

香港代表團一行廿人，由林利華主席和邵偉青副主席率領，於十一月四日下午二時三十分抵達韶關市國土資源局二樓會議室，測量交流座談會隨即展開。韶關市國土資源局聶雲祥局長介紹參加交流會各代表，再由市人民政府李德軍副秘書長致開幕詞，廣東省國土資源廳張新民副廳長隨即講述廣東省近期測繪的發展。接著是香港測量師學會土地測量組林利華主席和澳門特區政府地圖繪製暨地籍局資料處代表譚光民

先生先後發言。韶關市各單位領導人介紹單位的工作和發展情況。於自由交談時，三方也探討測繪專業互認的可行性，氣氛融洽。會後參觀國土資源局。

晚上韶關市人民政府在武江區西河灣大酒店設盛宴款待各代表，何為星副市長親自出席歡迎各地代表。筵後市政府特別邀請各代表乘船夜遊三江(武江、浚江和北江)。

翌日，當地單位領導率領考察團參觀乳源畬族自治縣泉水電站的主土壩監測變形系統，增加團員對採用激光儀器監測技術的了解。此外，還參觀韶關大學，大型屋村的建設和管理。

第三天是旅遊活動，考察團到中國名山之一丹霞山觀光。第四天則兵分兩路，一路向當地剛建成的高爾夫球場挑戰，另一路則往廣東四大名寺之一南華寺參觀。稍後兩路人馬齊集午膳，隨即乘專車回港。

這次粵港澳三地測繪交流聯誼活動，得韶關市市政府熱烈招待，廣東省國土資源廳大力支持，廣東省測繪學會王衛民理事長努力安排下，得以順利完滿結束，本會衷心感謝。(有關這次活動的詳情，將於下期刊登)

## Quantity Surveying Division Chairman's Message



Gilbert Kwok  
QSD Council Chairman

This is my last report as Chairman of the Division. I would wish to report to members the following matters:-

### *AGM of the Division*

Members should have received a notice for the AGM of the Division to take place on Tuesday 7 December 2004 at the World Trade Centre. Please try your best to attend the AGM. At that AGM, a new Divisional Council will be formed.

### *New Main Contract Conditions of Contract*

The Division is liaising with the Honorary Legal Advisor of the Institute Mr Anthony Houghton about the copyright of the contract. Once that is sorted out, we hope that the new contract will be formally launched, as planned, early next year.

### *Reciprocity Agreement between HKIS and CECA*

As mentioned earlier, the terms of the agreement were agreed between the two associations back in August 2004. We are still waiting for the PRC authorities to let us know when the agreement will be signed. The Mainland Sub-Committee has been trying their best to expedite the process including asking the Environment Transport and Works Bureau officials to help.

### *New Standard Method of Measurement (SMM4)*

As the Chinese version of the SMM4 is still not available, the Council has decided to publish the English version first. The SMM Sub-Committee has been making necessary arrangements to formally launching the new SMM4. The current plan is to launch it in January 2005.

### *APC Briefing*

There was a briefing dinner in the evening of 29 October 2004 for the assessors of this year's APC. The briefing went smoothly. I hope that for those assessors who attended the dinner, they also enjoyed the fellowship that evening. I would take the opportunity to thank Council Member Mr Frankie Yeung for organising this event.

Last but not the least, I would like to thank all Divisional Council and co-op members for their generous help this year:-

T T Cheung, Sam Cheng, Thomas Tse, Paul Ho, Spencer Kwan, K C Tang, James Longbottom, Evelyn Kwok, Victor Lau, Stephen Chung, Frankie Yeung, K S Yam, Frederick Tsang, Patrick O'Neill, Honby Chan, Sunny Chan, Antony Man, Gregory Tung, Jervis Chan, Daniel Ho, Nelson Cheng, Francis Leung, Tommy Yim, Keith Yim, Anita Liu, Derek Mackay, H F Leung, Sandy Tang, Mickey Wong, Paulina Yip, Stephen Liu, Escode Yuen, Ellen Lau, Donald Wong, M H Suen, Edmond Lin, Calvin Cheung, Bernard Wu, Monique Wong, Keith Wong, Peter Ho, Patrick Wan, Ricky Chan and Edmond Yew.

(The above names are not arranged in any particular order.)

### *Cost Engineers from Xinjiang*



A group of cost engineers from Xinjiang visited the Division in the afternoon of Saturday 30 October 2004. There is a separate report in this newsletter on this visit. I would like to take the opportunity to thank our Council Member Mr Spencer Kwan and Linda Chan of the Institute's General Office for preparing necessary materials for presenting to the visitors from Xinjiang as well as those Council Members who attended the meeting with the visitors.



## Property & Facility Management Forum



Michael R. Price  
Chairman

Since my last message, the Executive Committee of the HKIS has considered the setting up of a separate Property & Facility Management Division, which we have recommended strongly for some time. Angel Kam has put together a very comprehensive paper on this subject which we will be sharing with members in the near future. The result of the Executive Committee was to support and recommend formation of a separate division. This now has to pass through the General Council, and hopefully later an EGM, with some changes to the constitution. We will now be going forward working with all stakeholders within the HKIS on the issue. We hope to finalize early next year.

We will be holding at least one lunch meeting, and an open forum to discuss the issue, and share information with members, after the General Council deliberation. There will be much work to be done and I encourage any member in this field who is keen

to assist, to attend our meetings which are held on the 1st Monday of every month at HKIS Headquarter or contact us through 2844-4915 Rebecca Tsoi or rebeccatsoi@swireproperties.com.

On the CPD issue, in addition to that already notified, we will be holding activities in respect of concrete repairs and building maintenance. In addition, Martin Woods has agreed to talk to us on his recent fitting out of premises at Pacific Place 3 for a major tenant. It is our intention to run this with the site visit, on the same day, previously announced.

Members will also be interested that we have received initial proposals for cooperation with property managers within China, and this will be followed up upon after dealing with the new divisional issues.

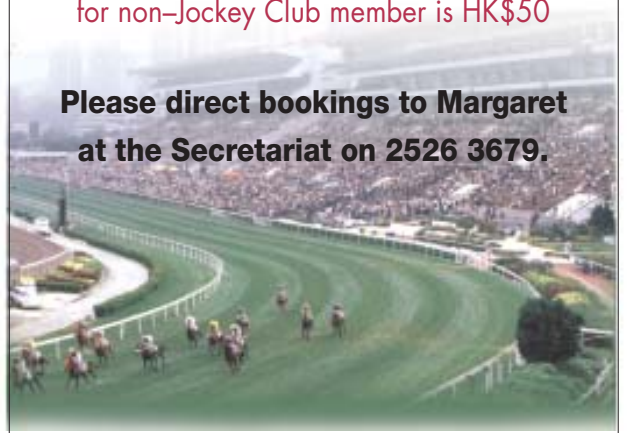
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### Club and Association Box at Hong Kong Jockey Club

HKIS members may now enjoy these ideal venues  
for business entertaining and leisure

Catering packages start from  
HK\$280 to HK\$330 without any service charge  
Admission badge  
for non-Jockey Club member is HK\$50

Please direct bookings to Margaret  
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# Facilities Management Industry in Hong Kong – The Way Forward



Kenny Suen  
Managing Director  
Vigers Asia Pacific Holdings Ltd

## The FM Definitions

After over a decade of arriving in Hong Kong, Facilities Management (FM) still carries a number of definitions regarding its meaning. The term “facilities” is interpreted as either the property or the equipment installed within the property. Thus, to property managers, FM refers to a form of property management service for commercial buildings or corporations. To building services engineers, FM refers to comprehensive lump sum based maintenance services for building services installations. During the last few years when Hong Kong’s economy was in decline, FM often related to non-core business out-sourcing as well as organizational down-sizing and cost-cutting.

The situation is complicated by the launch of FM services by the service providers from various business sectors such as property management and catering firms. FM seems to be the only cost-saving and quality improving solution for all non-core/supportive services to business entities. A number of business entities started to explore the feasibility of inviting FM services providers into their entities or to transform the mode of their operation in FM format. Some of these business entities include Cable & Wireless Hong Kong Telecommunication, Hong Kong Football Club, Hong Kong Air Cargo Terminals Limited, J P Chase Morgan, Dairy Farm, Disciplined Services Sports & Recreation Clubs and Australian International School.

In fact, there are a number of definitions for “Facilities Management” from various FM organizations. Some of their views are quoted as follows:

### The Royal Institution of Chartered Surveyors (RICS)

*Facilities management is the total management of all services that support the core business of an organization. Focusing on the interaction between the core business, the support functions and the facilities. FM is more than an operational activity impacting on the optimization of business occupancy and “bottom-line” productivity. It is the discipline that ensures all the different buildings and services of a company work as efficiently as possible across a global workplace.*

## International Facility Management Association (IFMA)

*Facility management is a profession that encompasses multiple disciplines to ensure functionality of the built environment by integrating people, place, process and technology.*

## British Institute of Facilities Management (BIFM)

*Facilities Management is the integration of multi-disciplinary activities within the built environment and the management of their impact upon people and the workplace.*

*Effective Facilities Management, combining resources and activities, is vital to the success of any organisation. At a corporate level, it contributes to the delivery of strategic and operational objectives. On a day-to-day level, effective Facilities Management provides a safe and efficient working environment which is essential to the performance of any business – whatever its size and scope of works.*

*Within this fast growing professional discipline, Facilities Managers have extensive responsibilities for providing, maintaining and developing myriad services. These range from property strategy, space management and communications infrastructure to building maintenance, administration and contract management.*

## The Hong Kong Institute of Facility Management

*Facility Management is the process by which an organization integrates its people, work process and physical assets to serve its strategic objectives. As a discipline, facility management is the science and art of managing this integrative process from operational to strategic levels for promoting the competitiveness of organizations.*

*The HKIFM hence recognizes Facility Management as both a process and a discipline. It also affirms the integrative approach adopted in Facility Management world-wide and promotes the synergy of effective people and building/asset management that can enhance a corporation’s competitiveness. In addition, HKIFM accords Facility Management to the highest professional*

*level whereby facility managers are instrumental in the strategic decision making of an organization.*

While the definition from RICS reflects the role of FM team within a business entity, the definitions from other three organizations point out the key focus from FM's perspective.

### **The Hong Kong Approach**

Despite the above-mentioned definitions introduced by various institutes, the FM industry in Hong Kong has formulated the scope of FM services by performance. The scope of FM services currently offered by FM professionals covers the following:

**1 Strategic Planning** (Capital Expense Planning; Space Policy; Procurement Strategy; Performance Measurement; Business Re-location; Operation Procedures; Energy Planning; Lease / Tenancy Management; Risk Planning comprising Emergency Procedures and Business Continuity Plan)

**2 Financial Management** (Budget Preparation; Expenditure Control; Cost Benefit Analysis; Benchmarking; Internal Re-charging)

**3 Operation Management** (Property Management comprising Security, Cleaning & Tenant Liaison; Supportive Services comprising Reception Services, Pantry Services, Mail / Messengers Services, Conference/Function Services, Transportation, Catering Services & Club House Services; Facilities Administration comprising Insurance, Licensing & Space Management which includes Space Inventory, Space Configuration, Furniture Inventory and Furniture Specification; Health, Safety and Environmental Compliance comprising Energy, Waste Recycling, Hazardous Materials, Indoor Air Quality, Noise & Water Quality)

**4 Maintenance Management** (building fabric, E&M installation, furniture, office equipment, landscaping) comprising Churn; Routine Maintenance; Minor Repairs & Emergency Recovery

**5 Project Management** (Feasibility Studies; Consultant Management; Statutory Submission; Project Procurement; Contract Administration)

### **PM vs FM**

From the established scope of FM services, one can say why facilities management is mistaken by the property

managers as "old wine in a new bottle". In fact, although the two types of management focus on property, they originate from different bases. Consequently, they are fundamentally different in their approaches to the issues.

For property management, it stems from the management of the property's common area. The prime duty of a property manager is to ensure the common interest within the building / estate is preserved. Decision may have to be made by means of voting among owners of the building. For facilities management, it emerges from business entity with a mission of maximizing the outcome from the physical asset in accordance with the entity's direction. Since achieving the business entity's goals is its prime objective, decisions are usually made by the FM professionals.

In one of the major FM services out-sourcing tendering and the series of tendering for the Housing Department's Property Services Contract, the cost of maintenance services to all building services installation is changed from its traditional cost reimbursement basis to lump sum pricing basis. FM services providers have to bear the uncertainty of any expenditure in the repairs and maintenance of all the building services installation throughout the contract period. Because of the degree of uncertainty in the equipment's performance within the contract period, the estimated value of such services varies from millions to billions Hong Kong Dollars per annum. Property maintenance professionals involved in the tender price estimation and the subsequent maintenance management do not have other alternative but to bear the role on commercial decision making and responsibility towards FM services.

### **Application of Performance Pledge**

Compared to property management and building services maintenance, FM services are data analytical and mission critical oriented. This type of approach is shown from its wide use of performance pledges and services level agreements. Typical items within performance pledge and assessment mechanism are shown on page 16.

### **In House & External Servicing**

Nowadays, FM services in Hong Kong can be broadly classified into two categories, namely in-house servicing and external servicing. In-house FM servicing can be found in the following organizations:

- The Kowloon Motor Bus (1933) Company Limited;
- The Hong Kong Institution of Education;

**Examples of Performance Pledge**

Performance Indicator	Measurement	Rating
1 Manpower	100% meets contract requirements Less than 100% of contract requirements	10 0
2 Staff Turnover (excluding relievers) (Calculation = No. of staff that have left / Total No. of Staff)	0 – 9% headcount turnover 10 – 19% headcount turnover 20 – 29% headcount turnover 30% or more headcount turnover	10 5 3 0
3 Report on/off duty on time (Calculation = Total No. of times staff do not report duty on time / Total No. of times staff required to report duty)	100% complied 90 – 99% times complied 80 – 89% times complied 0 – 79% or more times not complied	10 5 3 0
4 Complaints received about staff (e.g. attitude, reading newspaper/ magazines, gambling, sleeping, drinking alcoholic liquor, smoking)	No complaints received 1 complaint received 2 complaints received 3 or more complaints received	10 5 3 0
5 Complaints received on quality of work (such as improper supervision, sub-standard work etc)	0 complaints 1 complaint 2-3 complaints 4 or more complaints	10 5 3 0
6 Use of non-approved chemicals	All complied 1 time not complied 2 times not complied 3 or more times not complied	10 5 3 0
7 Respond to emergency call within 15 minutes after receiving the call and inform the Employer's Representative about the details of call-out arrangement.	All Comply 1-2 times do not comply 3 times or more do not comply	10 5 0
8 Fails to comply with Safety Rules for the Contractor.	All comply 1 - 2 times do not comply 3 times or more do not comply	5 3 0
9 Building Services availability not less than 99% (i.e.:Total downtime of Building Services (mins.) / Total operating time (mins.)	All Complied 95-99% downtime 90-94% downtime 90% or less	10 5 3
i) Contractor's failure to achieve 85% performance rating may lead to a verbal warning. Warning letter may be issued if verbal warning accumulated to 3 times.		
ii) Contractor's failure to achieve 81% performance rating may lead to one warning letter.		

- University of Hong Kong;
- Chinese University;
- Hong Kong University of Science and Technology.

On the other hand, entities adopting the out-sourcing approach in the provision of FM services are:

- Cathay Pacific;
- CyberPort;
- Science Park;
- Lingnan College.

For both types of FM services, maximizing the output from the entity's physical asset remains to be their ultimate objective. During the downturn of the economy, cost saving becomes the major key performance indicator. For in-house FM teams, sacrifice of long term preventive maintenance, rightsizing of the operation as well as the

management structure are commonly found. Besides, partial out-sourcing of FM services to external services provider becomes an additional assurance for goal achievement through the resultant keen internal competition between the two.

For FM service providers, apart from the above-mentioned action on the preventive maintenance, it becomes more technology driven in order to compensate the adverse impact from staff reduction. They have invested resources in developing Computerized Facilities Management Systems such as "Archibus", "MRI" and "Maximo" in accordance with their operation needs. Nowadays, such systems become the basic tool of any capable FM service providers. The real time data capture and instant demand analysis provided by these computerized systems allows quick deployment of appropriate resources to the right place at the right moment.

The recent establishment of web-based platforms allowing clients to have direct access into the real time reports from anywhere at any time moves the FM industry one unexpected step towards total information management.

**Going Forward**

The application of performance pledge, services level agreement together with the availability of real time data capture and performance reporting, senior management of business entities is provided with a systematic monitoring on the degree of utilization of their available resources performing the supportive services. Subsequently, areas for improvement on cost effectiveness can be identified for taking action. Such benchmarking initiative is the attraction of FM professional to business entities as industry



leaders are fond of saying “You cannot monitor the issue unless you can measure it”.

The benefit of cost rationalization has been the main attraction for all FM service providers in the years of economy downturn. With the substantial reduction in major areas of such cost rationalization having implemented a series of costs saving measures in recent years, and in spite of the rebound of the economy, one needs to consider whether cost rationalization remains mission critical for all FM service providers.

Today, public attention has re-focused on the social


responsibility of mega business entities such as Housing Department, PCCW and MTRC. The out-sourcing activities have been closely watched by trade unions and community concern groups. Attention of the media has also been alerted concurrently. A number of major FM service tenders have been withheld to avoid confronting the society on sensitive redundancy issues.

Enhancement of cost effectiveness by departmental / staff replacement may not be feasible when the social responsibility is taken into account and this issue will need to be further explored within the FM industry when interests of the community is taken into account at large.

## Modeling Mandarin Hotel with 15 Million Points



*George Leung*  
BSurv. (Hons), UNSW  
MIS. Aust, MNZIS, MHKIS,  
MRICS, RPS(LS)  
Authorized Land Surveyor

 is a trend using Terrestrial 3D Laser Scanner to model heritage and architectural constructions, bridges and roadways, etc. With this advanced technology, surveyors can carry out their tasks in alternative ways other than using conventional methods especially for those inaccessible areas, for example, overhead rail gantries and hazard slopes. The capability of laser scanner to acquires several millions of 3D points (i.e. point clouds) over an entire structure provides a more complete representation of the structure and reduces the time in the field. Further, the scanned point clouds can be used directly for 3D visualization or point-to-point measurement, or convert into 3D models such as contours, profiles or sections, etc.

### The Project

The subject project is part of the modernization works of the Mandarin Hotel at Central. The task is to undertake a detailed survey of the existing balconies of the hotel in order to verify the structural dimensions prior to the design and fabrication works. The dimensional thickness of walls, floor slabs, widths and heights of all balconies from Level 4 to Level 27 (totally 17 storeys since there is no Level 13), of which there are 32 balconies at each level, are to be surveyed. Besides the 544 balconies, the details of the terraces on Level 22 are also required for this project.

Accurate as-built information is extremely important in this project as new cladding mullions and their positions will

be designed and pre-manufactured to length off site, and fitted efficiently on the existing balconies thereafter. However, due to the limited access to the external walls and to minimize disruption to the guest of the hotel, laser scanning is considered to be the most appropriate technique for carrying out the task.

### Field Operation

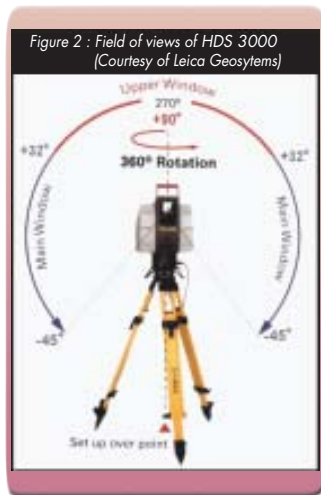
The new Leica HDS 3000 Laser Scanner is used in the project. The selection of laser scanning technique is due to its accuracy, fast speed and comprehensive data capturing capability. The operation of this new laser scanner is mostly similar to that of the previous model HDS 2500, but is having more powerful functionalities and friendly using interface.

Just like conventional total stations, HDS 3000 uses standard tribrach and surveying tripod. Hence, it can be set-up over known control stations or newly established points which are geo-referenced. Due to the characteristics of the subject project, only an arbitrary grid network is established. Other than placing targets near the building, the control network is established by conventional surveying method ‘Traversing’ with the use of total station. Following the input of the measured instrument height of the scanner through the software Cyclone, the scanned point clouds are coordinated in real time once the scanner is originated to known points (i.e. minimum three geo-referenced targets).

One of the other new features of HDS 3000 is the built-in bore-sighted digital camera that is able to calibrate photo overlays automatically and to create panoramic digital image mosaic by using Cyclone (Version 5.1). The field of view (FOV) for scanning is no more a 'window' with fixed angles, but is all-directions (i.e. 360° in horizontal) fully selectable. The operator will be able to view the scene panoramically from the scanner's position via the screen of the connected computer and to select the scanning region. Besides, the FOV can also be easily defined manually by pushing the Quick Scan™ button (Figure 1 refers) at the back of the scanner.



In the previous model HDS 2500, the directions of the laser beams are controlled by the two mirrors (i.e. one for each axis) inside the laser scanner. Instead of this dual-mirrors design, the scanning direction in horizontal of HDS 3000 is controlled by the scanner itself, which is driven by the servo motor, whilst the direction in vertical is controlled by the mirror inside the scanner. This is also the reason why the all-directions horizontal field of view can be achieved. Further, the new dual-window design (i.e. Main Window or the Upper Window) allows the scanning FOV at each scan increased up to 270° in vertical, comparing to the 40° (40° FOVs of HDS 2500). Because of these large FOVs (Figure 2 refers), the scanner will not need to be re-orientated in order to achieve different scanning regions.



As shown in Figure 3, the FOV for the scans carried out via the Upper Window (i.e. zenith angle between +32° and +90°) is in 'sector' shape, whilst the FOV is in rectangular shape for the scans using the Main Window (i.e. zenith angle between -45° and +32°).

During the scan, the pulsed laser beam is emitted from the laser generator, reflected by the mirror which controls the vertical angle, via the glass shields of the scanner to the object. In general, the scanning sequence is from left to right in horizontal direction, from bottom to top for the Main Window and conversely from top to bottom for the Upper Window in vertical direction.



Figure 3 : Field of views scenvia Main Window (top) and Upper Window (bottom) (Courtesy of Leica Geosystem)

Figure 4 : True colour (From top), signal intensity and photo scene of Mandarin Hotel

The Class 3R Green Pulsed Laser is used by HDS 3000 for scanning due to its high level (Maximum 50Wm<sup>-2</sup>) of irradiance (i.e. power density) characteristic. Of course, this laser class is still safe for surveying purposes unless viewing directly to the beam or under long time of exposure. On the other hand, the true colour mapping can now be achieved by using Cyclone. The concept is to superimpose the colour of the object, which is extracted from the digital image captured, onto the corresponding scanned point clouds (Figure 4 refers). Hence, each of the scanned points will have its own 3D coordinates as well as the colour code and the returned signal reflectance (i.e. reflected intensity).

During the field operation, the laser scanner is set-up at 4 positions where the maximum FOV can beachieved. Each face of the hotel is individually scanned and totally 4 scans (namely "scanworlds") are undertaken. Following the field scanning, the 4 scanworlds are brought together to form one

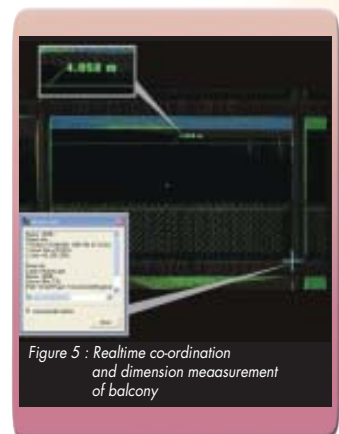


Figure 5 : Realtime co-ordination and dimension measurement of balcony

seamless point cloud via a registration process. This is done by matching up the names of the scanned targets (i.e. target ID) in each scanworld. As soon as the registration process completed, the coordinates and the dimensions between the scanned point clouds data can be immediately measured as shown in Figure 5.

### Problems Encountered and Improvements

Although colour mapping provides a powerful 3D virtual “fly-throughs” functionality, the colour of the point clouds maybe incorrectly assigned due to the direction of the light source or under gloomy environment. For example, the eastern face of Mandarin Hotel is partially shaded by the shadow of the nearby structures and resulted a different colour ratio for the point clouds of that part of the hotel. Under this circumstance, it is suggested to view the point clouds with respect to the signal reflectance (i.e. pseudo colours) as it is dependent not only on the colour of the object, but also the object material, the surface roughness as well as the incident angle of laser, etc.

Similar to photogrammetry, laser scanning technique is also having the “dead-area” problem at the inner portion of the balconies where cannot be directly scanned and are mainly because of the restriction of the setting up positions. The scanner is therefore needed be set-up at alternative positions in order to cover those dead-areas.

Beyond the said limitations, great improvements are found in HDS 3000. For HDS 2500, the scanning FOVs are selected via the photo which is captured by the digital camera at an offset position from the laser origin inside the scanner and resulting different scanning extends in reality. Instead, these two components of HDS 3000 are coaxial with each other and hence the operator can now

be confident with what he viewed is what he scanned. Besides, the overheating problem is also overcome by the new cooling system (i.e. the 4 internal fans) inside the housing of the scanner. The lighter weight and portability of both the scanner and battery, the larger scanning FOVs, the colour mapping capability, centering over known points with surveying tribrach and tripod....., all these features are aimed to improve and to overcome the limitations of the previous model.

### Conclusions

With the improved scan rate of HDS 300 (maximum 1800 points per second), a total number of 15 million points and 16 target positions are scanned for the project in 8 hours (net scanning time) with only three staffs for operation (One for operating the scanner and the others for setting and guarding the targets). The cost and time required for the fieldwork are much reduced comparing with using the previous model HDS 2500 or by conventional methods. For this type of project where accurate is paramount, the required time frame and survey tolerance using alternative surveying techniques may not be achieved. For example, using reflector-less total station maybe subject to inaccurate pointing (building edges and corners may be mis-pointed) and time consuming. It is indisputable that laser scanning technique is the best choice for carrying out this type of project as it provides not only a friendly using environment but also more productive for all measurements professionals.



Figure 6 : The Author and HDS 3000

## Valuation of Copyright Intangibles – Part 1

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### Introduction

Copyright intangibles are the intellectual property and protected by the law to the innovative owners for the economic benefits derived from them. Before looking into the steps of valuing the copyright intangibles, one must understand different aspects in relation to them. But for the purpose of valuation, the relevant aspects to the

concern of a valuer include :

identification of copyright intangibles; valuation methods; obtaining relevant internal and external data for the analysis of similar copyrights comparables and valuation.

Since copyright may have different legal interpretations in different countries, the following takes into account the statutory law and common law in Hong Kong.

## Identification of copyrights

For the purpose of asset valuation, a valuer must understand:

*what the copyright is; what types of works are within the category of copyright; what economic advantage it provides; what types of copyright are governed and protected by the law; what the legal protection of copyright is; what the economic impact of copyright registration is; and what the common forms of copyright transfer are.*

Copyright is a property right that subsists in certain works. Subject to the registration of the copyright, a copyright will become a legal right possessed by the owner of the copyright.

The legal protection of the copyright via the registration will confer the owner of it (which is called to be the “author” ) a bundle of certain exclusive rights that provides the innovative and creative authors with the sole rights to authorize or prohibit the following uses of the copyright work :

*to copy or reproduce all or part of the work (reproduction right); to make new versions of the work (adaptation right); to issue and distribute copies of the work by selling, renting, leasing, or lending them to the public (distribution right and rental and lending right), to enable the work to be performed, shown and played in the public (public performance right); to broadcast the work or include it in a cable programme services (broadcasting and cable rights).*

### Copyright work subject to the copyright registration

Copyright work (版權作品) is a work of any of the following 9 types in which copyright subsists. Copyright does not subsist in a work unless certain statutory requirements with respect to qualification for copyright protection are met.

Copyright does not subsist in a literary, dramatic or musical work unless and until it is recorded, in writing or otherwise.

The copyright work can be categorized into 9 types subject to legal protection, which include :

1 **literary works (文學作品)** – means any work, other than a dramatic or musical work, which is written, spoken or sung, (including books, newspapers, magazines, advertisements);

2 **dramatic works (戲劇作品)** – means a work of dance or mime, (including, plays and operas);

3 **musical works (音樂作品)** – means a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with the music (including, song lyrics, compositions);

4 **artistic works (藝術作品)** – means a graphic work, photograph, sculpture or collage, irrespective of artistic quality, a work of architecture, a work of artistic craftsmanship (including, paintings, sculptures and drawings);

5 **sound recordings (聲音紀錄)** – means a recording of sounds, a recording of the whole or any part of a literary, dramatic or musical work, from which the sounds may be reproduced, regardless of the medium on which the recording is made or the method by which the sounds are reproduced or produced (including, the musical recordings).

6 **films (影片)** – means a recording on any medium from which a moving image may by any means be produced (including, movies and motion pictures). The sound-track accompanying a film is to be treated as part of the film.

7 **broadcasts (廣播)** – means a transmission by wireless telegraphy of sounds or of visual images and sounds or of representations thereof which :-

*a. is capable of being lawfully received by members of the public in Hong Kong or elsewhere; or*

*b. is transmitted for presentation to members of the public in Hong Kong or elsewhere, (including television programmes, music videos);*

The place from which a broadcast is made is the place where, under the control and responsibility of the person making the broadcast, the programme-carrying signals are introduced into an uninterrupted chain of communication (including, in the case of a satellite transmission, the chain leading to the satellite and down towards the earth).

8 **cable programmes (有線傳播節目)** – means any item included in a cable programme service (有線傳播節目服務) which is a service which consists wholly or mainly in the lawful sending by any person, by means of a telecommunications system (whether run by himself or by any other person), of sounds, visual images, other information:-

- a. for lawful reception, otherwise than by wireless telegraphy, at 2 or more places in Hong Kong or elsewhere, whether they are so sent for simultaneous reception or at different times in response to requests made by different users of the service; or*
- b. for lawful reception, by whatever means, at a place in Hong Kong or elsewhere for the purposes of their being presented there either to members of the public or to any group of persons, and includes such a service that has as a component a multipoint microwave distribution system.*

9 **typographical arrangement of published editions (已發表版本) (the typography right).** Published edition, in the context of copyright, means a published edition of the whole or any part of one or more literary, dramatic or musical works.

The first 4 are named "LDMA" or primary works while the last 5 are known as secondary or derivative works.

Copyright comes into being or subsists automatically where a qualifying person creates a work that is original and tangible in a qualifying country.

### **Definition of a qualifying person or the "author"**

Copyrights include a variety of creative and artistic works – many of which are not literary. The term "author" (作者), according to each type of copyright work, includes artist, composer, film producer and the principal director, broadcaster, cable programme service provider, the publisher, computer software programmer, and writer. From such examples, it is easy to find that the author is the person who creates the work, the person whose skill, labour and effort brings the creative work of originality into existence. Since the copyrights can be granted to the companies, an author can be a corporation.

The basic rule is that the first owner of copyright in a work is the person who created the work, the author. A major exception to the rule is that where a person creates LDMA work or a film in the course of employment, the employer is the first owner of any copyright in the work, subject to an agreement to the contrary.

In principle, the copyrights provide legal protection regarding the original expression of one's ideas. Copyrights are not to protect the ideas themselves. The aim of the legal protection is to prevent another party's ability to profit from one author's original work.

Complication arises where more than one person is involved in the creation of a work. Determining whether a person solely contributes to a work or whether joint authorship or co-authorship (合作作品) exists demands careful examination of the facts in question. Whatever the circumstances are, the valuer should rely on the client legal advisor's opinion in order to determine who is the genuine author of a creative work for the existence of an author. A film is treated as a work of joint authorship unless the producer and the principal director are the same person.

Copyrights allow monopolistic exploitation benefits to the copyright owners. However, there is a general social benefit providing these individual economic benefits. The primary purpose of copyright is not to enrich the authors. It is to advance the science and human knowledge.

The term of copyright protection varies, with the maximum length of period being the life of the author plus 50 years (for the case of Hong Kong), depending the type of the copyright works concerned.

Where a name purporting to be that of the author appeared on copies of the work as published or on the work when it was made, the person whose name appeared is presumed, until the contrary is proved, to be the author of the work;

### **Transferability of copyrights (版權轉移)**

Copyrights can be sold or transferred in whole or in part. The transfer of copyrights is the most common way for authors to commercialize their copyrighted work. For the case of Hong Kong, copyright is transmissible by way of: a. assignment, b. testamentary disposition, or c. operation of law, as personal or moveable property.

The two common forms of copyright transfers are assignments and licenses. When all copyrights are transferred unconditionally, it is generally named as an "assignment". When only some of the rights associated with the copyright are transferred, it is known as a "licence".

An assignment of copyright is not effective unless it is in writing signed by or on behalf of the assignor.

A licence granted by a copyright owner is binding on every successor in title to his interest in the copyright, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title from such a purchaser.

An exclusive licence (專用特許) exists when the right being licensed by or on behalf of the copyright owner can only be exercised by the licensee to the exclusion of all other persons. If the license allows others to exercise the same rights being transferred in the license, the license is said to be non-exclusive.

Licensing becomes a popular form of the copyright transfer in Hong Kong. A license can be split into a bundle of legal and economic rights associated with copyrights. That is, any of the exclusive rights that make up a copyright can be sub-divided into smaller bits and then transferred

to one or more parties. For example, comedy books can be marketed in different ways. In addition to the book rights per se, there are audio rights, foreign translation rights, performance rights, and film adaptation rights. Each piece of right can be sold to one or more persons to maximize the author's return. From the above, it is understood that a copyright owner may limit the rights granted to another by : **(1) time; (2) geography; (3) language; or (4) type of use.** Rights can even be split by market segment or channels of distribution (eg. hardcover or paperback rights). However, copyrights are seldom sold, licensed, or transferred in their own totality.

## Are Investors Returning?

Thomas Li  
Alvin Lam  
Midland Surveyors Limited

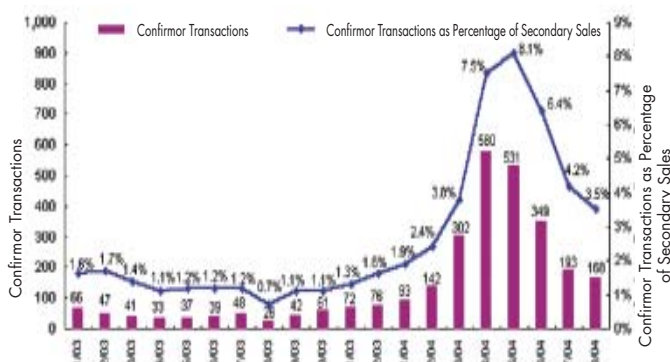
### Introduction

The property market has been experiencing some sort of a roller-coaster ride for a year. September 2003 to April 2004 was a period of high activities and profits, followed by a slowdown for several months. Now, sensing consolidation is almost over and that better prospects lie ahead, investors are trying to test the water again. There are signs of their revitalization.

### Confirmor Activities

The best indicator of investors' activities is the registration of confirmor transactions. From Land Registry records, the percentage of residential confirmor transaction has fallen from the high point of 8.1% in May to 3.5% in August, along with the slowdown in the property market. This is shown in Chart 1.

**Chart 1 Overview of Confirmor Transactions and as a Percentage of Home Sales**

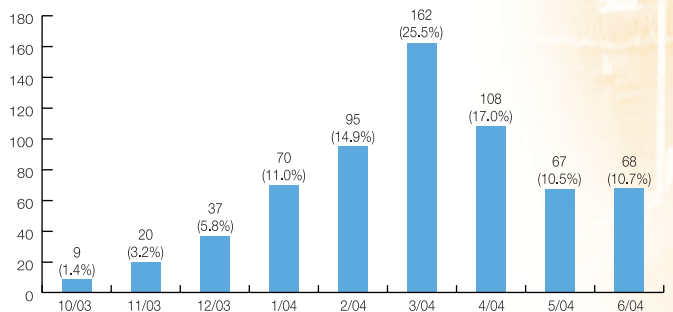


Sources: Land Registry, Midland Realty's Research Department

### Confirmor Profits

Confirmor registrations might have declined, however, those who did invest were able to sell off a considerable portion of their properties. From September 2003 to June 2004, 1,243 investors purchased 2,813 residential units through Midland Realty. Among them, 636 units, or 23%, have subsequently been sold. More significantly, 243 of these units were sold during the "quiet" market in the second quarter of 2004. (See Chart 2).

**Chart 2 Overview of Investors' Property Disposals by Time Line**

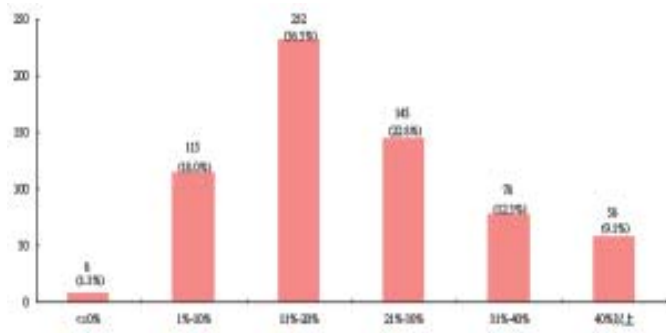


( ) representing investor sales as a percentage of total sales  
N.B.: Purchase transactions are based on Midland Realty's sales records while sales transactions are based on purchase-and-sale records at the Land Registry and Midland Realty's.

Sources: Land Registry and Midland Realty's Research Department

And they have reaped profits. Of the 636 units, 44.2% and 36.5% recorded a profit of 20% or more and 11% to 20% on the books respectively. (See Chart 3 below). Through these sales, investors have cashed in a massive HK\$ 1.8 billion, with a book profit of HK\$ 297 million. Boosted by a considerable gain, these sums will likely return to property investment again.

**Chart 3 Profit on the Book for Investment Properties that Changed Hand during September 2003 – June 2004**



( ) representing a percentage of the total sales volume  
 N.B.: Purchase transactions are based on Midland Realty's sales records while sales transactions are based on purchase-and-sale records at the Land Registry and Midland Realty's.  
 Sources: Land Registry and Midland Realty's Research Department

### Prospects

More significantly, 77.4% of these confirmor properties are still held by the investors. This shows two aspects. First. Investors have the financial resources to hold these units and are not inclined to panic sale. Second. More importantly, they see a rosy picture ahead, or at least they think they can sell better in future.

Their views have been reinforced by a series of favourable measures adopted recently. Now rent control on residential properties has run its course, fuelling a strong stimulus to the residential investment market. In terms of house purchase, a total of 95% mortgage finance now offered can surely boost the second hand market directly. With

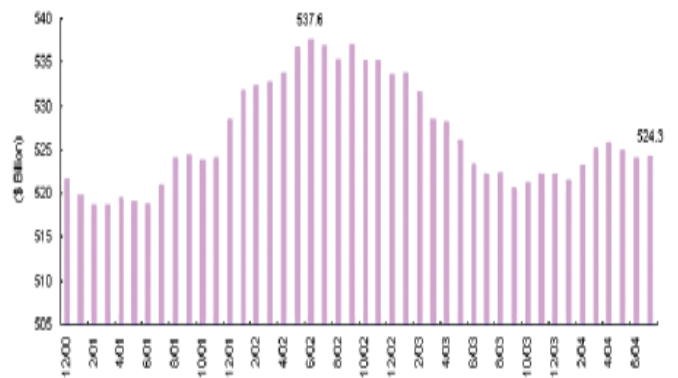
the economy improving and unemployment rate reducing, investors' confidence can only increase.

### Mortgage Loans

More than that. According to the Hong Kong Monetary Authority, outstanding mortgage loans have remained low despite an increase in housing activities. The current figure stands at HK\$537.6 billion, lower than that in June 2002. (See Chart 4 below). This indicates that not all purchasers need bank loans. Their financial strength is strong.

The media reports do not cover a deeper picture. From past records, investment in first hand and second hand flats usually amounted to some 35% and 65% respectively. It is likely that the second hand market will achieve higher activities when investors return.

**Chart 4 Overview of Outstanding Mortgage Loans**



Sources: Hong Kong Monetary Authority

## Global Claims

**Disruption** claims are notoriously difficult to prove and evaluate with precise apportionment to various causes. This is because there are often competing causes of disruption e.g. late information, extra work, piecemeal access and delay mitigation all occurring at the same time. Consequently, it is not uncommon for contractors to have no alternative but to roll together the financial effects of such claims when it becomes impossible to identify separately the effects of multiple causes.



James B Longbottom  
 Brian E Rawling  
 & Associates Limited

### Global Claims

The terminology often used to describe a claim advanced as a rolled-up composite sum is a **global** claim. Put simply, this is where a contractor makes one claim for additional payment which is attributed to **all** the alleged causes of disruption as opposed to making several claims where additional payments are linked to **individual** causes of disruption. A Contractor may make several **global** claims on a project which goes awry and each claim will focus upon a particular aspect which has been disrupted by multiple causes.

In **Crosby & Son v Portland UDC** it was held that where there was a complex interaction of events which rendered it difficult, or even impossible, to evaluate the effects of the individual disruptive events, it is permissible to advance a claim calculated on a **global** basis.

### Total Cost Claims

There is a difference between a **global** claim which in certain circumstances is permissible and a **total cost** claim which in most circumstances is not permissible. A **total cost** claim is where the claimant declares that the project, or a part of the project cost it \$X, its income was \$Y, and the claim is valued at  $\$X - \$Y = \$Z$ .

Bramble and Callaghan (an authoritative legal / construction text book in the USA) provides the following comments on **total cost** claims:–

*“The total cost method is suspect because it assumes that the original contract price was proper and profitable and that any additional costs must have arisen because of the delay or interference that were the responsibility of the defendant, rather than because of a contractor-caused cost overrun on the contract price. To rely completely on a total cost approach to damages can be risky as it is usually unsuccessful. Courts and boards have allowed it only in exceptional cases, and its use alone significantly reduces the possibility of settlement.”*

Bramble and Callaghan said that a **total cost** approach may be used when the claimant could demonstrate that 5 conditions exist:–

- 1 *There is no other way of estimating damages*
- 2 *No underbid or errors in the bid took place*
- 3 *Inefficiency by the party submitting the claim can be distinguished from the costs of delay due to improper acts of others*
- 4 *The actual costs incurred by the contractor are reasonable*
- 5 *The user of the total cost method has used a reasonable cost accounting system to accumulate its job costs*

Therefore, any claimant who proceeds with a **total cost** claim takes considerable risk of failure.

**Global** claims and **total cost** claims can be distinguished because although both claims are based upon the effects of multiple causes of disruption, the **global** claim is advanced on the basis that the cost incurred is analysed

into as many subheadings as possible and the income (or baseline price) is further supported by analysis, e.g. the measured mile or data from previous work experience.

### Processing Global Claims

Difficulties with **global** claims occur when part of the **global** claim includes disruptive events which are not the liability of the respondent. Such claims are risky undertakings as the claim might fail in its entirety if the respondent can show that some of the additional payments claimed were due to the claimant’s own culpability, or neutral non-compensable events under the contract (e.g. inclement weather). This is why the term **all or nothing** is sometimes used when referring to **global** claims.

However, this strict view might deny a claimant the remedy of recovering loss or damages which were plainly due to the respondent’s default simply because the claimant cannot demonstrate that the whole of the loss or damages was the responsibility of the respondent.

The matter was addressed recently by the Scottish Court of Appeal in the case of **John Doyle Construction Limited Laing Management (Scotland) Limited (11 June 2004)**.

John Doyle was a works package contractor under contract to Laing, the management contractor, to construct certain superstructure works for the headquarters of the Scottish Widows’ Fund and Life Assurance Society. The works package finished 22 weeks late and Doyle claimed loss and expense as a result of the delays and disruption caused to its works by compensable events. Laing, among other things, pointed out that some of the delay and disruption was caused by snow, a non-compensable event, for which it was not liable. Consequently, Laing argued that as the claim was advanced on a **global** basis, and as it was not fully liable for all the events, the claim could not be sustained and should be struck-out.

The Scottish Court of Appeal acknowledged that **global** claims were a risky enterprise. Proof that a non-compensable event played a material part in causing the loss, combined with failure to prove that the event was the respondent’s liability, would undermine the claim. Furthermore, the respondent may have been able to prove that additional non-compensable events also contributed to the loss.

However, the Scottish Court of Appeal did not agree with Laing’s application to strike out the claim and went on to offer three qualifications with regard to **global** claims.



- 1 It might be possible to identify casual links, between particular events for which the respondent was liable and individual items of loss. That may be possible where it could be established that a group of events for which the respondent was responsible were inextricably linked with a group of heads of loss, provided that the loss was not caused by any other significant causes.
- 2 The question of causation must be treated by the application of common sense to the logical principles of causation. In this connection, it is frequently possible to say that an item of loss has been caused by a particular event notwithstanding that other events played a part in its occurrence. In such cases, an event or events for which the respondent was liable could be described as the dominant cause of loss, that would be sufficient to establish liability, notwithstanding the existence of lesser, non-compensable causes that were to some degree concurrent.
- 3 If it cannot be said that the events for which the respondent was responsible were the dominant cause

of the total loss, it may be possible to apportion the total loss between the causes for which the respondent was responsible and other non-compensable causes according to their relative significance. Any such apportionment must be based on the evidence and carried out on a basis that was reasonable in all the circumstances. Where the concurrent cause was the claimant's responsibility, the court opined that it may be appropriate to deny the claimant any recovery for the period of delay during which he was in default.

### Conclusions

In BERA's opinion, the judgment in John Doyle is a welcome acknowledgement of the reality of many situations that develop on construction contracts where contractors and subcontractors are rarely found to be "lily white" when their actions are put under the microscope in a forensic delay analysis. Construction sites are not controlled environments and the effects of disruptive events cannot always be easily segregated and quantified. The Scottish courts have cautiously accepted this point.

## Clever Argument on Damages – Defeated !

**Damages** on construction contracts are an emotive subject, and contractors are forever endeavouring to come up with clever arguments that aim to defeat an employer's claim for damages, in the event that they are late completing the works.

A common argument raised is that the delay in completion has actually benefited the Employer rather than causing him to lose money. For example consider a project to construct a block of apartments. The project should have been completed in January but is completed six months late in June. If the property market is rising the Contractor may argue that by finishing late the Employer is able to sell the apartments at a higher price than he would have done had the works been completed in January and that the additional money that the Employer makes on the sale should either completely extinguish or at the very least reduce the additional costs that the Employer actually incurs due to the late completion.



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On the face of things the argument seems reasonable but is it valid?

With regard to liquidated damages the answer is clear that such an argument is not valid. This point was clarified in the case of **Clydebank Engineering and Shipbuilding v Castaneda (1905)**. The facts of this case are interesting. Clydebank was to build four torpedo boats for the Spanish Navy. The contract provided that the boats should have been delivered on specific dates in 1897, but that in the event of late delivery liquidated damages would be charged at the rate of £ 500 per week per vessel.

The boats were all provided significantly late and were not delivered until 1899. The Spanish Navy levied liquidated damages. Clydebank's defence was that by delivering the vessels late they had in fact done the Spanish Navy a favour and had saved them money because in the intervening period, almost the entire Spanish Naval fleet had been sunk by the Americans. Clydebank

argued therefore that had they delivered the vessels on time, the four new torpedo boats would have suffered the same fate, and would have ended up at the bottom of the Atlantic Ocean.

The matter went as far as the House of Lords, but the court was singularly unimpressed by Clydebank's argument. The judge said:

*"Then there comes another argument which, to my mind, is more startling still: the vessel was to be delivered at such and such a time; it was not delivered, but the fleet the Spanish Government had was sent out at such time and the greater part of it was sunk, and, says the learned counsel, "If we had kept our contract and delivered these vessels they would have shared the fate of the other vessels belonging to the Spanish Government and therefore in fact you have got your ships now, whereas if we had kept our contract they would have been at the bottom of the Atlantic". My Lords I confess after some experience I do not think I have ever heard such an argument of that sort before and I do not think I shall often hear it again. Nothing could be more absurd a contention.*

Of course much of the reasoning for the dismissal of Clydebank's claim was due to the fact that the sum claimed was for liquidated damages, and this case and many subsequent to it have confirmed the principle that liquidated damages are recoverable even if the Employer subsequently suffers no damage or a lesser damages than the genuinely pre-estimated figure.

But would such a principle apply to general damages? Surely if general damages are assessed at the time the damage is incurred then this should take account of all matters known at that time, including any positive financial effects that the Employer may derive from the late completion?

Well this matter has been examined recently by the courts in the interesting case of **Earl's Terrace Properties Nilsson Design and Others (2004) 94 ConLR 118**, and somewhat surprisingly the courts came to the view that the positive effects that the Employer derived from late completion did not need to be taken into account in assessing the damages for late completion.

The case concerned the development of a row of grade II listed Georgina houses in Kensington in London. The works should have been completed by 30<sup>th</sup> June 1998 but were not finished until 30<sup>th</sup> September 1999, 15

months late. The Employer, Earl's Terrace Properties claimed entitlement to damages in respect of the late completion. There were no liquidated damages in the contract and so the entitlement was to general damages, i.e. the actual damages incurred, assessed at the time of the breach.

The amount claimed was largely for interest in respect of the sums that the Employer had invested in the project which it claimed had been held up in the project due to the delay. However the defendant argued that sums claimed required adjustment as the Employer must:

*"..give credit against such sum for any corresponding benefit it has gained by reason of the delay in the completion and sale of the house in Earl's Terrace. In particular ETPL must give credit against any such sum for any increase that occurred in the [value] of the "delayed sale" houses during that period of delay."*

The court did not accept this argument and held that the rise in the sale price of the houses if such occurred need not be taken into account in assessing ETPL's recoverable damages because the sale of the houses was unconnected with the original breaches of contract.

The judge considered that the loss that a claimant may recover from any breach of contract is the net loss resulting from such breach but the balancing of gains and losses to arrive at that net loss must only take into account transactions that were directly linked to the breach.

However he considered that movement in property prices are not linked to the development of the property or to the delay in completion or sale of the property resulting from the defendant's breach, because such movement in price may be the result simply of inflationary trends, or other local, unusual or specific causes such as planning permissions or the like.

In arriving at this decision the judge also considered the position if there had been a drop in property prices. In such a scenario contractors will obviously argue that general damages should exclude drop in property values on the ground that such would be too remote and not within contemplation of the parties at the time of contract. The judge considered that this logic should work both ways leading to the same conclusion with increased in property values.

Whilst the judge commented that there may be situations

where an increase in property prices may be linked directly to the breach complained of and thus have to be taken into account, in the general situation such increases

would not be sufficiently linked to the breach for them to have to be taken into account in the assessment of general damages for delay in completion.

## 加強 JCT 合同體系在國內更有效地通行 合同管理及成本控制的建議



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經過在上海工作兩年多及期間曾到中國其它城市如北京及天津為當地發展商的不同部門進行培訓的體會，採用JCT合同體系作為建築項目的合同管理及成本控制，確是比國內以往通常採用定額招標及定標較佔優勢。但如何能使JCT合同體系更合乎國情，使其發展最佳優點，避免承包商及發展商不必要的糾紛，使建築項目在工期、成本及總體質量方面得到控制更是我們關心的問題。

各處鄉村各處例，正如麥當勞餐廳在非洲家會在漢堡包內加入具有當地特色的醬汁；JCT合同體系源於英國，現在要在國內普遍使用，必須考慮如何使JCT合同體系更本地化，使其既能符合本地人口味，但又不失其基本理念及原則；經過與國內的發展商、監理工程師及承包商的交流，建議從以下幾點着手：

### 單價分析表

JCT合同體系的主要特點是以總價包干合同形式，合同金額由工程量清單中的數量、綜合單價及複價組成。在合同各款中規定工程變更的費用估值主要有：

若施工條件及性質與工程清單內的工作項目相同的，則應以工程量清單內單價計算；

若工作在類似性質或類似條件下施工時，則應盡可能在合理範圍內以工程量清單的單價作為該項工作的價格換算基礎，否則以公平的估價計算。

若工程變更出現在上述第(1)種情況下，費用估值非常明確，雙方可較快達成協議。若工程變更出現在上述第(2)種情況下，費用估值就會比較複雜，導致結算時間較長。

國內承包商常常覺得工程量清單中的單價既然是綜合單價，那麼如何以工程量清單中的單價作為價格換算基礎，來估值工程變更與合同單價類似性質或在類似條件下施工的工程。因此，碰到這樣的變更，承包商一般要求重新報價，完全背離合同單價。

為了解決上述問題，我建議在招標文件中要求投標單位提供

主要材料（如鋼筋、混凝土、模板及砌磚等）綜合單價分析表，即把綜合單價的材料、人工、輔材、機器、管理、利潤及稅金分別列明。這樣如果原招標圖紙的混凝土以等級C30改為等級C40，那麼估值C40的單價便可以C30的單價分析表作基礎計算得出；混凝土等級更改牽涉材料價的變化，其余如人工、輔材、機器及管理、利潤及稅金等費率則不需調整。要求投標單位提交單價分析表的另一好處是方便分析及評價投標位所報的綜合單價組成的合理性，因此應避免投標價位的單價分析表的組成五花八門，應在招標文件中提供樣本，提供共同平台，方便比較。

### 明確變更的計價方式

承包商經常質疑的另一個問題是何為公平的估價計算，他們常常認為合同文件沒有明確的事情，其後由任何一方或第三方決定都存在不公平的情況，因此，我建議在招標文件中明確指出若工程變更完全無法套用合同單價時的計價方式，具體如下：

土建及機電的主材價參照工程變更當月由上海市定額總站頒布的市場頒布的市場指導價為準，指導價以外的主材料價按市場價雙方協商，並得到業主的認可。

機電安裝套用“九三定額”相應子目，計取費率後，稅前下浮%作為計價依據。

土建安裝套用“九三定額”相應子目，計取費率後，稅前下浮%作為計價依據。

### 可調整材料價

在JCT合同體系中，如施工工期不會特別長的時候，合同單價一般為包干形式，不會因人工、材料、機械、運輸費用的漲跌而調整。這樣，市場價格升幅的風險將轉嫁于承包商，但在國內建築材料價格大起大落的情況下，上述的安排未必對發展商完全有利。根據《上海建設工程標準與造價信息》提供的所有鋼材價格走勢顯示，2004年3月份的鋼筋材料價約人民幣4300元/噸，但在2004年6月份為人民幣3100

元/噸，跌幅近28%，若項目在3月份招標，各投標位按市場價投標報價，但工程可能在6月份才正式開工，那麼，發展商將蒙受重大損失，而承包商則坐享厚利。

若出現相反的情況，而承包商未能適當地預測材料的升幅，同樣，承包商會承受沉重的成本負擔，結果可能影響工程整體質量或承包商可能想盡辦法向發展商提出各種索賠，以補償其高昂的材料成本。

為了更平均分配雙方承受材料供應價格漲跌的風險，建議將部分材料如鋼筋及混凝土材料價為浮動價，但承包商必須承擔或享受按規定的增幅或跌幅，其計算方法如右（只供參考）。

承包商與發展商將在定標前確定當時的鋼筋和商品混凝土市場供應價（“基礎價”）作為計算基礎。工程發展後，在各節點期間，如果當地政府有關工程造價或當地定額主管部門發報的市場供應價（說明#1）在此節點施工階段的平均價（“現行價”）比基礎價增減在10%以內時（包括10%），則增減的幅度由承包商承擔。如增加的幅度超過10%（“差價”），10%以上的增幅（“調整金額”）由雇主承擔，中標合同金額按此計算調整；如跌幅超過10%時，10%以外的部分（“調整金額”）由發展商得益並以合同價格內扣除。

隨着中國加入WTO及與港澳簽訂更緊密經貿安排，市場逐漸對外開放，尤其是銀行及保險業，若建築項目采用世界聞名的合同體系如JCT或FIDIC，境外銀行及保險公司會比較有信心提供相關服務，繼而減低費用。因此，國內建築項目采用國際合同體系已成越勢。但如何使這些國際合同體系能在

國內有效地發揮其特點，除上述建議外，其餘則有待業內人士不斷探索及研究。



**具體調整方法如下：**

- (a) 調整時間：  
調整金額按以下三個節點分三次調整：  
(i) 結構層施工至±0.00  
(ii) 結構層施工至50%  
(iii) 結構封頂
- (b) “差價”計算方法：  
調增差價=現行價(\*) - 基礎價×(1+10%)  
調減差價=現行價(\*) - 基礎價×(1-10%)

Σ 在每個節點階段每月政府發布供應價

$$(*) \text{ 現行價} = \frac{\text{在每個節點階段每月政府發布供應價}}{\text{每個節點段施工總月數}}$$

- (c) “調整數量”的計算方法：  
調整數量 = 調整節點到達時承包商對  
“可調整材料”在節點期間的實際已完成的靜數量
- (d) “調整金額”的計算方法：  
調整金額 = “調整數量” × “差價”

說明#1) 指上海市建設工程標準定額管理總站發布的《上海建設工程標準與造價信息》中的建築材料市場指導價值的合計單價。

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## Dispute Resolution

Maggie Wong  
JO PQSL (QS) Working Group

**On** 24<sup>th</sup> August 2004, the JO organized a PQSL event titled "Dispute Resolution" at the Surveyors Learning Centre. We were pleased to have Mr. Frederick Tsang as our honorable speaker and shared his valuable experience in dispute resolution.

Frederick introduced the different kinds of dispute that may happen in the construction industry such as disagreement on valuations of variations, liability of delays, liability of defects / damages, disruption of progress of works and liability of costs of prolongation, etc. He also explained to the audiences that the procedures for settling disputes between the Employer / Architect / Engineer and the Main Contractor are different, according to the contract used. Some common dispute resolution methods were then discussed. Frederick illustrated each type of dispute resolution methods with clear examples and highlighted the aspects to which special attention should be paid.



Litigation is carried out in High Court, District Court or Small Claims Tribunal; arbitration is a statutory controlled process and dispute is settled by reference to a private tribunal chosen by the parties themselves.



Mediation is a voluntary process during which a neutral mediator will be appointed to assist the parties to arrive at a common position.

For litigation and arbitration, most likely the losing party needs to pay both the parties' costs as well as the arbitrator's fees and disbursements. But, for mediation, the payment is based on the agreement between both parties.



Although different dispute resolution methods are available in the construction industry or even being included in the contract conditions, different problems still exist: it is difficult to prove acceleration and disruption. Lack of evidence and incomplete or even loss of information will affect the settlement of dispute. He also recommended that we should understand our contract well. During the construction period, good record keeping is crucial for proving the facts. When dispute appears, we need to choose the most suitable dispute resolution to solve the problem. Frederick kindly reminded us on some web-sites such as [www.hkis.org.hk](http://www.hkis.org.hk), [www.epradr.org](http://www.epradr.org), [www.arbitors.org](http://www.arbitors.org), etc.

We would like to convey our appreciation to Frederick for giving us such a wonderful seminar when all participants were inspired and impressed by his presentation.

## Sensitive Zones for Construction Professionals

### - their Personal Liabilities

Dorothy Lo  
Jo Committee

**The** Construction contracts usually empower the construction professionals working for Employers to administer the contracts. Can they do whatever they like? What standard they can require the Contractor to prove? What are their potential liabilities? This interesting seminar attracted not only quantity surveyors, but also members from other divisions to gather at the

Surveyors Learning Centre on 26 August 2004 to find out the answers.

The honourable guest speaker of this seminar was Mr Gregory Tung, a Director of



James R Knowles (Hong Kong) Limited. Mr Tung has extensive experience in dealing with claims, contractual, insurance, dispute resolution and arbitration matters relating to construction projects.

He started the seminar by introducing the burden and standard of proof. He explained that the court decided on the balance of probabilities when making an assessment of damages and it had the duty to make the best estimate of the damages, regardless of the difficulty in assessment. He demonstrated by some court cases those duties to assess and the best estimate rule applied to assessment of work done or valuation of variations.

Then he moved on to talk about the personal liabilities of professionals. First, he discussed the economic torts, which

included procuring a breach of contract, intimidation, unlawful interference and conspiracy etc. Second, he outlined the liabilities regarding documentary evidence and destruction of documents. Next, he explained the liabilities regarding property and damaging statements.

Last but not least, he compared the Code of Professional Conduct of various professional bodies in the Construction Industry including the HKIA, HKIE and HKIS and reminded us that professionals are not safe by just standing behind the shoulders of Employers.

In the question and answer session, all the questions raised by members were well answered. We would like to thank Mr Tung for delivering such an interesting and comprehensive talk.

## Site Visit to Langham Place

### the heart of Mongkok

Joanna Kwok  
Sunny Chan  
QSD CPD Sub-Committee

**At** 9:30am on 4 September 2004, a group of more than 100 people gathered in the heart of Mongkok in that it was a record-breaking participation for site visit organized by HKIS. Participants were from senior to junior members, fellow members such as Mr P C Lau, Mr K M Chau, Mr T T Cheung... etc. It was a clear demonstration on the eagerness of our members for CPD event not only on contractual or professional knowledge talks but also site visit of construction project.

Although the weather was hot, all of the participants were waiting anxiously to visit a splendid development and the new landmark in Mongkok, the Langham Place. Langham Place is a complex development, jointly developed by the Urban Renewal Authority and the Great Eagle Holding Limited, comprising a 15 story shopping mall, a 59-store Grade A office tower and a more than 700-room 5-stair hotel with total site area of 1.8 million square feet.

The participants were divided into 4 groups and led by the project management team of the Great Eagle Development and Project Management Limited the project architects (Wong & Ouyang (HK) Limited) and the main contractor Sun Fook Kong. First, the groups went to 13/F of the shopping mall to have a good view for the

internal atrium between two separate buildings. The whole shopping mall is constructed of steel structures. The architect explained that steel was used because of the sophisticated design and speedy construction despite the higher cost. Then, we went down to 5/F see the atrium on 4/F. The atrium has very high headroom, the highest point is more than 55-metre from the floor level. This creates a great spatial effect. Three separate buildings link up with each other by the atrium and footbridge. Moreover, there are 5 levels of basement including 3 levels of car parks in that there are enough number of car parks. The basement was constructed by top-down construction, which is a time-saving method as superstructure can be constructed simultaneously. When we went each





special design points, the architect introduced the design concepts. For example, he told us that the longest escalator in Hong Kong, 42-metre long, was installed at the centre of the atrium, in order to attract visitors to go to the upper floors of the shopping mall, instead of just staying on the first 3 levels.

Next, the groups were led to 55/F of the office tower. The magnificent view of the Victoria Harbour and the whole of the Kowloon Peninsula impressed all participants. Then we walked to 57/F and breathed fresh air while standing up on the 57/F big balcony. Could you imagine the harmonious combinations by the synthesis of the most modern buildings, mountains, harbour and fresh air in the central of Mongkok.

Finally, Mr Tong Chun Wan, the Managing Director of the Great Eagle Development and Project Management Limited, gave us a presentation on the whole redevelopment project that lasted more than ten years. He told us about the whole development process, from land resumption to demolition of the old site, from commencement to completion of the new development. There had been many design changes due to changes of Practice Notes of the Buildings Department as well as the real estate market. Mr Tong also shared with us the difficulties encountered during the development and their solutions.



Besides, he told us there would be a 30 feet tall artwork called happy man, which was designed by a famous artist and placed at the entrance of the office building before Grand Opening in October or November 2004. It is intended to create another social gathering point in Kowloon, like Times Square on Hong Kong Island. All of us had a clear understanding of this fantastic development project after the site visit and presentation.

We would like to convey our appreciation to Mr Tong for giving us such a wonderful site visit and presentation. We would also like to send our gratitude to the architects for leading the groups and explaining the design concepts to the participants; and all the colleagues of Sun Fook Kong for their help in arranging this interesting site visit.

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## Annie Chui Enchanting with Art of Valuation



Kelvin Ng  
JO Committee

### *Why did you choose this profession? Where did you obtain your degree in surveying?*

I think I was influenced by my father who loved to visit show flats and invested in home building when my family was living in Canada. It was fun and interesting for me to see different places of different designs and characteristics and that's how my interest in property was developed. My bachelor degree was in Business Administration with major in urban land economics, after working for a few years I went on to study the Master of Science degree in Land Management at the University of Reading.

### *How did you get started with your surveying career? What was your first experience as a surveyor?*

I joined David C Lee Surveyors Ltd after the academic training in surveying. My days there were tough but rewarding. With ample opportunities in handling various land administration matters and feasibility studies, I have amassed good professional experience, which helped me to get qualified luckily at the first attempt. As a qualified surveyor, my first assignment was as a planning application case involving lease modification and premium assessment for an industrial plot intended for residential use.

### *When did you develop an interest in Valuation?*

My interest in Valuation started with my days working in Jones Lang LaSalle. My boss there always reminded me that "Valuation is an Art" and this is true in real life and working with him has been inspiring. To be able to master this form of art, which in fact is also very scientific, is very enchanting to me.

### *What project are you working on at this moment?*

I recently joined MTR Corporation as a property development surveyor, responsible for the preparation of development tender, development design and land administrative matters for Area 86 development in Tseung Kwan O. This is a big and challenging project with many intricate issues and hiccups that need to be soothed out.

### *What are the differences between working in the public body (MTRC) and the private professional consultant?*

I think the main difference is the sense of dual responsibilities.

Working in a private practice, you need to look after the best interest of our client. When you are with a public body, apart from being accountable to your organisation, you are also working for the well being of the people of the HKSAR. This, I think, brings more job satisfaction and better sense of accomplishment.

### *What are the essential personal skills for the success in career? After several years of working in the industry, what are the key attributes that you see as important in career?*

To me, "planning skill" is essential for career success. To have a good plan in your work order and time allocation will enable you to carry out your task smoothly and efficiently. Apart from that, I would suggest that perseverance and enthusiasm in continuous learning are the requisites as well.

### *What will your role in HKIS involve?*

I just started to involve in serving the surveying community. Currently I am a member of the APC working group, providing suggestions on the prevailing APC system, such as reviewing the existing procedures and setting examination questions. Depending on my workload, I may be more active in that role.

### *What do you think about the future prospect in surveying field?*

Prosperous!! Opportunities come from the huge China market. The property industry in China is growing rapidly and many surveyors from Hong Kong have already been making contributions either directly or indirectly in various property development projects in China. I am confident that the HKIS /CIREA membership reciprocal recognition assessment will bring about more opportunities for all of us.

Many would say that there is not much to do with properties in Hong Kong these days. I beg to differ. There are still many undeveloped areas in Hong Kong and all existing buildings would from time to time require up keeping, valuation, and perhaps warrant redevelopment when they reach the end of their economic life. Our surveyors will continue to have an important role to play in the development of Hong Kong to be a world-class city.

### *Do you have any particular interest?*

I love skiing, traveling and eating.





Date	Event	Organiser	Location
<b>November</b> 17	Alternative Procurement Methods – Construction Management and Macau	HKIS QSD (CPD)	Hong Kong SAR, China
18	LSD Annual General Meeting	HKIS LSD	Hong Kong SAR, China
19	Signing of Surveyors Alliance Agreement between HKIS, ISM and SISV	HKIS	Hong Kong SAR, China
19	HKIS 20th Anniversary Annual dinner	HKIS	Hong Kong SAR, China
20	Visit to Shenzhen	HKIS BSD (CPD)	Shenzhen, China
24	Surveyors Luncheon	HKIS BSD (CPD)	Hong Kong SAR, China
28	Hong Kong Coalition of Professional Services Fund Raising Walk	HKCPS	Hong Kong SAR, China
<b>December</b> 2	Enhancement of Construction Value Management Professionalism for the New Generation	HKIS PSDAS (CPD)	Hong Kong SAR, China
3	JO Annual General Meeting	HKIS JO	Hong Kong SAR, China
3	BSD Annual General Meeting	HKIS BSD	Hong Kong SAR, China
6	GPD Annual General Meeting	HKIS GPD	Hong Kong SAR, China
7	QSD Annual General Meeting	HKIS QSD	Hong Kong SAR, China
8	Legal and Practical Issues on Construction Defects	HKIS QSD (CPD)	Hong Kong SAR, China
9	The Conservation and Renovation of Building Structure and Fabric in Hong Kong and Singapore	HKIS BSD (CPD)	Hong Kong SAR, China
13	HKIS Annual General Meeting	HKIS	Hong Kong SAR, China
15	Corrosion Protection and Monitoring in Existing and New Concrete Structures	HKIS Property & Facility Management Forum (CPD)	Hong Kong SAR, China
17	GIS Application in Property Valuation	HKIS LSD (CPD)	Hong Kong SAR, China

For further details contact the HKIS office at 2526 3679 or visit the website [www.hkis.org.hk](http://www.hkis.org.hk)

## Mai Po Marsh

**Mai Po Marsh** is a heaven for migratory birds. On 10th October, 2004, the Junior Organization organized a half-day tour to the restricted area, with about 60 members and their families participated.

The tour was divided into two groups. Several places were visited, including the Mangrove, Gei Wai, fish ponds, the education center and the mudflats. During the visit, we saw migratory birds such as the Kingfisher, and the Black-Faced Spoonbills. The most unforgettable scene was a flock of Grey Plovers flying in the sky in a "V" pattern on top of the mudflats at sunset.

The tour gave us a relaxing family day and a golden chance to take a closer look at our natural environment and realize the importance of conservation of natural resources.

Let's share the funny and precious moments in the photo gallery at [www.hkis.org.hk/jo](http://www.hkis.org.hk/jo)



Vincent Lim  
JO Social Event Convenor



**CPD – Legal and Practical Issues on Construction Defects (CPD/QS/2004100)**

**Guest Speaker** Ms Catherine Mun, Senior Associate, The Hong Kong Office of Baker & McKenzie

**Date, Time & Venue** 8 December 2004 (Wednesday);  
7:00 pm – 8:30 pm;  
Surveyors Learning Centre, HKIS,  
Room 811, 8/F, Jardine House,  
1 Connaught Place, Central, Hong Kong.

**Details** The Speaker is a member of the firm's Dispute Resolution Group. Graduated with a first Class Hons. Law degree and admitted as a Solicitor in 1998, Catherine has been specializing in construction and engineering related dispute resolution and projects.

In this seminar she will explain the liabilities of contractors for defects, its scope and nature under the Standard Form Building Contract as well as the contractor's relationship with project consultants on the issue of defective design.

She will further discuss the employer's obligations for notification of defects, contractor's liabilities to rectify defects, the effect of limitation period for bringing actions and the measurement for damages.

**Language** English

**Fee** HK\$100 per person

**Registration** Please complete and return the Standard Reservation Form to HKIS before 1 December 2004 together with payment. In the event of over-subscription, priority will be given to the Quantity Surveying Division Members and / or placed in draw.

**CPD – The Conservation and Renovation of Building Structure and Fabric in Hong Kong and Singapore (CPD/BS/2004098)**

**Guest Speaker** Mr Philip J Jones, BSc(Hons), MSc, MBA, CEng MStructE, MRICS, MSISV, MConsE(HK) Director, Jacobs Babbie

**Date, Time & Venue** 9 December 2004 (Thursday);  
7:30 pm – 9:00 pm;  
Surveyors Learning Centre, HKIS, 811,  
Jardine House, 1 Connaught Place, Central,  
Hong Kong

**Details** Instead of spending significant funds on re-developing buildings their renovation, repair and maintenance is now a popular choice. Building conservation and renovation has also become an important topic in the HK building industry. The speaker, Mr Jones, being a Chartered Building Surveyor and also a Chartered Structural Engineer, has many years experience in the field of building renovation and conservation work in Hong Kong and in other countries. Mr Jones will share with HKIS members the principles adopted for cases in Hong Kong and Singapore and to compare the difference in approach.

Mr Jones joined Babbie, now known as Jacobs Babbie, in 1997 as a result of a merger with Harris & Sutherland. He has worked in London, the Middle East, Hong Kong and Singapore. Philip is a Chartered Structural Engineer and a Chartered Building Surveyor, with particular expertise in conducting investigations into building structures, foundations, fabric and facades for a variety of building types and methods of construction including concrete steelwork, aluminium, brickwork and natural stone in the process of designing and detailing renovation and conservation works. Philip has a detailed knowledge of the long term behaviour of building materials, structure and fabric and the factors that affect the need for their maintenance and repair.

**Language** English

<b>Fee</b>	HK\$100 per person
<b>Registration</b>	Please complete and return the Standard Reservation Form to HKIS before 30 November 2004 together with payment. In the event of over-subscription, priority will be given to the Building Surveying Division Members and/or placed in draw.

***CPD – Corrosion Protection and Monitoring in Existing and New Concrete Structures (CPD/P&FM Forum/2004099)***

<b>Guest Speaker</b>	Mr Ian SP Chung, BSc (Eng), MSc(Eng), CEng, MICE, MStructE, MHKIE
<b>Date, Time &amp; Venue</b>	15 December 2004 (Wednesday); 6:45 pm – 8:15 pm; Surveyors Learning Centre, HKIS, 811, Jardine House, 1 Connaught Place, Central, Hong Kong

**Details** Ian has acquired a Bachelor and Master Degree in Engineering, and was a Chartered Civil and Structural Engineer by profession. He is currently holding a position as the Senior Engineer of the Maunsell Consultants Asia Ltd and has extensive experience on design, construction and operations of cathodic protection and corrosion monitoring projects. He is also a certified NACE International Cathodic Protection Specialist.

The useful life of a concrete structure will be very much influenced by its design and workmanship during construction. There are common examples that a concrete structure has been incapable to function effectively whereas still within the early stage of its designed life cycle. This problem will bring about economic loss to the community. In some development countries, one could easily find that a vast amount of resources were expended on undertaking remedial work to deteriorating concrete structure.

Emphasis is given to the practical application of the corrosion protection measures

during construction and the monitoring measures post construction. This is particularly severe for the marine structures which are exposed to ocean environment. The chlorine ion of the seawater will accelerate the reinforcement corrosion resulting pre-mature rusting and damage.

This seminar will try to discuss some current technology on corrosion protection and monitoring of concrete structure which has been well adopted in some oversea countries. Recent examples in Hong Kong will be discussed.

<b>Language</b>	English
<b>Fee</b>	HK\$100 per person
<b>Registration</b>	Please complete and return the Standard Reservation Form to HKIS before 8 December 2004 together with payment. Priority will be given on a first-come-first-served basis.

***CDP – GIS Application in Property Valuation (CPD/LS/2004097)***

<b>Guest Speaker</b>	Mr PS Ho, Senior Chief Valuation Surveyor, Rating & Valuation Department
<b>Date, Time &amp; Venue</b>	17 December 2004 (Friday) 6:45 pm – 8:15 pm; Surveyors Learning Centre, HKIS, 811, 8/F, Jardine House, 1 Connaught Place, Central, Hong Kong.

**Details** Since 1999, the Rating and Valuation Department (RVD) has increased the frequency of general revaluation of all properties subject to rates or Annex III Government rent in Hong Kong from every 3 years to annually. No doubt it is very challenging to complete the job on time and, at the same time maintain the quality of the valuations. To meet the target, RVD has recently developed a GIS application to assist the mass appraisal of shops using digital maps and GIS tools. In this CPD talk, Mr. Ho will talk about

the methodologies behind the application and give a brief outlines of the system.

Illustrated with live demonstration, Mr. Ho will also talk about the conceptual Property Information Hub (PIH) which is being developed by RVD. The PIH aims to provide a one-stop service on property related data for both the public and private sectors, it may also be the subject of a Public Private Partnership (PPP) scheme.

**Language** English

**Fee** HK\$100 per person

**Registration** Please complete and return the Standard Reservation Form to HKIS before 10 December 2004 together with payment. Priority will be given on a first-come-first-served basis.

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For general information, please call the Secretariat on 2526 3679