

Surveying news

Message from the President

ANNUAL DINNER 2001



The office bearers raise a toast to guests and members (from left to right), Hon. Secretary, Mr. Albert So, Senior Vice President, Mr. Chan Hak, President, Mr. Stephen Liu, Junior Vice President, Mr. Kenneth Chan and Hon. Treasurer, Mr. T.T. Cheung

The 3 presidents of HKIS with the Guest of Honour (from left to right), President, Mr. Stephen Liu, Mr. John Tsang, Junior Vice President, Mr. Kenneth Chan and Senior Vice President, Mr. Chan Hak



The Annual Dinner of The Hong Kong Institute of Surveyors had been held successfully on 16 November 2001. More than 550 guests and members enjoyed the Dinner at the JW Marriott Hotel, Hong Kong. We were most honoured to have invited Mr. John C. Tsang, Secretary for Planning and Lands, The Government of the Hong Kong Special Administrative Region, who delivered a speech on "Green Buildings".

During the evening there was a draw, started by Mr. Tsang, for a specially designed crystal souvenir for each table, and a presentation of the visits and activities organised by HKIS over the past year.

Many thanks go to the MCs for the evening, Miss Rina Tsoi and Mr. Donald Chan and to the Organising Committee for their support and hard works.

We would also like to thank all the guests and members for attending and look forward to their continued support next year.



The Guest of Honour, Mr. John Tsang, Secretary for Planning and Lands delivers a speech on "Green Buildings" to the audience



The Guest of Honour receiving a souvenir from the President

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Surveying

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

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EDITORIAL CONTRIBUTIONS

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

Information & Contents

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



Guests and members enjoying the evening and draw of the table souvenirs



Members of ASEAN FLAG being welcomed by the Senior Vice President (2nd left) and Chairman of HKIS International Committee, Mr. T.N. Wong

The speeches by Mr. John Tsang together with the President's speech are available from the website of HKIS at <http://www.hkis.org.hk>

Photographs taken during the evening are available for viewing at the HKIS office and copies may be ordered direct from the photographer's studio.

At the last General Council meeting held on 8 November 2001, a number of major decisions were made.

1. The Council endorsed the motion by the General Practice Division to finalize the reciprocity agreement with the China Institute of Real Estate Appraisers. This will be the first time that HKIS will have a reciprocity agreement with a Chinese professional institute. I look forward to having more similar agreements with other professional institutes in the Mainland. Other Hong Kong professional institutes such as the Hong Kong Institute of Architects and the Hong Kong Institution of Engineers are all finalizing their agreements with relevant professional institutes in the Mainland.
2. The Council endorsed the recommendations of the working group for Constitution and Bye-laws to proceed with the proposed amendments to the existing constitution and byelaws as follows:
 - a) To change the requirement of the 66% affirmative vote to 75% of those members voting.

b) To change the title from Associate to Member and Students to Probationers.

c) To formalize the Chinese name of the Institute.

Details of the proposal and the date of the EGM will be sent to members later.

3. The Council endorsed a new set of Rules of Conduct to replace the existing one to make it more transparent and accountable.

4. The Council accepted the nomination of two prominent persons in Mainland as Honorary Fellow members of the Institute. They are Mr. Yang Si Zhong, the President of the China Cost Engineering Association and Professor Lin Zeng Jie of the Renmin University of China. Biographies of these two persons will be published to members and for endorsement in the General Meeting.

THE HONG KONG COALITION OF PROFESSIONAL SERVICES

The formation of the Hong Kong Coalition of Professional Services Limited was completed and the company's Memorandum of Association was signed on 8 November 2001. HKIS is one of the founding members of the Coalition. Other founding members are:

The Hong Kong Institute of Architects

The Hong Kong Institution of Engineers

The Hong Kong Institute of Planners

The Hong Kong Institute of Landscape Architects

The Law Society of Hong Kong

The Hong Kong Bar Association

The Hong Kong Society of Accountants

The Hong Kong Medical Association and

The Hong Kong Dental Association

The Promoters of the Coalition are the Hon. Leung Chun Ying, the Hon. Lau Ping Cheung, Dr. Raymond Wu and Mr. Anthony Chow. The Hon. Leung Chun Ying and the Hon. Lau Ping Cheung were elected as the Chairman and Vice Chairman respectively of the Coalition. The Secretary will be Mr. Anthony Chow of the Law Society of Hong Kong and the Treasurer will be Mr. Paul Chan of the Hong Kong Society of Accountants.

The main purpose of the coalition is to promote professional services of Hong Kong to the Mainland and overseas. This is one step forward for all the ten professional bodies in Hong Kong to join together after the formation of the Joint Professional Centre earlier this year.

The Coalition will visit Beijing between 13-15 December to meet with government officials, and will participate in the "Hong Kong Week" in Chongqing from 29 November to 1 December for the promotion of Hong Kong professional services to the western part of the Mainland.

ANNUAL GENERAL MEETING


The Annual General Meeting will be held on 11 December 2001 in the Hong Kong Exhibition and Convention Centre. Members are encouraged to attend this annual meeting of the Institute and to elect new office bearers for the coming year.

The work of the Institute is increasing every year and the importance of a well-represented council is vital for the success of our Institute and the surveying profession in Hong Kong and the Mainland. Your participation in the Institute is the key for advancement for our Institute. Please join with us to work for our Institute, our members and our profession.

I look forward to seeing you at the Annual General Meeting.

Building Surveying Division

The Building Surveying Division had gone through a very busy November as the most important APC examination took place from 5-8 November 2001. A great Building Surveying work force in Hong Kong had been dedicated on the tasks, including the candidates and assessors. The results will be issued in due course and our best wishes to all candidates.

The AGM and the Annual Dinner of the Building Surveying Divisional Council was held successfully on 30 November 2001. Mr. Raymond Chan and Mr. Edwin Tang were elected as our new Chairman and Vice Chairman respectively. The full list of nominations was elected unanimously at the AGM. A photo of the new council taken at the AGM is shown on the right. 



A VERY MERRY CHRISTMAS
AND
A HAPPY NEW YEAR

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

GENERAL PRACTICE DIVISION

Tony Tse, Chairman

RECIPROCITY AGREEMENT ON RECOGNITION OF QUALIFICATION THE CHINA INSTITUTE OF REAL ESTATE APPRAISERS (CIREA)

An EGM to determine the Motion "That the General Practice Divisional Council should seek approval of the General Council on the reciprocity agreement between The Hong Kong Institute of Surveyors and The China Institute of Real Estate Appraisers based on the basic terms submitted" was held on 31 October 2001. Prior to the voting of the Motion, the Chairman invited members attending the EGM for views and comments on the matter. Whilst it was pleased to note that the majority of members were in support of the Motion, quite a number of useful comments and suggestions were put forward. These included a fair and transparent system in conducting the interview; the course contents provided to the GPD members who have no previous Chinese Mainland working experience but would like to be qualified as a member of the CIREA; the likely numbers of CIREA members who meet the requirements for applying to be a GPD member of the HKIS; the definition of nationally renowned university etc. All the comments will be taken into consideration by the Working Group upon working out the details of the arrangement if the proposed reciprocity agreement is approved.

I am pleased to inform members that the Motion was passed with 145 "FOR" and 27 "AGAINST" votes.

Following the approval of the Motion, the matter was submitted to the General Council of the Institute for consideration on 8 November 2001. I am pleased to inform members that the proposal was endorsed and the Working Group is now proceeding to work out the details for effecting the agreement.

On behalf of the GP Division, I would like to express our thanks to the hard works of the Working Group, in particular, the Convenor, Mr. Alexander Lam.

STUDY VISIT TO HONG KONG THE SHENZHEN INSTITUTE OF REAL ESTATE APPRAISERS ("THE SHENZHEN INSTITUTE")

More than 30 members of the Shenzhen Institute visited Hong Kong between 7-9 November 2001. During their stay in Hong Kong, the GPD organized seminars and lectures covering valuation, property management, finance and real estate market performance for them. They were very interested to know the requirements of becoming a member of the HKIS. Visits to various Government departments and surveying firms were also arranged to facilitate them to have a better understanding of the land tenure, planning and registration system of Hong Kong. Frequent contacts with the Shenzhen Institute will no doubt enhance the communications and relationship between the two Institutes.

On behalf of the GP Division, I would like to express our thanks to the following speakers who have been so kind to spare their valuable time in delivering speeches on various topics to our friends from Shenzhen, in particular, Ms. Serena Lau for organizing such a successful event:-


Speakers

Mr. Tony Tse
Mr. Rock Tsang
Mr. Clement Leung
Mr. Francis Ng
Mr. Francis Lam
Mr. Ian Wong
Mr. Wyatt Choy
Mr. Eric Poon
Ms. Serena Lau

Topics

講介香港房地產估價理論及相關法規制度
講介香港測量師學會考核制度及情況
講介香港金融與房地產市場的關係
講介香港地政署之工作
講介地鐵上蓋物業發展之香港經驗
講解市區重建賠償
講介關於店舖/商場租務·市場推廣及評值
講介油站及戲院的估價方式
講介香港房地產估價項目的實務操作

GPD AGM

The AGM of the GPD was held on 22 November 2001. Nominations for the election of members to the General Council of the Division closed on 9 November 2001. I am pleased to note that more than 20 nominations had been received and 20 members were elected to the General Council of the Division at the AGM by the members present. I would reiterate that support and contribution from members are of prime importance to the development and growth of the Division and would like to call for members' continued supports. 

LAND SURVEYING DIVISION

Wong Chung Hang, Chairman

CHAIRMAN'S REPORT 2000-2001

I was fortunate in my second year of office to have had so many hard working council members and other committee members to assist me in the heavy burden of chairing the LSD Council. All the achievements that have been realized were the results of their dedicated efforts.

On CPD events, we organized three talks and one technical visit. The talk on the Observations of the 20th Century Global Sea Level Rise by Dr. C. K. Shum of Ohio State University was held on 5 March at the Hong Kong Polytechnic University. On 24 April, I delivered another CPD talk on Spatial Data Infrastructure of Hong Kong at the Hong Kong Convention and Exhibition Centre. Mr. J. R. Smith, a renowned land surveyor from UK presented his study on Everest - the Man and the Mountain on 14 May at HKPU. We will continue to work with HKPU and other organizations in organizing CPD talks and other technical events when required. We paid a technical visit to Guangzhou on 17-19 May. Our thanks to the Guangdong Society for Geodesy, Photogrammetry and Cartography for hosting the visit. Many LSD senior members joined the visit and made use of the opportunity to meet their friends in Guangzhou. The visit was very fruitful in terms of both its technical and social contents. We visited various planning and land management organizations in Guangzhou. We had a very entertaining evening in watching the performance presented by the retired cadres.

In the last council year, only two student members applied for and passed the Assessment of Professional Competence. They were eventually elected to Associate members. The LSD Education Committee is working with HKPU on conducting a new examination entitled "Legal Framework and Land Boundary Survey in Hong Kong" for graduates other than those from HKPU. Eligible candidates include those graduates of overseas degree courses accredited by RICS or possessing qualifications equivalent to the finalist of RICS examination. At the same time, we would encourage more overseas professional land surveyors working in Hong Kong to sit for our examination to acquire the qualification for election to Associate membership without the need to go through the APC Scheme.

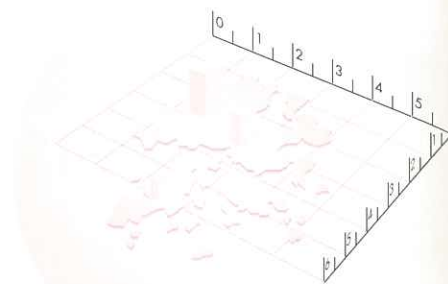
On 8-14 May, Mr. Siu Wai Ching and I attended the 7th General Meeting of the Chinese Society for Geodesy, Photogrammetry and Cartography (CSGPC) in Haikou, Hainan. LSD joined CSGPC as a group member in 1998. However, as agreed by the HKIS General Council, we decided

not to continue our membership in CSGPC. HKIS should remain as an independent professional body. HKIS and any one of its four divisions should not be a member of any other institute or society. While we wish to continue our dialogue and cooperation with CSGPC, we will not renew our group membership in 2002.

Mr. T. N. Wong and Mr. T.C. Ng attended the FIG Working Week 2001 in Seoul on 6-12 May. HKIS will be widely involved in many FIG activities in the coming years. As far as land surveying is concerned, the LSD Council will assist HKIS International Committee to prepare the National Report to the FIG Congress to be held in Washington in April 2002 and to bid for hosting the FIG Working Week and General Assembly in Hong Kong in 2007. T. N. Wong as the Chairman of HKIS International Committee has also been nominated by the Institute to stand for one of the FIG Vice-President posts in the coming General Assembly in Washington. To avoid ambiguity and confusion among member associations within FIG, HKIS is of the view that only HKIS should be recognized as the sole representative of Hong Kong in FIG. At the General Assembly in Washington, HKIS is going to present its comments on the application for membership to FIG by the Hong Kong Institution of Engineering Surveyors.

As LSD representatives to the HKIS Mainland Committee, Mr. Ronald Chan and I joined the delegation led by the committee's chairman Mr. Francis Ng to visit Wuhan and Shanghai on 22-27 October. The visit was to maintain our relationship with the relevant organizations in China, promote HKIS image and explore business opportunities for HKIS members. We visited Wuhan University, Wuhan City Planning Bureau, Wubei Province Survey and Mapping Bureau, Shanghai Tongji University, Shanghai Housing and Land Resource Management Bureau, Shanghai Land and Real Estate Appraisers Association.

At the HKIS Media Lunch held on 26 February, the Press Release included our views on the two main issues over the Land Titles Bill and the proposal to incorporate the Survey and Mapping Office. The proposed land titles registration system is not complete if it is not supported by land boundary plans delineating clearly and accurately the boundaries of registered land parcels. On the issue of corporatisation of SMO, we expressed that the Government should continue to perform its statutory responsibilities under the Land Survey Ordinance, clarify the possible monopoly and intervention in the land surveying market, and further study on the financial feasibility.



An Open Forum on the proposed corporatisation of SMO was held on 2 April. As addressed by the President, it was meant to obtain more balanced views. Unfortunately, we spent too much time clarifying the discussions and conclusions made in the last AGM in November 2000 regarding the change of who should be the Land Survey Authority and the delegation of LSA functions upon corporatisation of SMO. The idea of revising the Land Survey Ordinance to have a professional land surveyor as LSA is good, but it was not too appropriate to have it done right now. We do not want to complicate the whole issue while expressing our views on the proposed corporatisation of SMO. Nevertheless, we should be clear in our mind that in order to maintain the LSA integrity and impartiality, whatever professional appointed as LSA under LSO should be a public officer. The collective views of the LSD Council remained the same as before the Open Forum. We should persist in pursuing the Government to continue delegating the LSA functions to professional land surveying public officers.

Upon a requisition in writing signed by 56 LSD corporate members, the LSD Council convened an EGM to vote on the resolution - "The corporatisation of the Survey and Mapping Office based on the Proposal being put forward by the Hong Kong SAR Government will have adverse impact on society as well as the development of the land surveying profession in Hong Kong. We are of the opinion that the Proposal should be held in abeyance and the Government should consider other alternatives." Prior to the EGM, an email account had been set up by the LSD Hon. Secretary as an electronic discussion forum for members to exchange views. Seventy LSD corporate members eventually attended the EGM on 18 April. The resolution was adopted as the result of the voting, including proxies, showed that 78 votes were for and 32 against.

On 24 May, the HKIS Hon. Secretary and Mr. Henry Chan represented HKIS at the joint meeting of the LegCo Panel on Public Service and the LegCo Panel on Planning, Lands and Works to express our two main concerns about the proposed corporatisation of SMO, namely the Government's statutory responsibilities under LSO and the monopoly in the land surveying market. Again, at the Cadastral Survey Consultative Committee meeting convened by the Lands Department on 22 August, Mr. Henry Chan as the HKIS representative tabled a paper of our comments on the proposed corporatisation of SMO. The paper further explained why there would be possible conflict of interests for

the proposed SMC to support LSA and possible monopoly of land surveying services. As elaborated by the President in his letter of 22 August, after paying a courtesy visit to the Secretary for Planning and Lands on 14 August, HKIS would continue to comment on the draft legislation and arrangements that will affect the interest of its members and the public as a whole. In his reply to HKIS, SPL agreed that the Administration would keep HKIS informed of the developments and take appropriate measures to address any other concerns which HKIS may have on the corporatisation proposal.

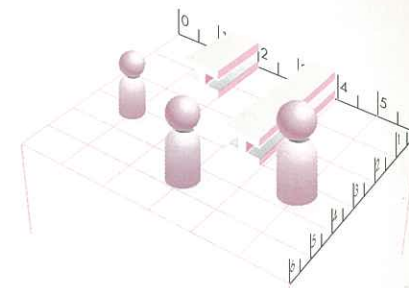
On social events, we organized the LSD Golf Tournament on 12 July at the Dongguan Hillview Golf Club. My congratulations go to those who won the prizes. The LSD Annual Dinner was held on 18 October at the Sheraton Hotel with overwhelming participation by LSD members, related firms, friends and family. We were also very delighted to have the Honourable P.C. Lau, the President and other Office Bearers attending the Annual Dinner and to share the joyful evening with us.

I would like to conclude this report with my special thanks to those members who have worked quietly to represent LSD in various HKIS committees and working groups. Without their support, LSD would not be so influential in helping the Institute to improve its effectiveness, iron out some of the difficulties and organize regular events. My appreciation also goes to those young LSD members who have showed their strong sense of belonging through participating in organizing various HKIS and LSD events in the past council year. Finally, I wish you all a prosperous year in 2002.

ANNUAL DINNER 2001

Cheung Yue Yan and Lo Hoi Yin

Not until the staging of our Land Surveying Division (LSD) Annual Dinner 2001 did we feel the millennium council year coming to a conclusion. The LSD Annual Dinner was successfully held on Thursday, 18 October 2001 at the Sheraton Hong Kong Hotel. The hotel room was full with more than 100 people, including members, consultants, academics, vendors and our guests who got together to enjoy the dinner, games and lucky draws.



LSD Chairman, Mr. C.H. Wong (far right) & Vice-Chairman, Mr. L.W. Lam (2nd from left), posed with some of the guests, (from left) HKIS Hon. Treasurer, T.T. Cheung, LegCo member Hon. P.C. Lau, and our President, Mr. Stephen Liu

In the opening address, our Divisional Chairman Mr. Wong Chung-hang summarized our activities in the past year, e.g. the 3rd Across-the-Strait Geomatics Conference, FIG Working Week 2001, Technical Visit to Guangzhou, CPD events, LSD Golf Tournament 2001, etc. Taking the opportunity, Mr. Wong also encouraged members to participate in the Beijing-Hong Kong-Macau Geomatics Conference to be held in Hong Kong this December.



Our President, Mr Stephen Liu seen chatting with Senior Vice-President, Mr. Hak Chan, with Prof. YQ Chen of PolyU at far right



The happy diners

Among the guests was LegCo member Hon. P.C. Lau who delivered a speech highlighting the prospects of Hong Kong's professional surveyors working in the Mainland China. He emphasized that our professional knowledge, language proficiency and management skills were most essential in exploring the golden opportunities in this new and expanding market, especially with China joining the WTO. Afterwards, Mr. Lau walked from table to table and discussed with our members about the development of our industry.



LSD Chairman Mr. C.H. Wong accompanying Hon. P.C. Lau in his walkabout

On a less serious note, participants were randomly drawn and quizzed in a game that mimicked the popular Millionaire TV game show, and attractive prizes were handed out. Finally, the lucky draws pushed the Annual Dinner to the climax and the evening ended with pleasant memories by all attending, but not before a toast was given by the LSD Council members.



To all, health and prosperity

The Annual Dinner has provided the venue and a valuable opportunity for members and friends to keep in touch with each other in a jolly environment. We thank you all for coming and hope to see you again next year in our Annual Dinner. ❏

QUANTITY SURVEYING DIVISION

Nelson Cheng, Chairman

QSD AGM

The AGM of the QSD will be held on 4 December 2001 at the World Trade Center Club. Nominations for election of members of the Divisional Council were called for and the closing date was 14 November 2001.

FINAL ASSESSMENT OF PROFESSIONAL COMPETENCE

The APC 2001 was carried out on 14-15 September. Assessments of the papers are now underway. It is expected that interviews will be carried out in early January 2002 with the results to be announced before the Chinese New Year.

VISIT TO CECA IN BEIJING

The QSD sent a group of 7 council members, led by the Chairman, to visit the Construction Engineer Costs Association (CECA) in Beijing on 3 November. The following matters were concluded at the meeting:-

1. Confirmation to Mr Yang Si Zhong, the President of CECA, that he had been nominated as an Honorary Fellow member of HKIS. This would be finally confirmed in the AGM to be held in December as a formality.
2. The Beijing Conference in May had a surplus, and it was confirmed that this surplus would be kept with HKIS as a fund, and this fund would be used for subsidizing the expenses of future seminars held by HKIS in the Mainland China to promote QS functions in the Mainland.
3. HKIS would propose terms of reciprocity between CECA and HKIS for CECA's consideration.



Visit to CECA at the Ministry of Construction, Beijing

4. A joint technical seminar would be held in 2002. Possibly practitioners would be invited to join. QSD would invite ACQS to participate.
5. HKIS would organize seminars or lectures of special interest such as Insurance, invite experts from Hong Kong for the Mainland cost engineers.
6. A Mainland construction glossary had been completed and would be published in the joint names of HKIS and CECA.
7. CECA would propose a list of cost engineers to HKIS for posting to the HKQS firms for practical training. HKIS would liaise with ACQS in the regard.
8. HKIS's cooperation with mainland Universities on researches.

CECA will be sending a delegate team to visit Hong Kong in March 2002. It is expected that a seminar will be conducted in Hong Kong for the CECA team to inform us of the practice in China.

VISIT TO THE BEIJING CONSTRUCTION PROJECT MANAGEMENT ASSOCIATION

Together with Junior Vice President, Mr. Kenneth Chan and Mr. Raymond Chan of the BSD, the QSD team made a return visit to the Beijing



Junior Vice President, Mr. Kenneth Chan presents a souvenir to the President of BCPMA Mr. Cai Jinchi



Group photo taken with the BCPMA

Construction Project Management Association (BCPMA) on 4 November. We generally introduced the structure of HKIS, the functions of each division and scope of works of each type of surveying profession. Dr Anita Liu explained to BCPMA the course contents of

the present PM course in HKU. The BCPMA also gave us a brief of their members who were mainly construction supervision and management consulting companies in Beijing. Our JVP presented a souvenir, a crystal composed of the major buildings in the Central, to the President of BCPMA Mr. Cai Jinchi.

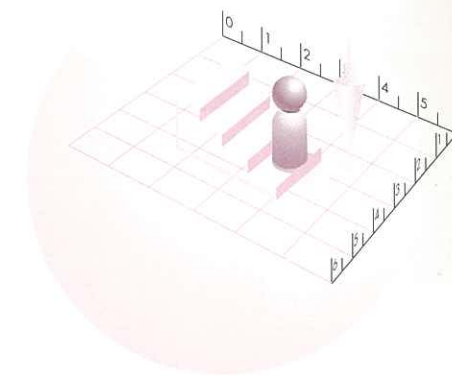
TECHNICAL SEMINAR IN WUHAN

The QSD sent a team of 5 members to conduct a session in a technical seminar organized by the CECA in Wuhan on 6 November.

CPD EVENTS

12 CPD events have been organized from March to October. Coming CPD events include:

20 Nov 2001 Two envelope fee tendering, the problems and some suggested solutions



JUNIOR ORGANISATION

David Wan, Chairman

HIGH TABLE WITH 200 SURVEYING STUDENTS

Last month, all our JO committee members went out to dine with 200 surveying students from 3 local universities. The last time we met was only two months ago at their college orientation camps.

One remarkable thing about our college friends was that their aspirations in what will be their future career and profession seemed to be growing. At this slightly longer than 2-hour dinner, we tried very hard to field as many questions from the students as possible but we still left with a few unhappy faces.

Not too long ago, we were students at this annual High Table event and our enthusiasms were not less than theirs.

HKIS JUNIOR ORGANISATION PUSHES NEW STRATEGIES TO BENEFIT MEMBERS

Today's JO has an important role to play. It acts as a bridge to foster a strong link between the college and the Institute and as a voice for our young members, looking after their interests. At this current rapidly evolving business environment, the JO's role is even greater.

For example, dissolving boundaries in our traditional work areas that were once well defined and rising job opportunities across the border have posted difficulties for our young graduates in compiling their professional training records in accordance with the Institute's code. We raised their concerns to the relevant committees. Each year, the JO sends out members to sit on board in various committees of the

Institute and the four divisional councils. We ensure that we do not miss out from the action.

However, keeping our voice loud and clear is not the ultimate goal of the JO in promoting our members' interests. Our JO members' interests lie in whether we have the right platform to provide opportunities for them to learn new skills, to hone leadership skills and to make new contacts.

In 2002, the JO will resolve to organize more quality CPD events. We encourage members to initiate ideas, target speakers, get audience and to run the show as planned - a training to mimic what a professional surveyor would do in his/her daily work life: searching for options, investigation, valuing and cost assessment, project management, marketing and delivery. We believe members will greatly enhance their knowledge from participation.

But we cannot do this without your support. We therefore invite you to join the JO committee for 2002.

Who Are We? A bunch of fun-loving men and women, chartered and not-yet-chartered, who know how to make the best of their time for their career development and the profession.

Benefits of joining JO. To raise your profile, strike new friendships, acquire new knowledge and make contributions to the Institute.

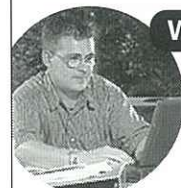
A New JO Awaits You. If you want to join us or find out more about us please call Nathan Lee at 9218 2269 (nathandotcom@sinaman.com) or Jim Yip at 6128 5469 (jimyiphk@yahoo.com).

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- Access specialist web sites through 'gateway to learning'
- Enjoy full e-mail access to subject tutors and fellow students

For further information, please contact:

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

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

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CONGRATULATIONS TO THE FOLLOWING WHO WERE ELECTED AS HKIS MEMBERS ON 8 NOVEMBER 2001

FELLOWS (2) QS DIVISION

FELLOWS, RICHARD FRANK
NG YAU YEE, PETER

ASSOCIATES (28) BS DIVISION

CHAN MAN FAI
CHAN TAK MING
HON YUEN KWONG, SUNNY
HUI WAI FUN
LAI MAN KAI

LAM SUI PUI
SO MAN HO, KEVIN
YIP KIN HO
YU CHI KIN, HARRY

QS DIVISION

AU- YEUNG YIN CHING
CHAN FUK MAN
CHAN LAI CHU, SMONA
CHOU YUNG LUN
KEUNG WAI YAN
LAM SIU TONG
LEUNG MEI YAN

LEUNG TZE KIT
LEUNG WAI SHING
MAK SHUI FUNG, ALEX
NG OI SUEN, DAPHNE
SIN CHI KWONG
SIU CHI WAI
SIU KWAN PANG
SZE WAN CHIU, MARK
TONG WAI MAN
TSANG CHI CHIU
TSOI MAN PING
WONG KA FAI

DEFERRED PAYMENT OF SUBSCRIPTIONS

The Institute has received letters from members informing loss of employment and difficulties in financial terms and asked for deferred payment of subscriptions during the period of unemployment.

At its meeting on 8 November 2001, the General Council agreed to allow members to defer payment of subscriptions for the year 2000/2001, subject to declaration by those members of their unemployed status. There will not be any charge for the deferred payment. Any deferred subscription shall become payable together with the subscription for 2001/2002.

Any member seeking to defer payment of subscriptions, should send in their request for the attention of the Hon. Secretary, HKIS, Suite 801, Jardine House, 1 Connaught Place, Central, Hong Kong.

MEMBER EXPELLED

SHUM Kwok Sher, FHKIS 0250, GP

At the meeting on 8 November 2001, the General Council considered the Court judgments against Mr. SHUM Kwok Sher for the offences of misconduct in public office, and the written submissions from Mr. SHUM's solicitors. The General Council has found that Mr. SHUM had contravened the Standard of Conduct of the Bye-Laws and/or the Rules of Conduct of the Institute and decided to expel Mr. SHUM from membership of The Hong Kong Institute of Surveyors, effective from 8 November 2001.

LIST OF INDEPENDENT VALUATION EXPERTS

The HKIS currently maintains a List of Independent Valuation Experts. The President of HKIS nominates independent valuers from the List at the request of the public.

With the increase in the number of requests for the HKIS President to nominate independent valuation experts, applications are being invited from members to join the List.

Members who would like to be included in the List of Independent Valuation Experts should meet the following criteria:-

1. A Fellow or Associate membership of HKIS;
2. 10 years post-qualification experience in Hong Kong;
3. The immediate past 5 years experience should mainly involve property valuation; and
4. Not having been successfully sued for professional negligence in the past.

Any member interested is requested to submit his application together with a resume and details of valuation work on or before 15 January 2002 for the attention of the President at the HKIS Secretariat, Suite 801, Jardine House, One Connaught Place, Central, Hong Kong.

All applications will be considered by a Panel formed by the General Practice Division to endorse, if the qualifications and experience of the applicants meet the criteria, before recommendations are made to the President for inclusion in the new List. Moreover, the List will be updated every 2 years and the Chairman of General Practice Division will be consulted prior to the President of HKIS appointing an Independent Valuation Expert under the List at the request from the public. Cases will be allocated on a rotation basis.

LIST OF ARBITRATORS

The HKIS presently maintains a List of Arbitrators. At the request of the public, the President of HKIS nominates arbitrators from the List. Most of the appointments are jointly made with the President of the Hong Kong Institute of Architects.

Applications are being invited from members to join the List. Members who would like to be included in the new List of Arbitrators should meet the following criteria:-

1. A Fellow or Associate membership of HKIS;
2. 10 years post-qualification experience in Hong Kong;
3. Not having been successfully sued for professional negligence in the past; and
4. Knowledge in legal / arbitration proceedings is essential

Any member interested is requested to submit his application together with a resume and details of arbitration work on or before 15 January 2002 for the attention of the President at the HKIS Secretariat, Suite 801, Jardine House, One Connaught Place, Central, Hong Kong.

The chairmen of the four Divisions will endorse the qualifications and experience of applicants of their respective Divisions before recommendations are made to the President of HKIS for inclusion in the new list.

HONG KONG HOUSING SOCIETY

QUALITY FIELD PRACTICES VOLUMES 5-12

The Housing Society has completed volumes 5-12 of Quality Field Practices VCDs, which include "Blockwork", "Plumbing", "Drainage", "Sanitary Ware", "Formwork", "Concreting", "Plastering", and "Floor Tiling". Limited copies of each volume are available from the HKIS office on a first-come-first-served basis.

Members who have subscribed to the first four volumes of the Quality Field Practices VCDs are reminded to collect them as soon as possible.

Visit to Wuhan & Shanghai 香港測量師學會代表團訪問武漢和上海

Ronald CHAN, representative of Mainland Committee
陳志端

The Hong Kong Institute of Surveyors delegation led by the former President, Mr Francis Ng, visited Wuhan and Shanghai between 22-27 October 2001. They visited Wuhan Technical University of Survey and Mapping, which has just been amalgamated with Wuhan University. The former Wuhan Technical University of Survey and Mapping was probably the only University in the world that had provided only surveying and mapping curriculum. Consequently, most of the leaders in Chinese Survey and Mapping organizations are graduates of that University. The delegation also visited Wuhan City Planning Bureau, Wuhan Design and Research Institute of Exploration and Surveying, and finally the Survey and Mapping Bureau of Hubei Province.

The visits in Shanghai included Tongji University (Department of Construction Management & Real Estate and Department of Civil Engineering), Shanghai Municipal Housing, Land and Resources Administration Bureau and Shanghai Municipal Real Estate Appraisers Association.

The China Real Estate Valuers Association and the Shanghai Municipal Real Estate Appraisers Association held a valuation seminar on 26 and 27 October with nearly a thousand participants from various parts of China including Taiwan. The speakers in the seminar included six delegates from the Hong Kong delegation who were Francis Ng, Tony Tse, Francis Lam, Alex Lam, Raymond Chan and Serena Lau.

The visit was very successful because it has enhanced communication between Hong Kong and Shanghai surveying professionals in the fields of real estate, building, surveying and mapping. The delegation was also warmly welcomed by the presidents of the colleges of the two universities and leaders of the Government bodies.

This is an English abstract of the full report in Chinese which follows.

香港測量師學會中國事務委員會為了促進香港和內地的交流和溝通，特組織一個代表團於二零零一年十月廿二日至廿七日訪問測繪之都的武漢和東方巴黎的上海。代表團成員眾多，領隊為前任會長吳恆廣先生，成員包括了產業測量師組和土地測量師組的主席們。

代表團於十月廿二日乘坐南方航空公司飛機從香港飛赴武漢，武漢大學測繪學院孫海燕副院長親自到機場迎接，下榻於風光明媚的帥府飯店。

原武漢測繪大學成立於四十五年前，今年併入武漢大學，首任校長為中國科學院院士夏堅白教授。武漢測繪大學為舉世罕有的測繪大學，四十五年前，中國五間著名的大學測量系合併為武漢測繪大學，四十五年後，差不多全國測繪機構的領導人都是武測的畢業生。學校的教授和專家多不勝數，輩聲中外，有些更多次測繪南北極，負責國家航天和遙感等科研領域，現任院長李建成教授，年齡還不到四十歲，真是後生可畏！

代表團在武測受到很大的歡迎，除了參觀課室，實驗室，電腦室，工具室，儀器室和各種設施外，更和學院領導人座談，研究兩地將來土地測量交往事宜。院長李建成教授、前院長寧津生教授及各副院長、教授等均出席了香港測量師學會答謝晚宴，實為香港測量師學會的光榮。代表團在武漢的住宿和訪問政府各地政部門，均是武漢大學悉心安排，在此僅向武測致謝。

代表團除參觀武測外，亦有參觀武漢市規劃土地管理局。規劃土地管理局的領導人和各專家們分別講解了武漢過去的歷史，地理位置，土地政策，土地規劃，未來發展等。代表們和規劃局的同工們更交換了香港和武漢的房地產發展，地籍測量，產權登記，有價收地及有關法律和法規等問題。

參觀武漢規劃局後，代表團訪問武漢市勘察設計研究院。韓洪安院長講述該院成立五十年來的豐功偉績，該院以服務城市規劃、土地管理和城市建設為宗旨，不斷求實創新，提高生產力和生產質素，今已躍居全國甲級勘測設計研究單位。規劃是龍頭，勘測是基礎，這五十年來該院不但完成大量武漢市大型建設如武鋼、武重、武鍋和長江大橋選址測繪，並且還完成很多國家重點工程的基礎勘測任務。今天他們已完成了覆蓋市區三千平方公里的平面和高程控制網，一千三百平方公里的一比二千基本地形圖，七百平方公里一比二千的數字地形圖數據庫和一千平方公里的工程地質數據庫等。他們還初步完成了武漢市基礎地理信息系統。



代表團最後訪問了湖北省測繪局。湖北省測繪局局長張必貴是一個非敘能幹和健談的人，他帶代表團參觀各工作間，只見職工們都很年輕和專業，所有辦公室都全部電算機化。他更向代表團講述未來湖北省測繪局的發展方針，如何適應這個信息時代；他更強調這個年代需要培養和引進人才，但是現在不能走擴張隊伍的老路，而是要走精華隊伍，高素質人才，精良設備之路。測繪部門需要在專業技術上獨當一面，有應用能力的人才。近年來該局努力加大人才的引進和培養力度，在待遇上，收入和工作表現掛鉤，幹多少活拿多少錢，上不封頂，下不保底。從一九九八年開始，把職工收入增加多少作為考核幹部的指標，收到了一定的成效。代表團在湖北省測繪局大院，見到高聳的新住宅樓房，作為數字湖北形象工程的地理信息綜合樓已經開工，大概明年竣工。張必貴局長再三邀請我們再訪問他們，因為長江三峽工程進展迅速，很值得觀光，惜我們行程短促，不能前往。最後張局長更贈送很多紀念品，這些紀念品如湖北省地圖集，絲質地圖等都是全體員工工作的結晶。

代表團於十月廿四日中午離開武漢，大概一小時便到達上海，落機後立即驅車到四平路的同濟大學訪問。同濟大學經濟與管理學院和土木工程學院熱烈歡迎代表團，同濟大學參加的人員共有十二位教授和副教授，他們包括了經濟與管理學院的經濟與房地產系、土木工程學院的測量與國土信息工程系。香港測量師學會代表團除由領隊吳恆廣介紹測量師在香港的歷史和近況外，各分組代表更介紹各組工作、近況和對訪問的期望等。同濟大學雖不入全國大學十甲，但有學生三萬人，現在全國大學排名大概十三、四名。它的歷史悠久，和香港的淵源也很深，他們一些老師都曾在理工大學修讀或做研究工作。代表團的訪問加深了大家的了解，增進了大家的友誼，也為將來的培訓工作和合作立下一個里程碑。訪問完畢後已見萬家燈火，回到酒店的途中，代表團更體驗到東方巴黎、洋場十里的大上海夜景。

十月廿五日代表團訪問了上海市浦東新區崑山南路的房屋土地資源管理局。蔡育天局長介紹了上海市過去十年的房地產市場發展，土地資源運用，土地政策和未來發展等。除蔡局長外，出席者還有物業管理處處長和兩位副處長，房屋改造和安全管理處處長，房屋土地測

繪中心主任，房地產交易中心主任，房地產登記處主任，地產交易管理理所所長及估價師協會代表等。雙方隨後交換兩地土地發展信息，發展路向等。港滬交流悠久，雙方很多代表都是老朋友，也曾互訪，所以會談起來特別投契。

當天代表團還訪問了位於上海市南蘇州路的上海市房地產估價師協會，受到吳賽珍會長及各副會長的熱烈歡迎。香港測量師學會和上海市房地產估價師協會、中國土地估價師協會和中國房地產估價師協會等已有多年合作，所以兩地很多代表都是老朋友。吳會長特別感謝香港測量師們參加他們於廿六日及廿七日舉行的二零零一年學術研討會。

中國土地估價師協會和上海市房地產估價師協會於十月廿六日及廿七日舉行了二零零一年學術研討會，會議主題是面對入世的中國房地產估價及管理，大概有千名上海及全國各地〔包括台灣〕的官員、學者和房地產從業員參加，收到論文超過一百份。會方為隆重其事，特邀請香港和德國專家參加。香港的專家和他們的論文是：

- 吳恆廣 香港測量師的專業操守品行行為
- 謝偉銓 產業估價守則及法規
- 林家輝 地鐵上蓋物業發展之香港經驗篇
- 陳旭明 樓宇維修及物業價值的關係
- 林增榮 滬、港房地產市場的發展和比較
- 劉詩鈞 加入 WTO 對評估行業的數點影響

因為時間短促，香港代表團於廿六日下午抽空再訪問同濟大學和一些本港發展商在上海的地盤，更有一些成員參觀由劉紹鈞前會長在昆山市擁地達一平方公里的丹桂苑，江澤民國家主席和海內外很多知名學者都曾到此一遊。

祖國進步神速，到處都在興建基本設施和房地產，官員和學者們都年青有為，勇於進取，這次訪問武漢和上海，感覺到全國上下都精神煥發，面貌一新，令人振奮。筆者有幸作為代表團的一位成員，深感榮幸，希望各會員有機會多觀光祖國大地，繼承炎黃子孫的拼搏精神，努力建設香港，那麼我們房地產和經濟的覆甦，便指日可待了。 [S]



ACHIEVER BEYOND DISPUTE

A QUANTITY SURVEYOR, REINFORCED HIS PROWESS WITH A BARRISTER-AT-LAW QUALIFICATION, HE STEERS THE COMPANY IN THE LEGAL MINEFIELD OF CONSTRUCTION, WITH UNQUANTIFIABLE SKILLS AND TALENTS.

Jim Yip AHKIS MRICS, JO Editorial Board Representative

The drilling rig is clanking; auger bore, armed with cutterhead as its teeth, is piercing deep into the earth. The flaking of rock epitomizes its sheer power. Liken Eric Chung, Managing Director for Paul Y.-ITC Construction Group, to the drilling rig, and you have some idea of how formidable he is. Besides, he looks charismatic and debonair.

Construction work is very prone to disputes and the industry is traditionally a hotbed for litigation. Once disputes arise, working relationships will sour and the project will be put in jeopardy. Even worse, the escalating legal costs evaporate the wafer-thin profit margin.

Who has the ability to manage the disputes holds the key for success. It came as no surprise when Paul Y.- ITC, one of the largest construction contractors in Hong Kong, picked a former contractual claims specialist for the top post. But Paul Y.- ITC was not to send in a high-powered legal team to pore over each contract, pick loopholes, grill their opponents in the cross-examination and finally win out in the settlement claim.

IN THE DRIVER'S SEAT

"This is not our revenue model," says the affable, articulate Eric. "Even if you win, in most cases, you end up losing, losing your business and losing your partners. In contract management, we rigorously exercise our control in containing the disputes, as most of them can be perceived beforehand."

"This is not always an easy task. To some of our clients, my personal background is intimidating. It can take a long time to convince them that I am using my experience and expertise to the client's and the project's advantage. My efforts finally brought fruition with more and more convinced that partnering with a claims specialist, like me, could still bring spectacular success in project delivery. My experience with the Housing Authority is a good example. Paul Y.- ITC became one of the first six contractors admitted to the Premier League in April 2001."

Still today a regular visitor to the work sites where he watches aside and ponders for new methods of improvement, Eric Chung blends his vast hands-on construction experience and his expertise in claims disputes in his job. He believes an essential part of his role nowadays becomes as a "deal-maker", performing problem-solving functions,

mending fences and salvaging projects, instead of probing at disputes and firing up contentious challenges that tear the relationship beyond repair.

Paul Y. - ITC was the main contractor for some of the landmark buildings in recent years, such as The Center, Cheung Kong Center, and the Superterminal at Chek Lap Kok (a joint venture with Gammon). The turnover of Paul Y.- ITC Construction Group has stood in excess of HK\$4 billion in the last three years.

Profile: Eric Chung, Quantity Surveyor

Eric Chung started off his surveying career as junior QS assistant with Davis Langdon & Seah in 1981. After finishing a diploma course on civil engineering at Haking Wong Technical Institute, he moved on to study a degree course on quantity surveying in Glamorgan University, Wales in 1984. From 1986-92, he worked for James R. Knowles (HK) Ltd. (JRK) initially as a claims consultant and later as its first local executive director. He took a year off in 1988-89 for a diploma study in law at City University, London. He passed the English Barristers Final Exam in 1991 and was called to the Bar at Lincolns Inn in July 1991.

Eric is now the managing director of Paul Y. - ITC Construction Group Ltd. He was the chairman for the QS division in 1997-98.



"Eric has a good rapport with his clients and he also has a knack for bridging two disparate groups of people. As a project leader, he knows quite well each member's strengths and shortcomings in the team. He leads the process and charts the course as if he has already known what lies ahead," says C. Y. Fung, a claims consultant with James R. Knowles. C. Y. Fung worked with Eric in The Centre project when he was a quantity surveyor with Davis Langdon & Seah.

"In most of the cases, disputes arise due to reasons like communication breakdown, clash of management culture and misjudgment on human factors, and less so on technical deficiency," says Eric. "That's why we take a proactive management approach in our projects, curbing the problems before they surface and get out of hand."

LORD DENNING'S INSPIRATION

Eric qualified as a quantity surveyor in 1987. He obtained a diploma in Law at City University, London in 1989. In 1991 he passed the English Barristers Final Exam with an astonishing result - he ranked among the top 17 out of a total of 900 candidates. However, Eric didn't choose

to pick up his wig in the court room, he remained in the traditional bricks and mortar business where he started off as a junior QS assistant in Davis Langdon & Seah in 1981.

The reason for Eric's decision might stem from the influence of Lord Denning, the most famous judge in legal history, whose judgments, though controversial sometimes, were admired for putting justice before the law. "Parliament does it too late. It may take years and years before a statute can be passed to amend a bad law," Lord Denning once argued.

"I have had great admirations for Lord Denning since I studied the law subject in the bachelor degree," Eric says. "What was the most interesting thing about him was that he was already a law lord in the House of Lords (equivalent to the Court of Final Appeal status in Hong Kong), but he stepped down to a post- Master of the Rolls (Chief Judge in the Court of Appeal), which proved to be much more influential. Since not many cases went on to the House of Lords, Lord Denning effectively had the last words."

Eric preferred to stay in a business that could allow him to exert more impact and utilise his expertise. "In my present job I can use my past experience to lead the project out of the fatal course of disputes, avoid the nasty consequences like time delays and cost overrun. It is a very challenging and fulfilling job," he says.

POWER OF EXPRESSION

Eric was also inspired by Lord Denning's power of expression. He read his two books, 'The Changing Law' (1953) and 'The Road to Justice' (1955) in college and he still reads them today.

"Reading his judgment is never an arduous task, but the greatest pleasure," Eric says. "His judgments are models of simple English which ordinary people can understand. It is a good training for critical thinking as well as presentation style."

In year three of his undergraduate course, Eric teamed up with his lecturer and published a research paper in the Construction Industry Law letter, a professional periodical still circulating today. He achieved a distinction for his thesis "Extension of Time and Monetary Claims".

"OPPORTUNITIES EXIST FOR EVERY GENERATION AND FOR EVERYONE, BUT YOU MUST FIRST OPEN THE WINDOW OF OPPORTUNITIES YOURSELF"

Eric's ascent from ranks was attributed much to his flair in craving out a niche in his work area. After his 22nd birthday, he made an important decision of his life: directing all his future efforts, both in work and study, on construction disputes. He has never looked back since then.

"I first got enticed with dispute work when I worked for a small local contractor and then the main contract was building the giant screen display structure at the Happy Valley Racecourse. There was a dispute in the contract and we asked several consultants and got different opinions," recalls Eric. "At that time Hong Kong still had not many well-trained professionals in this area, except Mr W.K. Cheung, a very well experienced quantity surveyor. He has given me a lot of advice and inspiration."

Asked whether today's surveyors are having less brighter prospects and being faced with more intense competition than during his days, he says: "I don't think the current generation of surveyors have less opportunities than the senior members. We had our own pains and sufferance in our time that you may not appreciate today. Opportunities are always there, no matter who you are and which generation you are from, so long as you pay with hard work for it. From my experience, if you show your talent and determination, a lot of people will give you help."

CHINESE MEDICINE

Out of the long and grueling work hours, Eric still finds time to learn new knowledge in Chinese Medicine. He is now able to take pulse for medical diagnosis and tell the differences of all the 28 types of pulse. He is pursuing one of his old dreams as he fancied becoming a doctor in his youth. On his account, remembering the tricky Chinese herbal names e.g. Caryophylli Flos, Menispermi Rhizoma, Schizandrae Fructus, is as easy as citing Lord Denning's Court of Appeal judgment in Campbell v Edwards [1976] 1 W.L.R. 403.

As the philosophy of Chinese medicine focuses on harmony in the body, which gives good health, Eric might have already applied this ancient old wisdom into his work. ■

RETHINKING ON BUILDING TO "MAXIMUM PLOT RATIO"

Stephen Chung, BS BBLdg(HKU) MS in Real Estate(MIT) MRICS AHKIS
MAACE MHIREA NAREIT PQS RPS(QS)
Zeppelin Real Estate Analysis Limited



The following is abstracted from two articles the author had written in October 1998 and February 2001 respectively for the company's quarterly real estate newsletter and website.

SUMMARY

Typically, many people including real estate professionals in Hong Kong tend to evaluate a prospective / potential development site based on its maximum allowable plot ratio. Say if a site has a plot ratio of 5 and a site area of 10,000 ft², people would tend to assume a gross floor area of around 50,000 ft² for planning, designing, assessing, evaluating, pricing and so on. Likewise, right after a successful bid is obtained in a government land auction, the media would report on the 'accommodation value' based again on the maximum allowable gross floor area. Nonetheless, the author doubts if this should always be the case, especially in view of the changed conditions in the land and real estate arenas. *Here's why.*

There is one distinct feature in the Hong Kong real estate development industry: for the past 20 years or so, practically all development projects are built to their maximum allowable plot ratio(s) (gross floor area-GFA) and few, IF ANY, ranging from developers / investors to professionals, bother asking or analyzing whether there is sufficient demand to justify maximum development for any particular site or portfolio. Hence, real estate assets including land sites have been or are still mostly bought, sold, priced, evaluated, planned, developed and built based on such maximum allowable development potentials.

There may be a need now to rethink the above presumption in view of the changing circumstances, among other things, in local land/real estate policies, income, regional development, and the global economy. For instance, in USA / Canada, it is customary to first assess what level of (optimal) plot ratio (or floor area ratio-FAR-being the counterpart term in North America) a particular site or portfolio can sustain given

certain demand, supply, timing and pricing assumptions. In many cases, the maximum allowable FAR would be higher than what is justifiable, which in turn implies:

- Not all sites are developed to their maximum allowable plot ratio for any given use.
- Pricing / evaluating a real estate asset based on its maximum allowable development potential may lead to over-pricing and over-payment.

For example, if the allowable plot ratio for a site is 10, yet if the demand can only take up 6, the price to be paid and the development plan will be geared on 6, not 10. This in turn means the seller of the site / land will get a market rate for the 6 (or a lower than market rate for all 10, depending on how one wishes to view it).

The following highly simplified (and thus somewhat flawed but illustrative) **hypothetical example** demonstrates the above:

- Say originally, each year would see 100 (home) buyers** acquiring 100 residences each of 1,000 ft in floor area, with each buyer paying \$2m for one residence. Thus, the total floor area supplied would be $100 \times 1,000 = 100,000\text{ft}^2$ and the market size in terms of value / price was $100 \times \$2\text{m} = \200m . Assuming building cost to be \$1,000 / ft², **then \$1m would go to the 'bricks and mortar'** while the remaining \$1m would be split between the land price and the developer's profit for each residence supplied.
- Say the demand grew and there were 200 buyers**, yet the floor area supplied remained at **100,000ft²**. Well, the developers had basically a spectrum of **2 choices = (1)** continue to build 1,000ft² residences and sell to only 100 of the 200 potential buyers, **OR (2)** reduce the residences' size by half i.e. to 500ft² each (assuming the buyers would accept albeit reluctantly) and sell to all 200 buyers. In the former, as

there were 200 buyers competing for 100 residences, prices might be driven up to arbitrarily say 50% more i.e. \$3m, assuming all other factors remained the same (to go up further would require improvements in the other factors too). This \$3m is likely to be split = \$1m to bricks and mortar and the remaining \$2m between land price and developer's profit. In the latter, **only \$500,000 went to the bricks and mortar** and the remaining \$1.5m would be split between land price and the developer's profit. [Note = Each residence could still be sold for \$2m* given all other factors remaining equal, because the size of a home is not a function of what the home buyer can afford to or is willing to pay or vice versa]. While the split between the land price and the developer's profit vary according to circumstances, let's say for our purpose it is done 50/50, then this would mean collectively the developers will get $100 \times \$1\text{m} = \100m as profit by developing 100 units of 1,000ft² each, OR $200 \times \$750,000 = \150m as profit by developing 200 units of 500 ft² each. Assume the developers opted for the latter. The building cost remains constant as the gross floor area has not really changed = whether $100 \times 1,000\text{ft}^2$ each OR $200 \times 500\text{ft}^2$ each = 100,000ft².

- Say now the floor area supply increased to 200,000ft² and the number of buyers remained at 200.** The developers again would have a spectrum of **2 choices = (1)** revert the residence size from 500ft² back to 1,000ft² and sell to all 200 home buyers [as the 200 buyers now did not need to compete for a lesser number of units, prices will go back to \$2m each], **OR (2)**, continue to develop 500ft² residences and sell to all 200 home buyers i.e. the 200,000ft² floor area supply would NOT be fully utilized. [The theoretical third option of building 400 residences each of 500ft² in floor area would cause an oversupply of units and thus is assumed to be impractical]. In the former, the economics to the developers would look like 2 x (a), while the latter would perhaps

appeal more to them, as it would be like (b2). Naturally, the eventual outcome may be somewhere between these 2 choices and that involves a lot of interaction between various market factors and players (developers and buyers included). For instance, while the developers would like to keep on building 500ft² residences, the buyers would feel more 'deprived' now and hesitant to put up \$2m knowing a 200,000ft² supply (and the risk of oversupply etc is higher = whether it will or will not is another issue). Eventually, either the developers would need to bring down the prices of the 500ft² residences and / or to increase the average residence size to entice the homebuyers to buy at or near \$2m. Assuming if the average residence size did go up from 500ft² but short of the original 1,000ft², say 750ft² only, then this would imply 50,000ft² of the floor area supply would not be realized, and this in turn implies that not all the sites would need to be built to maximum plot ratios.

Please note the above raises more questions than answers, and comments from seasoned professionals are welcomed. Nonetheless, given the seemingly changed real estate market structures and policies, it may be prudent first to assess **whether it is commercially feasible to develop the site to the maximum plot ratio allowed or whether a more viable level is somewhere below the stated maximum GFA** under certain timeframe, cost and revenue assumptions. Just one more question to ponder before real estate acquisitions and development decisions are made.

Note: still not sure or convinced? Ask yourself this question - if somehow the government becomes very generous and allows a plot ratio of up to 100 for all sites (naturally this is purely hypothetical), would you still price a site based on this new plot ratio of 100?



HOTEL OVERVIEW

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INTRODUCTION

After the events on September 11, the world seems to be suffering from a severe jolt. Yet life has to go on. Investment still needs to find its outlets, albeit at a more cautious approach amidst shifting priorities.

Among all investment opportunities, the hotel market still remains highly favored in Hong Kong. The reason is obvious. Despite its current setback, the world economy is sure to expand in future, so will the traveling and tourism industry. The present economic climate can only delay the outcome, not reverse it.

In Hong Kong, there is another major positive factor - China. China's phenomenal growth rate can be seen as a prime stimulus for Hong Kong's hotel industry. On one hand, more people will visit China, with possible stopovers in Hong Kong. On the other hand, China's growing affluence means more of its citizens can afford to travel abroad. It is realistic, not just optimistic, to expect a considerable growth in the number of Chinese visitors in the years to come.

The Government of the Hong Kong Special Administrative Region (the "Government") has long ago realized the importance of tourism. Tourism breeds hotels. The hotel industry is a direct beneficiary of the Government's promotion of tourism.

BACKGROUND INFORMATION

According to the statistics provided by the Hong Kong Tourism Board ("the HKTB"), there were 92 hotels offering about 36,438 rooms in Hong Kong in 2000.

HKTB also reveals that the total income from the hotel industry in 2000 amounted to about HK\$15.36 billion, 13.3% higher than that in the previous year, contributing to about 5% of Hong Kong's Gross Domestic Product ("GDP").

In 2000, the average daily room rate was HK\$762, a 17% increase from HK\$651 in 1999. The average daily room rate of the first half of 2001 was further increased to HK\$784.

The average per capita spending was approximately HK\$1,176 in 2000, recording a decrease, however, of 1.8% from 1999.

With regard to the future supply, it is estimated that some 30 new hotels will be completed between 2001 and 2004, adding to about 11,500 rooms.

FACTORS AFFECTING THE HOTEL INDUSTRY

1 Tourism

Hong Kong is widely known as the "Pearl of the Orient" reflecting its status as an established metropolis and a food and shopping paradise. It is also widely regarded, geographically, as the region hub. In 2000, the total number of visitors was 13.06 million who spent about HK\$61.5 billion, 9.4% more than that in 1999. The number of visitors in the first quarter of 2001 was recorded at 3.19 million, bringing in about HK\$14.7 billion, a 5% increase from 2000. The majority of visitors came from Mainland China (30% of total), Taiwan (18.2%) and north Asia (13.4%). In the first half of 2001, the average length of stay per visitor was about 3.11 nights, an increase of 3.3% from 2000.

Together with other cities and provinces in Mainland China, Hong Kong is promoting joint attractions such as a "One Round Trip Over China" with cities like Sichuan, Yunnan and Beijing etc. There are other joint programmes such as organising short trips to the Guangdong Province and Macau. Besides, a proposed vehicular route linking Shenzhen and the western part of the New Territories is under planning. As a result, tourists coming to Hong Kong would be attracted to take a further trip to other cities in the Mainland China and vice versa. In order to attract more Taiwanese travelers to Hong Kong, the Immigration Department in Hong Kong will simplify the visa application process for them in early 2002.

With Beijing hosting the 2008 Summer Olympics, tourists visiting Beijing, with a likely stopover in Hong Kong, will increase, further enhancing tourism and hotel industry here.

2 Local and Overseas Economy

(a) Overseas Economy

Hong Kong tourism depends considerably on the economy of other countries. Better global economy means more people can afford to

travel and spend. The 1997 Asia Economic Crisis had seen a big fall in tourist numbers coming from Asian countries.

The present uncertainty of US economy would inevitably have a negative effect on Hong Kong's tourism. Fortunately, due to the moderate recovery in the Asian economies and the expected steady rise in tourist numbers from the Mainland as a result of the economic growth and the new measures to streamline the visa application process, the number of visitors to Hong Kong is expected to rise in the coming years. This will push up demand for hotel rooms. In the table below, visitors from Mainland China and Taiwan spent an average of about HK\$4,881 (increased by 11.7%) and HK\$5,273 (decreased by 3.7%) respectively in 2000.

Per Capita Spending by Visitors

Major Market Areas	1999 (HK\$)	2000 (HK\$)	2001 (HK\$) (Jan - Jun)
Mainland China	4,370	4,881	4,971
Macau	1,464	1,523	2,048
Taiwan	5,475	5,273	5,016
South & Southeast Asia	4,667	4,142	3,921
North Asia	5,429	4,500	4,221
Australia, New Zealand & South Pacific	4,822	4,051	4,592
Europe, Africa and Middle East	4,813	4,740	5,024
Americas	5,262	5,202	5,684
Total	4,791	4,693	4,701

Source: Research Department of Hong Kong Tourism Board
(27 August 2001)

According to official statistics, visitors in 2000 spent to a total revenue of HK\$59.3 billion, a 9.2% increase from 1999. In the first half of 2001, visitors spent HK\$31.3 billion. The hotel occupancy rates in 2000 and the first half of 2001 were 83% and 79% respectively.

(b) Local Economy

Today, hotels are demanded not only by tourists but also by local people who occupy them as a holiday resort. In general, hotels provide not only accommodation but also entertainment/recreational facilities. The 1999 statistics indicated that 15.1% of total hotel occupants were

local customers. The number is likely to increase further in the coming years.

Hong Kong is now already the seventh largest trade and economic entity in the world, with substantial number of tourists and extensive cargo handling capacities. However, to further boost the local economy as well as tourism, the Government is enthusiastically promoting Hong Kong as an important venue for international conventions and exhibitions. The figures from the Hong Kong Trade Development Council indicated that they had scheduled over 100 conventions and exhibitions in 2001, most of them international events, such as the Fortune Forum last May. It is estimated that the total number of commercial visitors attending conventions will increase remarkably from the 33.4% share in 1999's. As these types of visitors are willing to spend more in accommodation, the overall hotel income is expected to increase further.

FUTURE HOTEL DEVELOPMENT

Property giants including Sun Hung Kai Properties, Cheung Kong Holdings, New World Development, Henderson Land Development and Swire Properties have confirmed recently to jointly develop a 20-storey 3-4 star hotel in Tung Chung, immediately adjoining The Citygate, a prominent commercial development in the area. It will be completed in 2004.

The Four Season Group will manage 2 hotels under development in Phase II of the International Finance Centre in Central. One is a 5-star hotel comprising 400 rooms whereas the other will cater for longer-stay customers with about 600 rooms. Both will be completed in 2004.

Apart from them, there will be quite a few hotels coming in the next 3 years, offering about 11,500 rooms in total.

CONCLUSIONS

Many countries have already experienced economic difficulties in 2001. The September 11 terrorist attack would no doubt deepen the pains, with tourism and hotel industries being the hardest hit sectors.


However, the long-term prospects of investing in Hong Kong hotel market remain favourable. Positive factors like the 2008 Beijing Olympics Games, China's accession to WTO and our Disneyland in 2004 will fuel the demand for hotel rooms in Hong Kong. In fact, developers are gearing up to build new hotels in Hong Kong.

In 2000, Hong Kong hotels provided a total of 37,963 rooms, with an occupancy rate of 83%. The Government estimates that the number of hotel rooms will increase to 45,717 in 2005. The following tables illustrate the above projections:

By assuming the same percentage of visitors staying in hotels and their length of stay in 2005, the tables show that, in 2005, 56,583 hotel

rooms will be required to accommodate them in Hong Kong. This figure exceeds the Government's estimated supply, meaning that there is still room for new hotel investments.

After the events on September 11, the number of visitors from other countries dropped but visitors from Mainland China rose. As such, the occupancy rates for medium tariff hotels in Hong Kong have not been affected as much as those in other grades. This shows that the hotel industry in Hong Kong has at least a very promising opportunity, which, in our view, will provide us a bright future.

This is an abridged version. For a full and Chinese version, please visit our web site at: <http://surveyors.midland.com.hk> 

Year 2000 Statistics

(1) No. of Visitors	13,060,000
(2) No. of hotel rooms	37,963
(3) Occupancy rate	83%
(4) Average Stay (days)	3
(5) No. of turnover p.a. i.e. 365 days÷(4)	121.7
(6) Average no. of occupants in a room	1.6
(7) No. of hotel guests p.a. i.e. (2) x (3) x (5) x (6)	6,135,489
(8) Percentage of visitors staying in hotels	47%

Source: Hong Kong Tourism Board

Year 2005 Projection

(1) Percentage of visitors staying in hotels (as above, 2000 level)	47%
(2) Estimated no. of visitors	18,341,000
(3) No. of hotel guests p.a.(1) x (2)	8,620,270
(4) Average no. of occupants in a room (same as 2000 level)	1.6
(5) Average Stay (days)	3.22
(6) No. of turnover p.a. i.e. 365 days÷(5)	113.35
(7) Occupancy rate	84%
(8) No. of hotel rooms required i.e. (3) ÷ (4) ÷ (6) ÷ (7)	56,583

Source: Hong Kong Tourism Board; Research Department of Midland Surveyors Ltd.

Feature

KNOW YOUR EXPERT WITNESS - BUT DON'T KNOW HIM TOO WELL

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Managing Director, James R Knowles (Hong Kong) Limited

Expert witnesses are often required in arbitration and litigation proceedings. Their role is to provide independent, objective and unbiased evidence of their opinions in respect of specialist or highly technical matters. Their evidence is given to assist the arbitrator or the judge to arrive at a decision in respect of such matters that may well be outside their area of expertise.

Quantity Surveyors are often called to give expert evidence in respect of the quantum of construction disputes.

When a party, be they a contractor or an employer is involved in arbitration or litigation of a construction dispute they will generally enter into discussions with their solicitors or representatives as to who



would be the most appropriate person or persons for them to appoint as their expert witnesses.

Quite naturally people will look to choose an expert with whom they feel comfortable, and this will often be someone whom they either know personally or have worked with in the past.

Well, in future, following the recent case of **Liverpool Roman Catholic Archdiocesan Trust v David Goldberg QC** (6 July 2001), parties and their solicitors or representatives may now have to consider more carefully the identity of the particular expert that they appoint, and, in particular, consider all past or existing relationships that the potential expert may have with the party concerned.

The case concerned a claim by the Corporate Trustees of the Roman Catholic Archdiocese of Liverpool against a barrister, Mr. David Goldberg QC, for damages for negligence in respect of advice he had given to the diocese in relation to its tax affairs between November 1989 and October 1996.

In the course of the proceedings the defendant, Mr. Goldberg, instructed an expert witness to give evidence on his behalf. The expert witness, Mr. Flesch QC, was also a barrister.

An issue arose as to the admissibility of the expert evidence of Mr. Flesch, because Mr. Flesch and the defendant, Mr. Goldberg, not only practiced as barristers out of the same set of chambers, but they were also good friends having known each other for over twenty five years.

Mr. Flesch had quite rightly drawn attention to the relationship in his report, but concluded that the relationship would not affect his evidence. He said (with remarkable frankness):

I do not believe that this (i.e. the relationship) will affect my evidence. I certainly accept that it should not do so but it is right that I should say that my personal sympathies are engaged to a greater degree than would probably be normal with an expert witness".

Whilst Evans-Lombe J accepted that Mr. Flesch's evidence qualified as that of an expert witness in accordance with Section 3 of the (United Kingdom) Civil Evidence Act 1972, but should nevertheless be declared inadmissible by reason of the witness's close friendship with the defendant.

The court considered that it was inappropriate as a matter of public policy that a person should act as an expert witness in a case where it was demonstrated that there existed a relationship between the proposed expert and the party calling him, which a reasonable observer

might think was capable of affecting the views of the expert, however unbiased the conclusions of the expert might be.


The judge considered that the question of the admissibility of the expert evidence of Mr. Flesch was a matter of general importance. Public policy, he said, required that justice must be seen to be done, as well as done, because the role of an expert witness was special, owing duties to the court, which must be discharged notwithstanding the interest of the party calling him, and in this respect he cited the case of *Whitehouse v Jordan* [1981] 1 WLR 246:

Whilst some degree of consultation between experts and legal advisers is entirely proper, it is necessary that expert evidence presented to the Court should be, and should be seen to be the independent product of the expert un-influenced as to form or content by the exigencies of litigation."

The importance of this is that the test is not whether the conclusions of the expert were biased or not. Indeed in this case there was no suggestion that Mr. Flesch had been biased in his evidence. The test is that the evidence should be seen to be the independent product of the expert. In this case this translates into a test as to whether there existed a relationship between the expert and the party calling him which a reasonable observer might think was capable of affecting the views of the expert.

The court held that if a reasonable observer might consider the relationship capable of affecting the expert's views then as a matter of public policy the evidence is inadmissible.

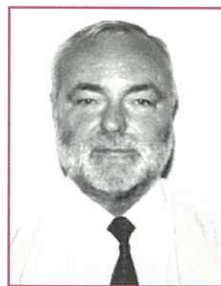
This case could have significant repercussions for contractors and employers when choosing their expert witnesses. A person who is a personal friend of one of the parties, or who is working for, or has worked for one of the parties in other matters may now not be appropriate as a choice because a reasonable observer might think that the existing relationship was capable of affecting the views of the expert.

Members of the Hong Kong Institute of Surveyors who receive appointments as expert witnesses would be well advised to report to solicitors or representatives of parties wishing to instruct them in very detailed terms any present or past dealings that they have, or have had, with the party wishing to instruct them, and consider very carefully whether they should accept the appointment if they feel that the relationship may fall foul of the decision in this case. 



Bonds

Brian E. Rawling, Brian E. Rawling & Associates



It is now customary, and has been for several years, for employers in Hong Kong to request bonds to be provided by their main contractors.

The usual types of bond in use in Hong Kong are:-

- (i) performance bonds (or conditional bonds); and
- (ii) on-demand bonds (or unconditional bonds).

Bonds have often been criticised for using archaic language (Keating paragraphs 10-40) but there are no reasons why bonds cannot be drafted using modern language. For instance, the bonds used with the Swire standard form of contract have modern language and are drafted as deeds, which gives them certain legal significance.

For further legal information on bonds, reference can be made to paragraphs 10-41 to 10-47 of Keating 6th edition.

Just as a main contractor provides a bond to an employer, then a main contractor looks to protect its interests by obtaining bonds from their sub-contractors. Again, such bonds are either conditional or unconditional and are often based upon back-to-back wording used in the main contractor's bond.

In recent years, it has also become fashionable for employers to obtain bonds directly from nominated sub-contractors. Hence, an employer may have the same work bonded twice, once through the main contractor and the second time through a nominated sub-contractor. However, if an employer chooses to do this double bonding then beware that the traditional reliance upon there being no privity of contract between an employer and sub-contractor is brought into question by such a bond. Further, if an employer makes a demand upon a sub-contractor's bond for alleged default then the employer has established that there is some form of contractual relationship between it and the nominated sub-contractor. If such circumstances were to arise, and there were disputes between the employer and main contractor, then the main contractor would be well advised to seek legal advice.

Whatever type of bond is selected by the employer and incorporated into the contract, to ensure that the main contractor actually delivers what it has contracted to deliver, it is recommended that the delivery of the bond is made a condition precedent to the first interim payment, so that the first interim payment is not released until either the bond

is delivered or the bonded sum has been accumulated and can be retained as security for the delivery of the bond.

1. A TYPICAL CLAUSE

The following is typical wording for a clause in a main contract requiring the main contractor to provide a bond. The clause covers three important aspects of the bond, namely the amount (the bonded sum), the type of bond (as set out in an appendix) and the expiry date (the final certificate).

"The Main Contractor shall within seven (7) days of acceptance by the Employer of this Tender deliver the Main Contractor's Performance Bond duly executed by such bank or other institution as the Employer shall have previously approved in writing in the amount stated in Appendix A to these Conditions and in the form appearing in Appendix C to these Conditions for the due performance of the Contract. The cost of obtaining such a bond is to be allowed for by the Contractor in the appropriate item in the Contract Bills. Provided always that when the Final Certificate shall have been issued the said bank or institution and the Main Contractor shall be released from such bond."

What should an employer ask for in terms of the length of the bond? The general rule is to avoid using a fixed date for the expiry of the bond in case of delays and prolongation. Usually, a bond terminates at, either the certified date of completion of the Works, or the certified date of completion of making good defects. However, some employers require bonds to run through to the final certificate (as in the clause quoted above), or the end of dispute resolution procedures.

2. PERFORMANCE BONDS

Performance bonds (or conditional bonds) are agreements whereby the surety (or bondsman) pays out if the contractor fails to perform. To succeed with a demand on a performance bond there must first of all be a failure to perform either admitted by the contractor or established as fact within the context of the bond and the master contract.

A demand under a performance bond can be challenged in the courts by the contractor, who will most probably argue that the cause of the alleged non-performance was an event or events for which, under the

contract, the employer is liable and, therefore, the demand should not succeed as the employer cannot be allowed to benefit by its own misdeeds. Often, demands under a performance bond, which are challenged by a contractor, are set aside pending arbitration or a court case to decide who is responsible for the alleged non-performance.

However, if the employer wins the arbitration or court case then it can immediately resort to the performance bond and recover the maximum under the bond or the maximum award of the arbitration or court case (plus legal fees) whichever is the lower.

In recent years, performance bonds have been sidelined by employers in preference for on-demand bonds, however, performance bonds are still worth consideration on the basis that there is some ready access to funds when default is established or admitted.

3. ON-DEMAND BONDS

Employers tend to prefer the on-demand type of bond (or unconditional bond) as it can be called upon without any proof of default and, provided that the demand is not raised vexatiously, maliciously or fraudulently, the contractor cannot object and the surety (or bondsman) will make payment under the terms of the bond.

What should employers look for in an on-demand bond? It is essential that the wording of such a bond is clear, crisp and direct. The effective clauses in an on-demand bond should be something similar to the following:-

1. *"The Surety hereby irrevocably and unconditionally agrees to pay to the Employer the Bonded Sum on the terms and in the manner hereinafter appearing."*
2. *"Upon receipt of a written demand by the Employer to the Surety stating that the Main Contractor has failed to discharge any or all of his obligations under the Main Contract and without being entitled or obliged to make any inquiry either of the Employer or of the Main Contractor, and without the need for the Employer to take legal action against or to obtain the consent of the Main Contractor, and notwithstanding any objection by the Main Contractor and without any further proof or conditions and without any right of set off or counterclaim, the Surety shall forthwith pay to the Employer the amount or amounts specified in such demand or demands, not*

exceeding in aggregate the Bonded Sum, it being confirmed that the Employer may make as many separate demands hereunder as it thinks fit. Such payment or payments shall be made by transfer to an account in the name of and at such bank and in such place as the Employer shall direct."

3. *"The Employer's demand made in accordance with Clause 2 shall be conclusive evidence of the Surety's liability to make payment hereunder and of the amount of the sums which the Surety is liable to pay to the Employer."*

As stated earlier, an employer should not make a vexatious, malicious or fraudulent demand on a bond. If a contractor gets advanced warning of a possible vexatious, malicious or fraudulent call on an on-demand bond then he can apply to a judge for an injunction preventing the employer from making a call on the bond. However, the employer can appeal against the injunction and, provided that he can show good cause to call on the bond, then the injunction will be waived and the call permitted.

History shows that even vexatious, malicious and fraudulent calls under on-demand bonds are often met by the surety. The reason why a surety does not question a call on an on-demand bond is often as much linked with the arrangement of the bond as it is with the wording thereof.

4. FUNDING ON-DEMAND BONDS - THROUGH THE CONTRACTOR'S BANK

Large construction companies, whether they are main contractors or sub-contractors, can arrange funding for on-demand bonds through their bankers at a nominal direct cost but with a significant effect upon working capital.

The way in which such bonds are arranged is that the contractor has to maintain, on deposit with the bank providing the bond, an amount similar to the bonded sum plus a smaller amount to cover the bank's cost in processing a call on the bond. Hence, when a demand is made on the bond, the bank immediately draws on the contractor's deposit to meet the demand. The surety does not, therefore, lose out financially (but the contractor does) and bears an insignificant risk (contrary to the risk borne by the contractor). Hence, the surety's charges to a contractor for such bonding arrangements are relatively small.

A large contractor with substantial financial funds tied up in bonds often arranges through its bankers to maintain on deposit a portion of the total of the bonded sums on the basis that demands under all of the bonds will not all be made at once.

However, the capital lock-up caused by on-demand bonds is a significant drag upon construction finance and contractors could put that money to much better use and make higher profits if there were no such bonds.

Further, in a prolongation situation, the cost to the contractor of extending the bond is not just the fee charged by the surety but the cost of the money on deposit. In this respect, a contractor making 2.5% profit on turnover can, with proper financial planning, make about 20% on working capital. Therefore, money tied up in bank deposits to cover the risks in providing bonds actually costs the contractor the difference between what would be its return on working capital and the deposit rate given by the bank.

5. FUNDING ON-DEMAND BONDS - THROUGH AN INSURANCE COMPANY

A contractor who does not have sufficient funds to arrange an on-demand bond through its bankers may be able to obtain an on-demand bond through an insurance company or some other financial institution.

The cost to a contractor of such a bond will depend upon its reputation, financial standing and ability to convince a third party to take the risk. Obviously, insurance companies who participate in providing on-demand bonds do so in order to make profits on this type of risk business and the premiums can be very high.

A recent article in the UK magazine "Building" reported that, in the UK, it is now almost impossible to obtain on-demand bonds from insurance companies. That trend appears to be spreading to Hong Kong, particularly in the sub-contract market.

6. DOES BONDING WORK?

If an employer feels satisfaction and a degree of security in having a bond then the answer must be yes.

However, bonding costs the industry a great deal in unforeseen capital lock-up or excessive costs.

The usual Bonded Sum is limited to 10% of the original contract (or sub-contract) sum. Bonds are to protect the bondholder in case of default but, if things go seriously awry, then 10% is certainly insufficient recompense to cover the additional costs, which an employer may incur. In this respect, one then questions why an employer should have a bond with a 10% limit, or whether the bonded sum should be larger.

Rather than increasing the bonded sum to say 20 or 25% to reflect the risks of serious mal-performance by a main contractor, a more proactive approach to obtaining satisfaction and security is the selective choice of a contractor with a good reputation, a sound financial history and a realistic competitive price. This approach is to be preferred to the appointment of an unknown company that has slashed its price below cost but offers a 10% on-demand bond as security for its performance.

When it comes to main contractors, then through bonding from employer ⇒ main contractor ⇒ sub-contractor is a commercially unviable means of underwriting risk.

Take, for example, a \$100,000,000 contract where the main contractor provides an on-demand bond for 10%, i.e. \$10,000,000. The main contractor sublets a critical construction activity to a sub-contractor for \$20,000,000, which the sub-contractor provides to the main contractor a 10% bond, i.e. \$2,000,000. The sub-contractor defaults to the tune of \$5,000,000 and the main contractor makes the maximum demand under the sub-contractor's bond and receives \$2,000,000. The sub-contractor immediately goes into liquidation so the main contractor cannot recover the other \$3,000,000. Under the main contract, the sub-contractor's failure causes the main contractor to default and the employer calculates the liquidated damages to be \$14,000,000. The Employer makes the maximum demand on the main contractor's bond of \$10,000,000 and retains the other \$4,000,000 from payments otherwise due to the main contractor. The main contractor is, therefore, \$17,000,000 out of pocket and with no means of recovery. Therefore, in this example, the main contractor's bond was of very limited use and the main contractor would have been far better off if he had chosen a reliable sub-contractor and managed the critical works in a more pro-active manner.

A far better solution to larger bonds, to ensure performance and minimise the risks of delay, are diligent management, the choice of the right contractor / sub-contractor, equitable risk sharing and an adequate price.

7. A DEMAND UPON AN ON-DEMAND BOND

As there is no contractual machinery under most contracts or bonds for a contractor to recover any demand made upon an on-demand bond, a demand by an employer upon such a bond is often the catalyst for a notice of dispute (arbitration) or the start of a court action.

In a recent instance, a main contractor made a demand on a \$4m bond and this proved to be the catalyst for a notice of arbitration whereby the sub-contractor claimed \$50m, only to receive a counter claim from the main contractor for \$300m. Of course, there was no guarantee that the arbitration would not have occurred had there not been a

demand on the bond, but such demand, in that instance, was certainly the catalyst for the arbitration notice.

8. OTHER TYPES OF BONDS

In addition to the usual bonds referred to at the start of this article there are retention bonds and advance payment bonds. These types of bonds are self-explicit.

In the UK, where a law was enacted to introduce adjudicators for deciding contractual disputes whilst work was still in progress, a recent development was the introduction of adjudication bonds whereby an adjudicator has to consider and decide upon the merits of any demand on such type of bond. This seems to be a step between performance and on-demand bonds but, obviously, an adjudicator can decide upon demands made under performance bonds, and, in the case of on-demand bonds, can order the refund of an illegitimate demand on such a bond.

9. THE FUTURE OF BONDS

If contractors and sub-contractors began pricing in their tenders, the true cost of a bond, particularly on-demand bonds, then employers' attitudes to bonding may change. However, whilst contractors and sub-contractors make either low or no financial provision in their

tenders for the delivery of a bond then there are no commercial reasons why employers should stop asking for bonds.


Further, whilst bonds can be arranged as described under the heading "funding on-demand bonds - through the contractor's bank" it appears that sureties will still offer on-demand bonds.

CONCLUSIONS

The wording of any bond, particularly an on-demand bond, should be clear, unambiguous and crisp in its obligations. An on-demand bond should be brief and contain no provisions that can be construed as conditional; otherwise it will be treated as a conditional performance bond.

A bond should not have a fixed expiry date in case of delays and prolongation. If a bond has a fixed completion date then the employer will find himself without the limited protection available from the bond once the date has passed.

Whilst contractors and sub-contractors continue to quote low, or no, prices for bonds in their tenders, then employers should continue to obtain bonds and an on-demand bond is to be preferred to a conditional performance bond due to the readily available access to the bonded sum.

For further information please contact bera@netvigator.com 

Feature



FOREIGN REAL ESTATE FUNDS ARE ON THE PROWL

THERE IS AT LEAST ONE GOOD THING IN THIS PROPERTY DOWNTURN. WE HAVE SUCCESSFULLY DRAWN A TIDE OF FOREIGN INVESTMENTS INTO OUR REAL ESTATE MARKET. BUT HONG KONG NEEDS TO DO MORE TO KEEP THE MARKET MORE ATTRACTIVE.

Jim Yip AHKIS MRICS, Senior Property Analyst, Asia Financial (Securities) Limited



In June 1997 when the property price rose to a dizzy height in the run-up for the Handover, local developer Lai Sun paid a staggering price of \$7bn to acquire the Furama Hotel in Central. Three years later in 2000, a consortium led by AIG bought a 65% stake of the development for only \$1.88bn.

The episode in the Furama Hotel site tells the misery and mayhem of the property bust. Aggressive players were punished as their bets during the market boom went horrendously wrong. The property deal also highlights the growing influence of foreign real estate investment funds in our investment market, which was once dominated by local investors and developers before the 1997 property crash.

A TIDAL WAVE

Some of the landmark deals in recent years have been snapped up by the foreign investors. For example, Singapore Government fund GIC bought the Grand Millenium Plaza and 15 floors in Cosco Tower plus 52 carparks for \$2,644mn last year. Australian property fund Lendlease acquired the Royal Cliff, a luxurious residential development in Repulse bay, for \$1,585mn earlier this year.

Hong Kong's strengths

- Market begins to offer prime assets at attractive yields -unlikely to be seen in pre-1997 property crash
- Our transparent and reliable legal framework, simple property transaction mechanism and clear ownership title - favorable for property investment
- Low tax regime and no capital gains tax
- No control on foreign ownership
- No currency control and free flow of capital
- High liquidity for good properties
- Fund raising capabilities in public and private markets
- A large pool of real estate professionals
- Access to information
- Gateway to China market. More foreign funds are investing in the fast developing PRC property market. Hong Kong can provide a professional real estate service to serve these funds.

According to a study by DTZ Debenham Tie Leung, overseas real estate investment funds have invested in Hong Kong market amounting to HK\$13,669mn since May 1998.

"Hong Kong property is like a shining pearl to foreign investors. Property price has come down quite drastically since the Asia Financial Crisis; investment yield has improved and become attractive. For prime assets it can now achieve as high as 7 - 8%. At the current low interest rate environment a geared acquisition can still end up with a net positive yield - that is an important market signal to foreign investors", says Mark Hahn, head of Investment with DTZ. Mark handled the sales of two luxurious residential developments last year: the \$323mn sale of Pacific View in Island South and the \$250mn sale of the 9 duplex units in Royal Court in Mid Levels to the GIC from Singapore.

Wary of skyrocketing property prices and unjustified valuations in the 1995-1997 boom, most of the foreign funds stayed put in that period. But the property bust in recent years has presented a golden opportunity for them to enter into the Hong Kong property market. Even the 911 terrorist attacks and a murky economic outlook failed to dent their hope of foraying into the Hong Kong market.

IP Property Fund Asia, a property majority-owned by ING Real Estate, announced its debut purchase of 10 apartments in South Bay Palace for \$144mn at the end of October. It was the first major acquisition by the foreign fund after the 11th September incident.

"Our fund initially targeted property investments in Asia Pacific countries like Thailand and Philippines. Hong Kong market was not included. But because of the depressed property markets in the region, we came to Hong Kong late last year," says Eng Chong Oh, director of ING Real Estate (Asia).

THE PEARL OF ORIENT

"Hong Kong property has its intrinsic beauties. Land supply is scarce and population is growing. Luxury properties will be constantly in high demand. In the office sector, due to our conventional 3-year commercial lease structure, rents and office yields are inevitably volatile. The rental reversion cycle is a mirror to the economic performance. We are now at the trough of the cycle. Buying in the office market now will have very good upside potential when there is a turnaround in our economy," says David Holdsworth, managing director of the asset management company Pamflet (HK) Ltd, which manages property portfolio of the former Jardine Fleming JF Property Fund.

"Amongst the property markets in the world, Hong Kong property probably has the highest liquidity. Property transaction can be done very efficiently. We have a good legal framework, a clear and simple set of law on ownership titles; tax in Hong Kong is low, there is neither tax on capital gains nor control on foreign ownership. Our market structure has been very favorable to foreign investors," says Mark Hahn. Mark had spent three years in the mid-90s in the Taipei investment market.

BENEFITS WITH THE FOREIGN FUNDS

Foreign funds bring in new market liquidity into the Hong Kong real estate market. Those once aggressive local players had become debt-ridden and retracted from the investment market. Some even had to rely on paring down their assets to keep the bankers at bay. Foreign funds have since played an important role to fill the market vacuum.

But they do more than just putting in money, collecting rent and sitting tight for the next up trend in the property cycle. Most of these property

Benefits from promoting HK's real estate investment market

- Inject new market liquidity by attracting foreign investors
- Change our investment culture from trading for quick money to capital appreciation through active asset management
- Place more emphasis on property research, building design and property management in enhancing investment returns
- Strengthen HK's financial position
- Funds make use of HK's position as a springboard to China property market
- Provide more job opportunities in real estate sector and its associate service sector.
- Export Hong Kong's professional real estate service

funds are managed by the experienced property professionals. They actively look into ways to add values and enhance returns in their assets.

Grosvenor Land Property Fund, a joint venture between Hong Kong Land and UK property company Grosvenor Estate Holdings, bought six townhouses in Peel Rise at the Peak for \$207mn last year. They renovated the development with higher quality finishes before renting it out. "The development is now fully let. Because of the facelift work, we achieved rentals better than our expectation," says John So, CEO for the fund.

Foreign funds in general hold the properties for a long-term investment purpose and rental incomes are an important source of their profits. In a mature property market, the growth in property asset value lies in the strength of the rental incomes generated from the assets, which can be enhanced by an active management approach. It is expected that with more foreign funds participation, the mindset in our local investment market will be transformed from a speculative type to a prudent, yield-based investing culture. Investors place priorities on property research, quality building design and asset management, which will lead to more career prospects for local real estate professionals.

OPPORTUNITIES FOR HONG KONG

Not all foreign funds in the region are investing into the Hong Kong property market. Rodamco Asia, a property fund listed in Amsterdam, is one good example. It manages a property portfolio valued at \$4,643mn and has investments in most of the major cities in Asia Pacific such as Seoul, Singapore, Beijing, Manila, Bangkok and Jakarta. Although it is based in Hong Kong, it has not yet made a foray into the local market.

"We do not rule out possibilities of investing in the Hong Kong market in the future. We look for investments with high investment yields and strong growth potential", says Freddie Chua, director of Investment Management at Rodamco Asia.

In October this year, Freddie had just sealed a deal to buy a whole block of commercial building, called POS Plaza, in Pudong Shanghai for \$1,230mn.

More foreign funds are expected to increase their investments in the China property market, capitalizing on the vast opportunities opened up by its recent accession to WTO and the 2008 Beijing Olympic Games. Because of Hong Kong's proximity to PRC China, Hong Kong has the advantage to serve as regional headquarters for these foreign funds.

Two strategies:

- Attract more foreign Real Estate Investment Funds to invest into the Hong Kong market
- Promote Hong Kong as regional headquarter for those funds which invest in Asia Pacific region

While the Hong Kong real estate market has its strengths in attracting foreign investors, Hong Kong still needs to do more home works in the market place and clear the blocks which would prevent the greater penetration of these foreign funds.

CONSTRAINTS IN OUR INVESTMENT MARKET

(a) A dearth of good investment properties

One stumbling block for greater participation from the foreign funds is lack of good investment properties. Even if there is a prime property on offer, the local vendor is asking at unrealistically high price. "The developer for the IFC once indicated a asking price at above \$12,000 p.s.f., which is unjustified at current market condition," says David Holdsworth.

"As an international property fund, we do comparison on investment yields with other cities in a world scale. We can only go into the Hong Kong market if the yields in the properties prove competitive and comparable to others cities, though it may enjoy a small yield premium", says Eng Chong.

"Most of the prime properties in Hong Kong are owned by cash-rich developers and wealthy families. They would not part their assets unless someone pays lofty prices. It is difficult for these funds to have a larger play in the Hong Kong market unless they can turn themselves as developers," observes Raymond Ngai, a property analyst with JP Morgan.

(b) Conservative banking policy

Property funds are allowed to assume debts to increase their investment and portfolio size. Rodamco Asia could leverage up to 50%

Obstacles

- A dearth of good properties at prime location, unless the fund can turn themselves into developer
- No attraction of tax exempt status for REITs, avoiding dual taxation to trust holders (actually this is not a big issue in HK. Though HK Land pays 16% corporate tax, shareholders pay no income tax on the dividends received)
- No tax incentive for Real Estate Funds whom set up operations in HK, Singapore has a 10-year tax-exempt benefit.
- Existing barriers in our land lease, DMC and management issues, SFC rule for fund listing, accounting treatment.
- Conservative banking policy - over-reliance re-course loan agreement. For international property fund parental guarantee is usually not available.
- Not yet develop a real estate securitisation market.

on its total assets whereas the IP Property Fund could borrow at a debt-to-equity ratio of one-to-one for further investments. Returns on investments can be enhanced through a careful allocation of debt and equity funding.

"Compared with other markets, banks in Hong Kong are very conservative in lending to property funds. They would not readily lend on a non-recourse loan basis. But for a multinational company and an international property fund like us, parental guarantee is usually not available," says Richard Yuen, head of Investment North Asia, AIG Global Real Estate Investment (Asia) LLC.

(c) Development of securitisation is far behind our counterparts in the region

The developments on Real Estate Investment Trust (REIT) in Asia ex-Australia have grown rapidly in recent months. In September this year, the first two J-REITs were listed on the Tokyo Stock Exchange. They were issued by two developers Mitsui Fudosan and Mitsubishi estate.

In Singapore, CapitaLand, the Singapore's largest developer, set up a Singapore Property Trust (SPT) by injecting three shopping malls into the trust. Unfortunately due to a lukewarm market response to the \$2,263mn offer of the SPT, the initial public offering for what would be the first S-REIT was called off in November.

"A REIT market can create fresh liquidity to the real estate market and it will help foreign real estate funds to raise funding from the public market. In terms of development, Hong Kong has lagged behind its neighbors", says Mark Hahn.

John Pattar, Lend Lease Real Estate Investment's Asia Chief Investment Officer, doubts Hong Kong would have a market for REITs. "US and Australia have a well established market for REITs. The formation of a REIT has a tax incentive benefit because REIT does not pay tax at corporate level provided it pays dividend over 95% of its earnings in cash. But Hong Kong has no tax benefit for REITs," he says.

In fact, Hong Kong's corporate tax rate is already low, at 16%, and shareholders do not pay tax on the dividends received, which gives almost the similar tax incentive environment as for the REITs in overseas markets.

John So of Grosvenor Land echoes Pattar's view. He adds: "The overseas REITs markets give investor choices of investments: retail, office or residential or geographical choices such as the East Coast or the Western Coast in the US. Property companies in Hong Kong have already given the similar selection: If you like office, go for HongKong Land or Great Eagle; Retail portfolio, look for Amoy or Swire; You can also choose Wharf for its Tsim Sha Tsui portfolio or Hysan for its exposure to Causeway Bay. Also if you look at the past performance on dividend payout ratio and dividend yield of these companies, some of these companies have operated more or less like a REIT."

Table 1: Hong Kong Major Property Investment Companies Dividend Payout Ratio and Dividend Yield

	Area of Strength	Average Dividend Payout Ratio in the Past 5 Years	Dividend Yield
Great Eagle	Office portfolio	27%	3.16%
Amoy	Retail portfolio	65%	5.00%
Swire Pacific "A"	Office and retail portfolio	47%	3.22%
Hysan	Causeway Bay landlord	58%	5.94%
Wharf	Tsim Sha Tsui landlord	86%	1.87%
HK Land	Central landlord	92%	5.52%

Source: Asia Financial Securities Ltd.

The average payout ratio in the past five years for HongKong Land is 92% and the current dividend yield is 5.52%. The dividend yields for Amoy and Hysan, two property investment companies, are 5.00% and 5.94% respectively.

David Holdsworth fears that local investors may not be too receptive to the REIT investment, whose return is much dividend-based and tend to be stable. "When I was with the Jardine Fleming Group, we tried to market our Property Fund to local investors but they preferred investing directly with their own moneys in the property market," he says.

AIG's Richard Yuen's view towards development of a REIT market in Hong Kong is more positive, citing that given the current low interest rate environment, investors will favour high-yield investment like REITs. "Banks will have one additional access to get rid of the non-performing loans. They can pool their foreclosure property portfolios into a REIT structure and sell them to the market," he says.

The reason for the rapid development of the REIT market in Japan and Singapore is that it is led by the developers who look for asset divestments. "Hong Kong developers are unlikely to follow the trend. Currently they are well capitalised and valuation is another issue. A large discount to net asset value will simply discourage developers to issue REITs," says David Holdsworth.

Last month, Sun Hing Kai Properties announced to pool 15 luxurious properties into one brand name "SIGNATURE HOMES". The initial intention looks mainly for providing better leasing and management services in the portfolio. It is yet to know whether the developer will turn it into a residential REIT in the future.

"I think Hong Kong does have an inherent advantage for a REIT market because of its political stability, financial infrastructure, legal infrastructure, and established expertise in the real estate sector. Furthermore, Hong Kong is more internationalized in terms of its real estate sector as many consultants have done jobs outside of Hong Kong," says Alan Cheung, development manager of Swire Properties. Prior to his present position in Swire Properties, Alan was a real estate financier in North America.

WHAT MAKES THE DEAL TICK?

Besides efforts to improve our market structure, Tony Tse, the chairman of HKIS General Practice Division and director of Emperor International Holdings, the developer who had sold units in South Bay Palace to two foreign property funds i.e. IP Property Fund in October and GRA last year, believes the professionalism of our real estate people is also important. "In dealing with foreign investors, developers need to

provide a comprehensive after-sales service. We help them find tenants and monitor the standard of the estate management," he says.

The quality of the development is also important. Earlier this year Rodamco Asia increased its stake from 40% to 60% in Maple Garden at Beijing Riviera. Maple Garden is a prime residential development in Beijing and is managed by HongKong Land, which has a 40% interest in the development.

David Holdsworth: Hong Kong' Perennial Bull

David Holdsworth, a chartered surveyor from UK, is a pioneer in real estate fund management in Hong Kong. In 1990, after nine years with Jones Lang Wootton as Head of Property Research, he was appointed as the asset manager for the Jardine Fleming's JF Asian Realty Inc, the first pan-Asia direct Real Estate fund in Asia. The fund had major shareholders from Europe and Middle East who were lured by the high returns offered in the Asia Pacific real estate markets such as Hong Kong and Singapore.

One property broker said the fund led by Holdsworth was once an active player in the investment market. Holdsworth himself was a shrewd property trader. Riding on the office boom in the mid 90s, he bought several floors in the Bank of America Tower and disposed them off immediately on a strata-title basis, with a handsome profit.

In 1997 the property price had gone crazy. Holdsworth decided it was time to exit from the Hong Kong market. From early 1997 to mid-1998 they sold off their property holdings. The relentless disposal, sales price at one time was 15% from the 1997 market peak, raised market eyebrow and drew critics that they had sold assets too cheaply. In the end it turned out Holdsworth was right. The property price went further down from then.

Currently, Mr. Holdsworth is the managing director of the Pamfleet (HK) Ltd., which was formed after the management buy-out of the Jardine Fleming's JF Property Management and JF Property Services Ltd in last year. He is very optimistic on Hong Kong's future and the real estate market. "Hong Kong's position as a regional financial centre remains unchallenged. Compared with other countries in the region which I also have property investments, Hong Kong has an unrivalled market system and the rule of law and it will continue to attract foreign investments," he says.

He believes the government's new immigration policy will attract more foreign talents coming to Hong Kong and he is bullish on investing in luxurious residential sector.

Send your comments to jimyiphk@yahoo.com

Feature



China's Accession of World Trade Organization and Impacts to the Real Estate Market



Yu Kam Hung



Wesley Chan

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

After 15-years of effort for the marathon of negotiations, China finally sees the light at the end of tunnel in its endeavor to join the World Trade Organization (WTO). China's imminent entry into the WTO has long been regarded as a blessing to the real estate market in the PRC.

BACKGROUND OF WTO AND CHINA'S ACCESSION

The World Trade Organization (WTO), is a global international organization, established on 1 January 1995, which is the successor to the General Agreement on Tariffs and Trade (GATT) established in the wake of the Second World War.

With 142 countries as members, WTO deals with the rules of trade between nations. The main functions of the WTO are administering WTO trade agreements, holding forums for trade negotiations, handling trade disputes among nations and of course, monitoring national trade policies. More importantly, it co-operates with other international organizations and provides assistance and training for developing countries.

China was one of the founding nations of the GATT launched in 1947. In 1986, China formally applied for reinstatement as a signatory state in the GATT, so as to make its foreign trade conform more to international practice. During this period, China had lowered its import tariff rates on several occasions and realized the convertibility of Remminbi in regular items. Over the past 15 years, China's enthusiasm for acceding to the WTO has never flagged and it has put its commitments into practice.

THE ENTRY OF WTO BRINGS THE CHANGES OF ECONOMY

For its accession of WTO, China has to follow the two core principles of WTO, namely non-discrimination and national treatment.

The non-discrimination principle dictates that China cannot impose one level of barriers against one member country and another level for others while the national treatment requires China to treat each WTO member equally. All individuals and organizations involved in foreign investment will enjoy at least the same treatment as Chinese enterprises regarding the rights of trade. Besides these core principles, China has various major obligations to bear following its WTO entry.

China's accession to the WTO is deemed positive to its economy and the impacts are expected to be long term. Following the principles of the WTO, the China Government has to sooner or later carry out her institutionalized reforms. Such reforms would help to simplify and unify the existing legal and trade system in the PRC.

As China will improve the transparency of its trade regime to meet the standards set by the WTO, more foreign investors will seek to invest in Mainland China. It has committed itself to fasten the economic reform and open up the market than before. It is likely that the impact will be gradually spread amongst businesses. Financial services, telecommunications, distribution and logistics, information technology and other professional services industries are likely to be the significant winners.

UNIQUENESS OF LAND MARKET IN THE PRC AND THE NEW OPPORTUNITY

Following the establishment of the People's Republic of China in 1949, one of the important features of the PRC land system had been that land became centrally owned by the state. All Land Use Right was obtained through allocation by administrative or other non-market means. Under this system, the use of urban land was virtually free of charge in China.

Since 1979, the PRC Government has started to adopt its "open policy" on various aspects. By the introduction of land reform policy, it has used market mechanism to regulate the land uses. Since then, there have been three main categories of land ownership in China namely:

1. Rural land, which is allocated collectively to the peasants without specified time period;
2. Urban land owned by the state and allocated to various work units; and
3. Leasehold land owned by the state and its land use rights are sold to the users for a certain time period.

In the past 20 years, only a relatively small portion of land was granted. So, secondary land market was almost non-existent. The supply of land was highly controlled.

Due to the complication of the PRC land system and the associated restrictions, land development industry was dominated by the local enterprises.

After entry into the WTO, in the long term, it is expected that foreign investors will participate in the local real estate development market by the following channels: -

1. Invest capital in a local developer;
2. Invest capital in a foreign developer for specific PRC development projects;
3. Directly invest capital as a real estate developer in the PRC by way of Joint Venture or sole proprietary.

REAL ESTATE DEVELOPMENT COST VS. PRICE LEVEL

Development cost consists of construction cost and land cost. A lower tariff helps to reduce the development cost since most of the medium to high-end materials and construction machinery, such as interior decoration materials and elevators products, are imported.

For the land cost, it will increase due to its limited supply and the rising demand for land after entry into the WTO. In short term we expect that these two factors would offset each other and the development cost would be maintained at a stable level.

IMPACT ON SUPPLY OF REAL ESTATE

Upon entry into the WTO, China will certainly increase the transparency in its construction and real estate market and reduce different tax rates. It will also facilitate rationalization and standardization of construction industry, thus reducing the non-operational investment risks. This will ultimately enhance foreign investor's confidence in the PRC market.

We expect that the supply of real estate would increase so as to meet the rising demand.

IMPACT ON DEMAND OF REAL ESTATE

1. Office Sector

Though the effects will take time to filter through, China's entry into the WTO is expected to stimulate demand for office. Strong demand will mostly come from the banking, insurance, accounting, legal and telecom sectors, as they are the major beneficiaries. After accession to the WTO, existing barriers will be gradually removed. Foreign enterprises will have greater access to the PRC market. We believe more foreign companies will come to the PRC or expand their operations, this will translate into a surging demand for office.

Cities including Beijing, Shanghai, Shenzhen, Guangzhou, Chongqing and Chengdu and most of the region cities will benefit most.

2. Residential Sector

For the residential sector, the expatriate housing market will be positively affected. The wave of new companies coming to the PRC will likely bring in more senior expatriates and as a result, a stronger demand for residential housing, especially in the luxurious residential sector.

Currently, it is common that non-PRC residents pay a higher land premium and management fees for residential properties. However, such restrictions will be eliminated after the accession. Such removal of unequal terms for residents and non-residents will encourage foreign ownership and investment on the residential market.

IMPACT ON REAL ESTATE FINANCE

In retail banking, opening the market to foreign financial companies

will benefit the home mortgage market. Upon entry into the WTO, China will further deregulate its financial market in some of the key cities to allow financial agencies to provide services to the local people. This will result in more diversified financing channels and strengthen the development of a construction insurance and home mortgage market.

In order to protect their market share in anticipation of an intense competition ahead, local banks are expected to embark on major expansion plans. These banks may choose to either merge into bigger entities and leverage on each other's competitive advantages or seek public listing to fund their expansions.

In the area of corporate banking and merchant banking, the development in the PRC is still in an infant stage. The WTO effect, in our view, would accelerate changes in areas like Syndication Loan, IPO, Securitization, etc.

IMPACT ON REAL ESTATE SERVICES INDUSTRY

After accession into the WTO, the development of real estate services will be a key growth area.

Compared to other countries, the development of real estate services, such as estate agency, appraisal and professional consultancies, property management and legal advisory, in the PRC are still unsophisticated. Many of the local estate agencies and consultancies are operated relatively on a smaller scale and are less organized.

Taking advantage of the simplified business system after entry into the WTO, foreign real estate consultancies will no longer operate under a joint venture basis. They are expected to be more aggressive to set up their representative offices so as to expand their market share.

Keen competition is inevitable. It will help eliminate the non-competitive companies. The sector will be benefited with a higher standard and more comprehensive real estate services.

CONCLUSION

In summary, we expect that PRC's entry into the WTO will bring a faster reform in the real estate market in the near future. It will push China to adopt more open policies to attract foreign investments in the real estate market. Intense market competition is expected and it will profoundly change the real estate sector. In the end, the whole sector will be benefited. ■



THE EUROPEAN BANKING SECTOR

Peter Reichenbach
Chief Investment Officer
Gottardo Asset Management (HK)



HIGHLIGHTS

- Even before the terrorist attack on the WTC, the banking sector was falling due to negative economic expectations.
- After reaching pessimistic lows on 21 September, the sector recorded a strong rebound. The market will probably move sideways in the near future.
- We expect a slow growth - slow inflation scenario for Europe. The banking sector is already discounting tough economic conditions and the risk premium is close to 1992 levels after the recent rally.
- Our Euroland Recommended List includes BNPP, Fortis, San Paolo IMI, and Deutsche Bank. We see interesting potential in Unicredit, Nordea, RBoS, BBVA, and ABN AMRO.

INTRODUCTION

Our aim in this report update is to assess the European banking sector's medium to long-term potential in the wake of the terrorist attack in the US. We will look at the year ahead using a top-down approach. Finally, we will briefly review our universe and adjust our price targets to the new scenario.

As the graph below shows (Figure 1), prior to the tragic events, the banking sector had suffered a significant decline and relative underperformance due to fears of a recession. The WTC dramatic events have certainly reinforced such feelings, and the market has pushed the banks even lower both in absolute and relative terms. The banking sector has bounced back since the very pessimistic 21 September lows.

Prior, to the terrorist attack on the WTC, the downward revisions of earnings estimates had been driven mainly by capital market revenues, and not by credit quality. Lower markets and a weaker economy will keep both themes in investors' minds with credit quality gaining importance as recently witnessed (exposure to airline industry) and forcing primary analysts to upgrade their estimates on provisions for loan losses. The "retail domestic" banks with little exposure to the US, emerging markets, or capital markets have recorded a relative outperformance, although this gap has decreased since 21 September.

Banks suffer from low visibility during uncertain times, and investors are generally wary of the blind asset pool the sector carries on its balance sheet. Current weaknesses offer investment opportunities. We are confident that our sector outperformers will produce positive investment returns on a medium to long-term horizon for investors able to look through the current economic downturn. The bad economic news is no secret to anyone and a great deal of the bad news has been discounted by the market (lower stock prices, higher equity risk premiums, EPS downgrades, increased provisions for loan losses, etc).

TOP DOWN APPROACH

We use a top down approach to evaluate the impact that the terrorist attack on the WTC will have on the banking sector, and we focus on the following issues:

1. Economic conditions;
2. Monetary conditions;
3. Corporate earnings; and
4. Valuation of the sector.

1. Economic conditions: negative but discounted

The tragic events in the US will probably lead the US economy into recession, and this will have a negative effect on Europe. We are forecasting two difficult quarters ahead and a pick-up in the economy during the second quarter of 2002. We expect a low growth - low inflation scenario for Europe. Prior to the attack on the WTC, the European banking sector had been drifting down due to negative economic data issued at the end of August, which increased fears of a recession. The tragic events of 11 September pushed the banking sector even lower. During extremely uncertain times and economic downturn, the banking sector is under pressure, as investors are unwilling to hold banks due to fears of dramatic increases in loan-loss provisions. However, the market is largely discounting the bad news (see corporate earnings and valuation).

Banks' abs. and rel. performance since June 2001

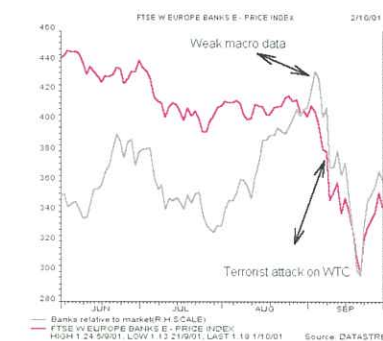


Figure 1

Banks' abs. and rel. performance in last 10 years

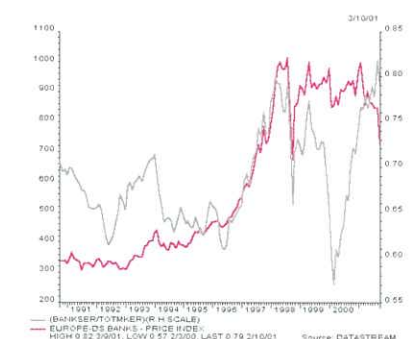


Figure 2

2. Monetary conditions: neutral to positive

Historically, long-term rates (Figure 3) have been driving the banking sector's outperformance, and not short-term rates. We believe that the current market conditions will leave bond yields flat to slightly lower (bond prices up) reflecting lower inflation concerns and weak economic activity.

Short-term interest rates have a different effect on different banking activities. Short-term rate cuts are positive for the capital market activities, and hence for investment banks, especially those with strong fixed-income businesses. The impact on retail banks is more mixed. A bank's interest result is the product of interest margins and loan volume. In Europe, cuts have historically tended to erode margins but boost demand for loan. However, depending on how bad the economic slowdown will be, volumes will be at risk this time, as banks have experienced strong volumes during the last two years. On the positive side, the high loan/deposit ratio forcing banks to seek financing more expensively via the capital market is coming down, as more individuals put their money in safer cash accounts.

3. Corporate earnings: negative but discounted

Following the dramatic events, primary analysts have downgraded (and still are) earnings estimates for 2002 and 2003 in a substantial manner,

which brings earnings expectations more in-line with the currently difficult economic conditions. Lower revenues from trading income (brokerage), management fees, lower loan volumes, and finally, higher provisions will negatively impact EPS. The market is largely discounting the current lower visibility. Although loan-loss provisions are currently below the early 1990s levels, we do not believe we will reach such levels. Banks have developed better risk management and provisioning systems.

Furthermore, during the early 1990s, the exposure was heavily biased to a single industry segment, i.e. real estate (c. 50% of total charges in many cases). According to UBS Warburg, "exposure to the indebted telecom industry is estimated at approximately 2% of the total loan book. We estimate that, on average, exposure to other single corporate segments is likely to be at or below this order of magnitude." Loan-loss provisions tend to rise in a recession year, or soon after, and to decline quickly thereafter. At the current levels, the market implied bad debt levels are above normalised levels and banks are well capitalised to ride our low growth - low inflation scenario. Nonetheless, the gearing in Europe is at a 10-year high and the sector swiftly and negatively reacts to any bad news on this front. Finally, costs will remain a problem for some banks and the cost/income ratio will deteriorate further.

Banks' relative-to-market and long-term bond performance



Figure 3

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Bond yield versus Banks' dividend yield in last 10 years

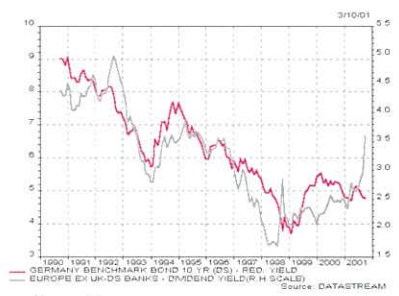


Figure 6

Bond yield versus Banks' dividend yield in last 3 months

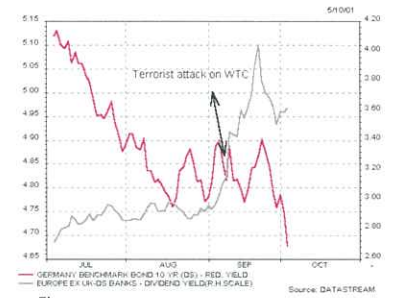


Figure 7

and most brokers have revised their numbers, usually the market bottoms out before analysts end their downward revisions.

Looking at the dividend yield increase after the terrorist attack (Figures 6 and 7), we see a similar pattern to that of 1992 (movement in opposite directions). The market has questioned the banks' capacity to keep their dividends at the current level. Unless the current conditions deteriorate dramatically, we believe that dividends will not be cut to the extent the market is currently pricing in (see appendix for dividend yields and dividend cover).

CONCLUSION

We think that the banking sector is already discounting a lot of bad news. In the short term, the volatility will remain high, and the 21 September lows might be retested. For this to happen, we would need a major recession in Europe or a disruption in the financial markets. We see the sector as undervalued at current levels and attractive for investors able to look beyond the current tough economic conditions. The market is currently pricing in a recession and any better outcome will be a bonus for investors. Our recommendation list includes BNP Paribas, Fortis, Deutsche Bank, and San Paolo IMI.

For further information please contact Peter Reichenbach at 2248 6860 or at peter.reichenbach@gottardo.com

Premium for the banking sector in last 10 years



Figure 4

of the sector: positive

Following the terrorist attack, the banking sector was already discounting a recession scenario. Following this dramatic event, the sector was even more so to reach a bottom on 21 September. In times of uncertainty for EPS, the price-to-book ratio can be used as a floor. In 1992, German banks were trading below book value, San Paolo and Unicredito were trading at 1.6x and 1.5x book value with better ROE and cost/income ratios.

The market bounced back. Even after the short rally in 1992, the sector still remains undervalued if we look at the premium (Figure 4). Indeed, we are at '92 recession levels and facing a LTCM crisis.

Volatility is high, the sector tends to be oversold, and it usually presents investment opportunities. It is difficult to predict if we will retest the 1992 lows on 21 September (see appendix table). In 1992, the market found its lows. In the short term, the news flow is going to be more positive. However, the bad economic news is no longer gone and the market is strongly discounting it. Current conditions are not attractive for investors looking beyond the current downturn. The stock market is a discounting mechanism for the economy. Analysts' expectations have come down.

Premium for the banking sector in last 3 months

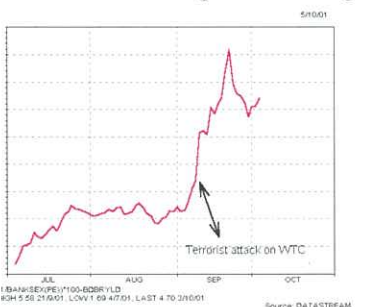


Figure 5



SURVEYOR'S SURF

Stephen Chung, Zeppelin Real Estate Analysis Limited

Watched the movie "A.I."? In case this is new to you, "A.I." stands for artificial intelligence and is a subject that had been contemplated by the late prominent movie director, Stanley Kubrick (who directed films such as "Space Odyssey 2001", "Full Metal Jacket", "Shining" etc). Steven Spielberg eventually picked up the project in memory of his good friend. In the movie, there was this scene where the lead character, a sort of robotic son of a human couple, realized that he was NOT the only one that had been made i.e. he realized he was not very unique after all. He got somewhat depressed and actually 'killed' one of his own kind (another robot which looked exactly like him). This reminded the author of quite a few websites and portals = they all claimed to be the best and unique, yet they showed basically the same news and information. Duplication is plenty while differentiation, except for the domain names, is a rarity. Eventually, they finished off one another by saturating the market. Here, we have found some of the rare ones:

a. <http://www.allchinadata.com/english/investment&real%20estate.htm>

This site belongs to a market research and consulting group with a focus on China. It also offers some useful but free data for reference, part of which has a focus on real estate investments. Good for obtaining an overall macro and brief impression. Part of the data also dates back to the 1980s.

b. <http://ce.cei.gov.cn/region/Chinamap.htm>

This site is called China Economy and is a part of the China Economic Information Network. This page in particular carries a map of the provinces and major cities of China and when one clicks on them, the basic economic data related to the place selected will be shown. A good nifty one for getting fast data for reference.

c. <http://www.websanko.com/index-e.html>

This site belongs to Sanko, a real estate services company in Japan. It focuses on Tokyo and its office market. The site contains thus some very useful information and data on the Tokyo office sector and should be of help to those contemplating investments there. The content is in English.

d. <http://www.irr.com/marketperspectives/index.html>

This website belongs to Integra Realty Resources, a real estate research and consulting company. It features a section on market perspectives

offering summarized easy to read articles on various USA property sectors. Good for those with research or academic needs.

e. <http://www.prea.org/default.html>

This is the Pension Real Estate Association's website and its members are mostly involved in investing tax exempt pension and endowment funds into real estate assets. The association is also engaged in education and publication, and readers may wish to review some of the articles contained therein. They give one a good analytical view of the USA real estate structure and markets.

f. <http://www.tcnworldwide.com/eresources.cfm>

This site belongs to TCH Worldwide offering a global resource and networking access to the more local real estate brokers and consultants. While certain portions of the site remain to be updated or completed, the 'financial center' offers an interesting search facility to project developers and consultants seeking funding. Also, there is some useful information in its various market sections.

g. http://www.trintabs.com/charts/historic_data.htm

This site offers research and investment services on mutual funds and proclaims its founder as the originator of the liquidity theory. It contains sections on mutual fund flows and news, and offers subscription service to its reports etc. It also has a section on brief historic macro data related to the finance and mutual funds.

h. <http://www.thestreet.com/tsc/glossary.html>

This is part of the 'The Street' website and offers a comprehensive glossary of financial related terms and words. The glossary basically contains 4 sections: markets, stocks, funds and A-Z. It is a good resource for those wishing to decipher more precisely the various news and analyses from the financial world.

Speaking of Spielberg, perhaps many readers would have seen 'Saving Private Ryan' (a WWII movie based on a true story with the 1944 Normandy Landing as background - an actual US paratrooper called Fritz Niland was sent home because all his brothers were killed though there was no indication of a rescue mission as depicted in the movie - later, one of the brothers believed to have been killed was found alive). Nonetheless, despite all the research, the attention to details and the like, there were still some (technical - including filming and historic) mistakes, albeit understandable. Which of the following is NOT one of those mistakes: [Who wants to be a M...?]

- a) In the movie, German Tiger tanks were deployed in the last battle scene. Yet, according to records, no Tiger tanks existed on that US battle sector.
- b) The bolt-type rifle used by Jackson, Captain Miller's (starring Tom Hanks) squad sniper carried only 5 bullets. Jackson fired more than 5 shots in a straight roll without reloading when he was up on the tower spike in the last battle scene. Actually, such spikes would have been bombarded in the first place (to make lookouts impossible).
- c) Captain Miller's squad started with 8 people (including the captain himself), and should have been reduced to 7 after a German sniper

got one of his men. Nonetheless, one panning scene with the squad walking across a field the next day showed 8 men still (a walking zombie or faulty editing?).

- d) A US paratroop brigadier-general, i.e. a 1-star general, was shown dead due to a faulty glider landing in the scene when Captain Miller's squad met some paratroopers in a rest area / drop zone. No US generals were actually killed on D-Day in the Normandy Landing.

Part of the above was obtained from and inspired by the web. The answer will be given later in the subsequent issue.

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

Book Review

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THE POWER OF POSITIVE THINKING

(ISBN 0-449-91147-0)

Author: Norman Vincent Peale

If you don't turn a deaf ear to Hong Kong's daily news, you will agree that Hong Kong is so short of good news these days. Each day's headlines are anything but cheerful.

Of the 100 or so books on my bookshelf at home, there are not many books influencing me so much as this one: The Power of Positive Thinking by Norman Vincent Peale. I could not remember when I bought this book (around HK\$50 at HK Commercial Press), but the first time I finished reading this book dated back to early 1990s. Since then, I have read this 224-page book again and again, and introduced this book to many friends and colleagues on all sorts of occasions.

In this insightful book, Dr. Peale offers the essence of his profound method for mastering the problems of everyday living. You will learn:

How to eliminate that most devastating handicap - self doubt

How to free yourself from worry, stress and resentment

How to climb above problems to visualize solutions and then attain them

Simple prayerful exercises that you can do everyday, throughout the day, to reinforce your habit of happiness

I think the key message from this book is particularly instrumental to many people facing today's situation in Hong Kong because so many people are sometimes thinking too negatively about everything including their financial situations, their jobs, their marriage, education of their children, etc. Why think negatively?

Thinking positively may not alleviate the burden of carrying a negative-equity asset, looming job insecurity, or growing personal troubles, but it might at least release you some energy and power to overcome hurdles.

SO LET'S THINK POSITIVE NOW!

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(ISBN 962-7723-28-2)

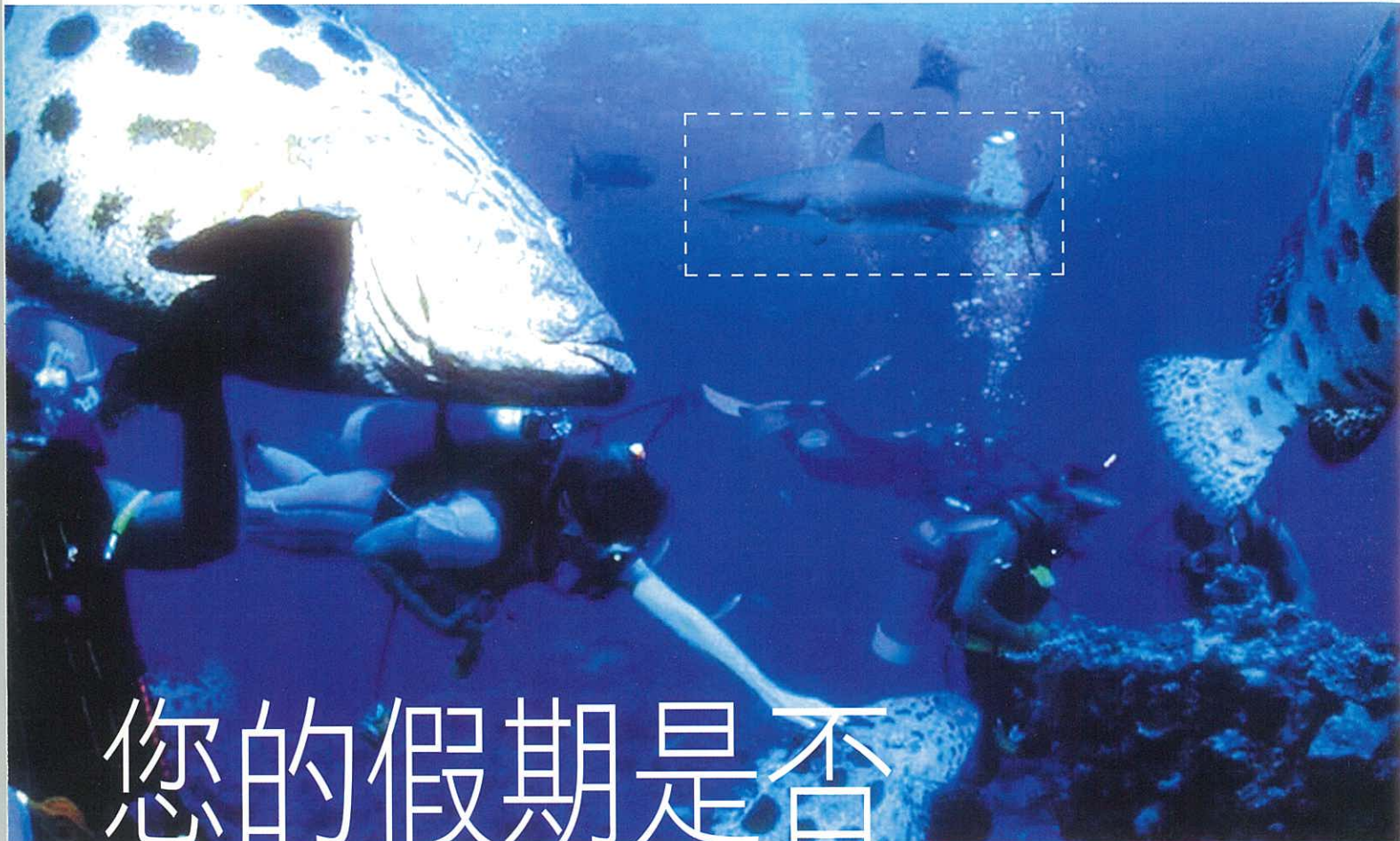
Author: Edwin H W CHAN, P. MOK and D. SCOTT

Publisher: Pace Publishing Ltd, Hong Kong

This book is the result of a collaborative research between an academic institution (HK Polytechnic University) and a professional body (the HKICM).

Over the last few years, various government departments have introduced a great deal of new development and construction legislations. It would be a mammoth task for a construction professional to plough through all relevant legislations in order to be familiar with them.

The authors have carried out a comprehensive review of relevant laws and provide a full overview of the regulatory framework related to construction practice. They have sieved through relevant statutory requirements and government practice notes covering all key stages of development and construction process. Key legal provisions and practice references are presented in a logical sequence in table format. The book would be a useful guide for construction professionals and those who are interested in the subject matter.



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