

# Shock and Awe

**N**othing was more shocking than the outbreak of the new form of pneumonia disease last month that has driven the society into a panic.

We were awed by the extent of the destruction it has wrecked on Hong Kong – schools were closed, events and flights were cancelled, tourists fled, consumers stayed home, airlines, hoteliers and retailers saw a sharp drop in business.

As the deadly virus continues the rampage, with unrelenting ferocity, the momentum of our economic recovery is stalled.

Hong Kong has endured many setbacks in the past five years – two recessions, one avian flu and growing budget deficits, and certainly the current one the biggest blow for us.

Out of the crisis may come despair, but crisis can lead to transformation.

We see heroes in this crisis – our doctors, nurses and medical workers. They are battling hard at the frontline.

If it were not for their sheer dedication and personal sacrifice, the situation would be far worse. We wish to express our heartfelt gratitude to them.

We ask: Can surveyors have our own share of action in containing the crisis?

Yes, we have, especially when the root cause for the mass infection in Amoy Garden is related to the sewage system - its good design and proper maintenance right within the ambit of our responsibilities.

If anything, from now on, making every effort to create a green and healthy home environment must be our top priority, and it is what the society would least demand from us.

Green initiatives on buildings must not stop. And the green measures must not be seen as exploitation for more exempted GFA.

We must spare no effort to foster innovation in building design and facilities.

With courage and wisdom, we will overcome this crisis and we will have a better tomorrow.

**Jim Yip**

Hon Editor

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# Sewage system defects and Atypical Pneumonia

**H**KIS organized a press conference on 17 April 2003. The President Mr Kenneth Chan, Chairman of Building Surveying Division, Mr Raymond Chan and Past President Mr Samson Wong informed reporters from the media and newspapers including ATV, Cable TV, TVB, Apple Daily, Hong Kong Economic Times, Hong Kong Daily, Ming Pao, Oriental Daily, Sing Tao and Wen Wei Po, that the lack of maintenance and/ or improper alteration of the sewage and waste water drainage system of multi-storey buildings could lead to severe health problems. For example, to maximize the use of space, there has been a trend for owners to alter the bathroom in the house units by replacing bathtubs with shower cubicles/ trays. Very often, a shower base was constructed close to the floor and the u-trap

beneath the base for the prevention of foul gas and pollutant from entering the interior was omitted for convenience or cost saving. The result was that the interior of the house was connected with the common sewage pipes.

To assist towards preventing a large-scale outbreak of the SARS as in the case of Amoy Gardens, HKIS has started the service of providing free surveys to the drainage systems of buildings in Hong Kong. The first survey undertaken was a 30-year-old building located in North Point district and another one in Ngau Tau Kok area.




The President Mr Kenneth Chan (centre) together with Past President Mr Samson Wong (left) and Chairman of Building Surveying Division, Mr Raymond Chan addressing the media

# Land Survey Profession meeting Education



A delegation of six led by Mr Lam Li-wah, Chairman of the Land Surveying Division of HKIS, visited the Department of Land Surveying and Geo-Informatics, the Hong Kong Polytechnic University (PolyU) in the afternoon of 21 March 2003. Ideas were exchanged and explored on the following issues:

- ▶ long term training needs for the surveying industry;
- ▶ career development and job opportunities for land surveying graduates;
- ▶ possible cooperation between HKIS and PolyU in organizing CPD events and other activities, and
- ▶ invitation of HKIS practitioners to attend dissertation presentation and give talks on land boundary study cases.

The low rate of attempts of the Land Surveying and Geomatics Honours Degree graduates to become corporate members of the HKIS embarked vehement discussion on the issue “how to make HKIS more attractive to students”. According to Mr Lam, the Institution is looking into development plans of expanding more expertise in various fields such as Property and Facility Management; Project Management, Dispute Resolution; Environmental & Sustainable Development etc and students may find more varieties in their career opportunities. Regarding the grades of memberships, HKIS intends to create a technical membership grade with development path leading eventually to corporate membership. Prof Chen Yong-qi, also a Fellow member of the Institute, stressed that the degree education, including full-time and part-time programs, is an overall social need which the Department is striking forward to fulfill. Delegates and professors acknowledge the concomitancy of our missions – to foster land surveying professional talents and to contribute to the Hong Kong real estate industry and society at large. 



**The attendants of the meeting were:**

*Front row (from left to right): Prof Gold, Dr Li, TN Wong, Prof Chen, Lam Li-wah (LSD Chairman) and Dominic Siu.*

*Back row: Dr Ding, Steve Lam, Dr King, Dr Iz, Geoffrey Shea, Dr Chen, Dr Tang, Simon Kwok, Dr Mok, Dr Shi, Marvin Chau and WT Ng.*

## Matters Arising from *Lot Boundary Problems*




Reported by  
Kenny Chan

The JO PQSL Series in 2003 has been kicked off in style. Over 50 student members gathered at the HKIS conference room on 1 March 2003 for the first PQSL event of the year. Our speakers, Mr Lesly Lam and Ms Winky Wai, shared with us their valuable experiences in dealing with land boundary problems.

Winky first took us back to the 1900s and introduced us the historical backgrounds of land boundary records such as the Block Crown Lease, Demarcation Districts (DD) Sheets, "A" Sheets, "Green Key" and etc. She explained the limitations of these records in showing lot boundaries. Then, in the second-half, Lesly



further explained how these limitations and discrepancies in the old records cause problems or disputes by a few cases studies.

During the Q&A sessions, audiences from different disciplines raised a lot of questions, and our speakers shared their professional views with all of us. We thanked Lesly and Winky for giving us not only an informative talk but also an encouraging start for the 2003 PQSL Series. 

## JO Forum 2

# Building Enhancement



Reported by  
Jeremy Chow

The JO Forum 2 was not affected by the atypical pneumonia and it was held as scheduled on 12 April 2003. With support from more than 50 participants, three young BS student speakers, under the guidance of two forum moderators, Mr Kenneth Chan and Ms Rebecca Lo, conducted their first public presentation. Below is the summary of their presentations.

## Topic One - New Solutions to Water seepage in Public Estates

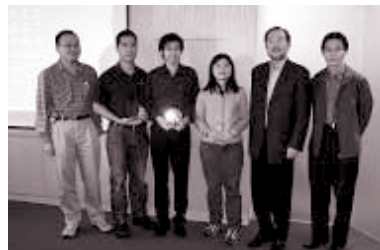
Water seepage problems becomes one of the most common defects in aged public estates. Steven Li from the Concord Property Management Ltd started the forum by introducing the causes of the defects. He then introduced different types of repair methods and examined the advantages and disadvantages of each method. He concluded the presentation by highlighting “understanding site constraints” and “cooperation with the occupants”, as the keys to building maintenance.



## Topic Two - Upgrading Fire Prevention Facilities in Old Buildings

Under the purview of some new fire safety legislations aimed to retrofit fire safety standards in old premises; upgrading fire services system in existing buildings becomes one of the most challenging tasks for building surveyors. George Cheung, who worked for the Housing Society, presented a case study to demonstrate how to handle a project of this kind through a series of logical analysis and judgment. He also highlighted

the difficulties encountered and areas of concern when upgrading fire prevention facilities in old buildings.



## Topic Three - Club House Renovation Project in Mid-Levels

Renovation work for a club house in a residential estate is not an easy task, and the task would be more difficult if the estate was located in Mid-Levels, as told by Tony Mun of Hong Yip Service Company. Tony explained some of the difficulties he had encountered in a project under his team's management. Many residents in Mid-Levels are professionals in various fields and in general they have higher, albeit sometimes unrealistic, expectations on property management services. According to Tony, all this only makes for the job more challenging and interesting. He said delivering customer satisfaction is the most important objective for a property manager, and it demands a lot of professional skills.

At the end of each presentation, our two moderators led the audiences into a series of discussions and debates on the topic presented. Besides sharing their experience and insights, forum moderators also provided feedback to the presenters on their performance.

JO forum provides student members an invaluable opportunity to make presentations in public settings. It also embraces a culture of interactive discussion with the audiences. We look forward to seeing you as our next speaker to share your project experience with us. Please contact JO Forum organiser Jim Yip at [jimyip@hkis.org.hk](mailto:jimyip@hkis.org.hk)

More JO event reports and presentation files can be downloaded from [http://www.hkis.org.hk/hkis/html\\_jo/index.jsp](http://www.hkis.org.hk/hkis/html_jo/index.jsp)


# The Land Titles Bill



**LEUNG Shou-chun**

FHKIS

Chairman of the Boundary Survey Advisory Committee

The Boundary Survey Advisory Committee has consolidated views from our members on the land boundary implication and influence of the Land Titles Bill. The General Council is in the process of formulating an official position paper. We shall refrain from giving further comments but, at this interlude, a humorous metaphor could aptly conclude the scenario. 



Notice to Members

## ***Student expelled***

### ***AU Wai Tak, Student B 81573, BS***

At the Disciplinary Board hearing on 13 January 2003, the Board held that Mr AU Wai Tak, a student (No. 81573) in the Building Surveying Division was found guilty of forgery of the signature of his former supervisor on forms relating to the Assessment of Professional Competence.

At the meeting on 20 February 2003, the General Council considered the decision made by the Disciplinary Board that Mr AU had conducted himself in a manner unbecoming a member of the Institute in breach of paragraph 1.1 of the Rules of Conduct and decided under rule 2.1.4 to expel Mr AU from the Hong Kong Institute of Surveyors, effective from 20 February 2003.

**Alex Wong**


Honorary Secretary  
20 February 2003

## **Missing Members' Contacts**

We have lost the contacts of two of our members. They are as follows:

- ▶ Mr Graham John CATTERMOUL, FHKIS 0552, GP
- ▶ Mr Arthur Edwin TARRANT, MHKIS 0370, LS

Anyone who has their updated contacts (e.g. e-mail address or phone no. etc.), please contact HKIS office at e-mail [memdept@hkis.org.hk](mailto:memdept@hkis.org.hk)

Thank you for your assistance. 

## **PAQS Congress 2003, Tokyo, Japan - Postponement**

Due to the rising concerns of SARS, the 7<sup>th</sup> Pacific Association of Quantity Surveyors (PAQS) Board Meeting originally planned to be held on 23 June 2003, and followed by the PAQS Congress 2003 on 24-27 June in Tokyo, Japan, has been postponed. The Board Meeting and Congress will be rescheduled to October/November 2003. You will be informed of the rescheduled dates once it has been confirmed.

**Ellen Lau**

Secretary of PAQS

## **QSD APC Final Assessment 2003**

The QSD APC Final Assessment 2003 will take place on Friday, 19 & Saturday, 20 September 2003 at the Hongkong International Trade & Exhibition Centre (HITEC). Application forms for the QSD APC Final Assessment 2003 are now available from the HKIS office and completed forms should be returned to HKIS **no later than 12:30pm, Saturday, 14 June 2003**. Late submissions will not be accepted. You may also download all application forms from our website [www.hkis.org.hk](http://www.hkis.org.hk) 

# *Slaughter House With Cutting Edge Technologies*



Jim YIP

Hon Editor

Last month, the outbreak of the mystical disease SARS - severe atypical respiratory syndromes wreaked havoc on Hong Kong's economy and the life of over 6 million residents. As we all rushed to wear masks to prevent ourselves from infecting the virus, it was like a Halloween in Hong Kong. However, a panicked face lied behind each mask.

While the society is still counting the toll that this outbreak had taken on us, there are at least two effects coming from this incident: first, companies will increase spending to build up an IT system and telecommunication infrastructure that will enable staff to work from home or remote locations. Business can still remain in operation in the event of an outbreak of a virulent disease that causes office closure. Some companies have also moved to strengthen up their resources for crisis management.

Secondly, the massive infection case that happened in a single block of Amoy Gardens has highlighted some of the weaknesses in existing building facilities, especially in the sewage, drainage and ventilation system.

As a spreading disease could easily translate into an economic disaster for us, improving our living environment and building standard becomes an indispensable task. In Hong Kong's over-crowded living environment with predominately high-rise buildings, built professionals face a daunting challenge.

## **Sheung Shui Slaughter House project**

Two years ago, the Architectural Services Department completed an interesting project – Sheung Shui Slaughter House with cutting edge building technologies to address the environmental problems associated with the activities taking place within the building.

The project cost HK\$1.8 billion and took 5 years to complete from inception. The Sheung Shui location is very close to the Shenzhen border where the livestock supply comes from. It has a purposely-built railway for direct off-loading of livestock from train to lairage.

With its isolated location from the built-up area and the direct railway linkage, the usual environmental nuisance that we used to have in the urban slaughter houses can be largely reduced.

Upon the completion of the 58,000 sq.m. complex in 2000, three old abattoirs in Kennedy Town, Sheung Sha Wan and Yuen Long ceased operation.

The modern slaughter house is designed to meet the highest international standards of hygiene, e.g. The EC (European Community) and USDA (U.S. Department of Agriculture) standards.

Fully automatic mechanized devices are installed throughout the production process.

The project was one of the 5 finalists elected for the Hong Kong Quality Building Award 2002 in which HKIS was one of the event's co-sponsors.





Sheung Shui Slaughter House

## Key building features in environmental management

### **Energy Efficiency**

- ▶ The slaughter house consumes 630m<sup>3</sup> hot water a day
- ▶ It installs a solar hot water system which includes 450 solar panels to preheat water
- ▶ It installs a heat pump system to utilize rejected heat from air-cooling operation to further heat up water

### **Waster Water Treatment**

- ▶ It produces 5,000m<sup>3</sup> waste water per day, its waste concentration is 10 times higher than the domestic waster water
- ▶ Pre-treat waster water using bacteria and other micro-organisms to achieve effluent standards before passing to Shek Wu Hui Sewage Treatment Plant
- ▶ Uses the effluent water from Shek Wu Hui Sewage Treatment Plant for cooling the condenser of the A/C plant

### **Indoor Air Quality**

- ▶ Uses high efficient filter and ulltralight air sterilization system

### **Odour Control**

- ▶ Odour generated in the slaughter house amounts to 1,000 OU whereas the acceptable standard is only 5 OU
- ▶ Chemical scrubbers and odour neutralizing agent system installed
- ▶ 5 OU is achieved at sensitive receivers

### **Noise Mitigation**

- ▶ It operates from midnight to early morning
- ▶ Acoustic louvres installed at lairage block
- ▶ Perimeter noise barrier walls are built along railway off-loading areas

Source: Architectural Services Department



Solar hot water system  
on the roof top

# Workplace of the Future

## - The Telenor Headquarters at Fornebu in Oslo, Norway



**Kenneth CHAN Jor Kin**

BSc(Leics.), FRICS, FHKIS, FIBC, FBEng,  
MCI Arb, F.PFM, CFM, CFMJ, RPS(BS), AP(S)

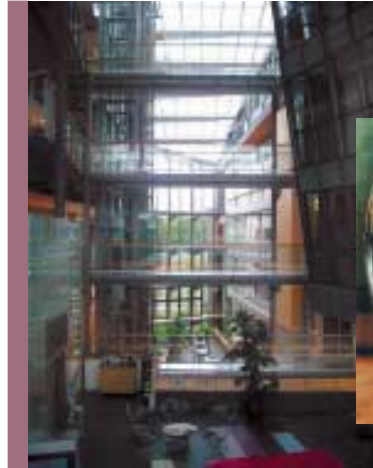
The author had the opportunity of joining a tour of the newly completed facility during a green tour of the Nordic countries in September 2002. The facility houses 6,500 employees of the telecommunications company, which had about 40 offices, scattered throughout the Oslo region. The consolidation managed to reduce the space requirement by 40% when compared with the scattered situation.

The new headquarters is the largest office complex in Scandinavia. The buildings face north and south together with a customer centre and a learning centre. This completely unique site, with the sea to the east and south, an expansive landscape open to the skies whichever way one looks, and the east-west range of hills, provides the perfect complement to the project's architecture. Preserving and recreating the landscape's qualities has thus been an important architectural concept underpinning this project.

Telenortorget – The Telenor Square – has been given a dynamic and unifying form, which is defined by the arched and inclined walls leading to the work areas and atriums. Telenortorget provides Telenor with a strong, distinctive character both internally and in relation to its surroundings.



Entrance to the technology centre of the complex



An open library within the complex

The eight main entrances together with the two centres, the learning centre and the customer centre, will welcome staff and visitors to a dynamic and progressive organization.

Viewed from the outside, the facility appears as a partitioned structure, which in scale and character adapts to the surroundings and opens to the sea and the spacious, green recreation areas in which the building is nestled. All the workplaces have been designed to give the most favourable light possible, allowing everyone working here to enjoy the fantastic panoramic view.

The building structure, blocks with stone facing and pavilions with glass faade which complement each other, and present varying expressions depending on where in the landscape they are viewed from. Daylight and openness are the two most obvious features of the project with both the buildings and the organization in mind, and provide a sound basis for developing creative and



Small enclosed area in the centre of the work area

Employees may retreat from the work area and engage in private conversations



Typical open corridor and staircase outside the work area

innovative workplaces founded upon cooperation between the employees.

It has been noticed that a growing number of employees will spend more time outside the traditional office. “The Office” will become more like a meeting place – where you exchange ideas with colleagues, hold meetings, learn, and improve the social climate of your workplace. The design of the workplace of the future must therefore enhance communication, creativity, and cooperation, and must provide arenas for teamwork and individual concentration for learning while working.

To ensure rapid communication and sharing of knowledge, creativity and innovation, open work areas are important. But even open-plan solutions have many rooms. The design reflects a sensible balance between work areas and the possibility to withdraw for private conversations and work on one’s own.

At Fornebu, one can observe a variation in workplace solutions suited to various types of activity. The employees are able to use different zones in the workplace area for various purposes as the need changes. Sometimes one needs to sit in a room completely alone. At the same time there will be opportunities to hold different meetings large or small, informal or organized.

Project work plays an increasingly larger role at Telenor. Teams will address tasks where associates frequently from different units will work together for a particular period of time. The workplace areas must therefore be so flexible that they can be readily adapted to changing needs. Electricity, telecommunications and computer cabling are laid in the floor with easily accessible connection points. There are very few permanent solid walls that require cumbersome and costly rebuilding each time a workplace area is to be changed.

Management will be more and more a matter of having a good overview, motivating the workers and being able to utilize the skills and qualities of the employees. Proximity and communication between managers and staff will thus be decisive.

**The design of the workplace must enhance networks not hierarchy.**

*(Acknowledgement: This article is based on the content of the publication by Telenor on the subject building.)*



A place for socializing



Typical outlook of work area



Typical open corridor and staircase outside the work area

# HKIS PROFESSIONAL ETHICS

## *ETHICAL SURVEILLANCE!*

Y C LEE

Simmons &amp; Simmons



### Introduction

The HKIS has recently published on its website an e-learning package entitled “Professional Ethics in the Land, Property and Construction Profession”, which is sponsored by the HKIS in collaboration with the ICAC Hong Kong Ethics Development Centre. The HKIS e-learning package is a timely reminder to members involved in the industry which, given the economic importance of the industry and the recent spate of building problems in public housing projects, should be vigilant to any decline in work ethics and in quality of work.

Part A of this article provides a brief overview of professional ethics for surveyors.

Part B gives an overview of the relevant rules of conduct and some laws. Part B also contains examples of conduct and legal issues concerning ethics and provides some ethical tips.

Part C looks at a decision making model by the ICAC to help professionals resolve ethical issues and avoid falling foul of the relevant codes or laws.

### Part A – BACKGROUND

#### *What are Ethics?*

The word “ethical” is defined in Black’s Law Dictionary as meaning “of or relating to moral obligations that one person owes another”. In this respect, it seems that ethics is something wider and more fundamental than the rules of conduct and laws (such as the HKIS Rules of Conduct).

#### *The Importance of Ethics*

Generally, professional ethics are important to surveyors:-

- ▶ To maintain uniformity and public confidence in surveyors (professional bodies such as the HKIS usually require members to agree to abide by ethical practice by following a written code of ethics).
- ▶ For the purpose of self regulation and registration of members by the HKIS.
- ▶ To give practising individuals or a company a competitive edge.
- ▶ Professional ethics can be a guide to good practice, being a set of standards beyond the legal minimum requirement (e.g. best course of action).
- ▶ Individuals and companies with risk management systems including rules of conduct on ethics may benefit in terms of professional insurance coverage.
- ▶ With proper enforcement, professional ethics will ultimately benefit the profession by promoting its reputation, credibility and respectability.

### PART B – CODES, LAWS, ETHICAL ISSUES AND TIPS FOR SURVEYORS

#### *Company Codes of Conduct*

Surveyors need to be aware of, and must comply with, the codes of conduct and other risk management rules published by their employers. Surveyors should check with their human resources personnel about any company codes of conduct, which will invariably be specific to the company.

#### *HKIS Rules of Conduct*

It is not intended to repeat the HKIS Rules of Conduct in this article (as approved on 8 November 2001), which set out a “standard of conduct” requirement of its members. Surveyors can seek guidance from the rules to resolve common ethical problems. Briefly, in addition to the general principle that no member shall conduct himself in a manner

unbefitting to the HKIS, surveyors must comply with 3 fundamental ethical responsibilities of surveyors:-

- ▶ Responsibility to the Profession/Institute in terms of holding its dignity and reputation (paragraph 1.1).
- ▶ Responsibility to other members in terms of fair competition with other members for work (paragraph 1.2).
- ▶ Responsibility to clients (paragraph 1.3) – which requires a surveyor to discharge his duties to his client with integrity and in accordance with the highest standard of business ethics (e.g. conflicts of interest, non-disclosure of confidential information, non-receipt of any remuneration other than for professional services, accounting for monies etc.).

Broadly speaking, if surveyors fail to meet the standards of behaviour expected by the codes of the company or the HKIS, then they may be liable to, among other things, a disciplinary proceedings etc.

#### *Laws, Examples and Tips Relating to Ethical Issues*

In addition to the codes and rules, surveyors need to observe and ensure they do not fall foul of the law in Hong Kong (n.b. the legislation listed below is not exhaustive).



### **(1) The Prevention of Bribery Ordinance (Cap. 201) (“PBO”) - Offering and Acceptance of Illegal Advantages**

The PBO concerns illegal advantages (e.g. bribes) which can unfairly influence or impair the judgment and decisions of a surveyor and other professionals. A brief outline of the relevant section is as follows (n.b. the saving provision of without lawful authority or reasonable excuse is applicable to the sections).

- ▶ As regards the private sector, section 9 PBO concerns an agent soliciting/accepting or offering an advantage without the permission of his principal on account of inter alia his doing or forbearing to do any act in relation to his principal’s business etc. It is also an offence for inter alia an agent with intent to deceive his principal to use any document, receipt or account which is false, erroneous or defective as defined in section 9 PBO.
- ▶ The following sections govern offences involving public servants. Section 4 PBO concerns soliciting/accepting or offering any advantage as a reward in connection with the performance of a public servants’ official duty.
- ▶ Section 5 PBO concerns public servants soliciting/accepting or offering any advantage for giving assistance in securing contracts from the public body.
- ▶ Sections 6 and 7 PBO concerns with soliciting/accepting or offering any advantage for refraining from making or withdrawing a (public) tender/bid.
- ▶ Section 8 PBO concerns offers of any advantage to a public servant.

The PBO defines “advantage” widely to include inter alia:

- ▶ any **gift**, loan, fee reward or commission etc.
- ▶ any office, **employment** or contract etc.
- ▶ any payment, release etc. of any loan etc.
- ▶ any other **service or favour (other than entertainment, which means the provision of food or drink for immediate consumption)** etc.
- ▶ any offer, undertaking or promise etc. of any advantage listed above.

### **Penalties**

A person can be liable on conviction on indictment to a maximum penalty of 7 or 10 years’ imprisonment and a fine of \$700,000 or \$1,000,000, depending on the section in question. Additionally, the court may prohibit a convicted person from taking up a management post of a corporation, a public body or partnership, or practising, for a period not exceeding 7 years.

### **Ethical Tips on Illegal Advantages**

- ▶ Avoid acceptance of advantages which will place you in a position of obligation to return a favour.
- ▶ Seek guidance from your employer (e.g. policy).
- ▶ Check whether the recipient (agent) of the advantage has his employer’s (principal) permission before offering advantages (n. b. also check consent of the client).

### **(2) Theft Ordinance, Cap. 210 (“TO”)**

Some sections of the TO may be relevant to ethical issues with possible offences on:-

- ▶ Obtaining Property by Deception – Section 17(1) TO.
- ▶ Obtaining a Pecuniary Advantage by Deception – Section 18 TO.  
N.B. Pecuniary advantage has a limited meaning and includes inter alia cases where he is given the opportunity to earn remuneration or greater remuneration in an office or employment.
- ▶ Fraud – Section 16A TO.

### **Penalties**

For the 2 “deception” offences and offence of fraud, a person is liable on conviction upon indictment to imprisonment for 10 years and 14 years, respectively.

### **Examples**

Examples of “unethical situations” include offers of advantages to induce a false certification or better valuation by a surveyor, to induce certification by the surveyor of substandard bored pile works, to obtain the surveyor’s assistance in obtaining a green light for a proposed development.

### **(3) Wrongful Disclosure of Confidential Information**

Very briefly, in addition to confidentiality rules under the HKIS Rules of Conduct, surveyors may owe an obligation of confidentiality (e.g. in contract, tort, equity, statute etc.) to employers and clients in respect of confidential material. To be protected, broadly speaking the material must be: (a) of limited public availability; (b) of a specific character and (c) communicated to, obtained by or become known to the recipient in circumstances imposing an obligation of confidence. The possible liabilities include inter alia actions for damages for breach of the duty of confidence.

### **Ethical Tips on Confidential Information**

- ▶ Check whether the information is in the public domain.
- ▶ Consider whether the information will affect the interest of relevant parties.
- ▶ Consider whether a third party recipient of the confidential information will find it relevant and use it to secure a benefit.
- ▶ Seek guidance from your employer if in doubt (e.g. policy).

### **Examples**

Examples of “unethical situations” include selling and leaking confidential information on potential projects and misuse of proprietary information.

### **(4) Conflicts of Interest**

Briefly, conflicts of interest may arise for example where the “private” interests of a surveyor conflict with the interests of the client or employer in the discharge of his professional duties. Circumstances may give rise to an “actual” or “perceived” conflicts of interest (from the public’s viewpoint), which may (actually or apparently) influence the reliability or objectivity of the decisions and actions of the surveyor.

In addition to possible breaches of the HKIS Rules of Conduct, conflicts of interest situations may or may not involve breaches of the law. For example, the conflicts of interest may involve the risk of inadvertent disclosure of confidential information.

# ETHICS PLUS

## Ethical Tips on Conflicts of Interest

Surveyors should avoid any conflict of interest and be alert to situations involving conflict of interest.

- ▶ Put employers' or clients' interests before the surveyor's private interests in discharging professional duties.
- ▶ Observe company guidelines and the professional codes.
- ▶ Anticipate the public's/stakeholders' perception.
- ▶ Identify any conflict of interest situations.
- ▶ Seek guidance from your employer if in doubt

Surveyors should (a) refrain from any participation in the matters in question and (b) declare to the employer any conflicts of interest in relation to clients/ third parties including details of personal interests etc.

Although entertainment is not an advantage under the PBO, the HKIS package advises inter alia that surveyors should avoid placing themselves into a position which will impose an obligation on them to do the host a favour, avoid accepting frequent or lavish entertainment, report relevant entertainment to the company and give appropriate advice to staff.

As regards indebtedness, the HKIS package advises inter alia that surveyors should avoid borrowing money from subordinates and those with whom they have business dealings and report any illegal loan activities at work.

## Examples

Examples of "unethical situations" include assessing/awarding tenders and certifications based on "favouritism" and unauthorised outside work to the surveyor's professional employment.

## (5) Professional Proficiency

Ethical obligations under the rules of conduct extend to the proper exercise of professional

discretion and judgment in surveying matters (e.g. relevant technical considerations). If the surveyor is in breach, then he may be liable to possible disciplinary proceedings and possible court action.

## Examples

Examples of "ethical situations" include where a surveyor exercises his discretion unreasonably by inflating a valuation or approving additional costs, misuses his authority, or fails without excuse to discharge his supervisory role.

## PART C – RESOLVING ETHICAL ISSUES

- (1) The "ETHICS PLUS" decision making model (see "Ethics In Practice A Practical Guide for Professional Engineers" published by the ICAC & Hong Kong Ethics Development Centre) sets out the thinking process and standards that can be used by professionals to resolve an ethical issue. Although developed for engineers, the ETHICS PLUS model seems applicable and equally useful to surveyors.
- (2) A surveyor who is faced with an ethical problem should go through the following steps of the ETHICS PLUS model process:
  - ▶ Establish relevant facts and ethical issues (e.g. bribes to secure a certification or better valuation).
  - ▶ Take stock of relevant stakeholders (e.g. usually the surveyor, his employer, the clients, other surveyors and the profession or HKIS).
  - ▶ Have an objective assessment of the stakeholders' position (e.g. potential liabilities in terms of financial costs to the employer and clients, career impact, lawsuits, undermining public confidence in the profession and so on).

- ▶ Identify viable alternatives and their effects on the stakeholders (e.g. reporting to senior management, professional bodies and law enforcement authorities, ignoring the ethical issue etc.).

- ▶ Compare and evaluate the likely consequences of each alternative against the standards expected (i.e. the PLUS factors below).

- ▶ Select the most appropriate course of action.

- (3) For evaluating alternatives, the surveyor should consider the PLUS factors:-


- ▶ Professional and Company Rules of Conduct (e.g. HKIS Rules of Conduct prohibit inter alia gifts and favours as per paragraph 1.3.4; relevant company conduct/risk management rules; section 9 of the PBO etc.).

- ▶ Law (e.g. offences at common law and the legislation, e.g. the PBO, TO, Criminal Procedure Ordinance and others).

- ▶ Uncompromising self values (honesty, fairness, trust and so on).

- ▶ Sunshine factor (i.e. whether possible to discuss the issue openly without misgivings).

## SUMMARY

Professional ethics is concerned with, among other things, the standards of minimally acceptable conduct within the profession, involving duties that its members owe to one another, to their clients, to the relevant professional body and to society. Whilst ethics generally fall within the ambit of conduct, the HKIS' ethics e-learning package provides additional guidance to surveyors. 

# Prudence and Sensibility

*The two important, but often forgotten,  
tenets in home buying*



Cliff TSE

MHKIS, MRICS

Director of Valuation Advisory Services  
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**O**n one warm Sunday afternoon, 30-year-old salaried engineer Jonathan pulls over his second-hand Camry to the kerbside in a large-scale residential estate and waits for his pregnant wife who is shopping in a nearby supermarket. During the next 15 minutes or so, he watches around the neighborhood. Kids, old people, and young couples are strolling, cheering, playing or exercising *Tai-chi*. There is also a nice landscape in this development. The community looks lively and friendly. Since Jonathan is anxiously looking for a new place to reside when his baby will be born in 4 months' time, he questions himself, "Would it be an ideal residential development for my future home?" This question overhangs in his mind for a few days.

Owning a home is almost one of the most important goals for people in Hong Kong. For many like Jonathan they have to struggle with these questions: "Should I buy or rent a flat now?" ... "When should I buy?" ... "Where

should I move to settle in the coming 10 years?" ... "Should I buy from developers or shop around from secondary homeowners?" ... Etc?

The market is currently flooded with supply of units from developers who still have many unsold stock and from banks that are "rushing" to sell properties repossessed from many financially distressed homeowners. So, intending buyers are presented with a lot more choices.

In the meantime, the prospects of the local property market are still a bit gloomy. So buying a home is understandably a less-hurried process for most of intending buyers nowadays. That is to say, they can spend more time to pick and choose something that practically suits them most. Moreover, considerations would also include whether to buy in the first hand or the second hand market.

In the present market, younger people have a strong favor of buying brand-new flats from developers (perhaps because new developments usually come with more recreational facilities). In order to facilitate these generation-X homebuyers, developers are also collaborating with banks to offer very affordable upfront financial package such as flexible payment terms; cash rebates; and simplified conveyance, due

diligence and appraisal processes. Moreover, newer developments are largely built with innovative green features such as balcony and utility platform - something that are not widely available in the secondary market.

Nevertheless, buyers must somehow be cautious to any potential slippery grounds that might happen when they purchase uncompleted flats. For example, buying units off the plan with long completion due date could run the risk of price deflation (an economic phenomenon that has been persisting for the past five years). Some buyers may face financial difficulties when they arrange mortgage loans at the date of taking possession since the new valuation would be lower than the purchase price, i.e. more cash upfront from the buyers. In addition, however well-informed sales brochures are, it should be mindful of reading information on some special conditions stipulated in the Government lease e.g. responsibility for the nearby slope maintenance and provision of specialized Government Accommodations within the development, and the zoning uses in the nearby land lots from the latest Outline Zoning Plan. Very often these minor elements would adversely affect the resale values. It was quoted as saying (see <sup>note</sup>) that 'sales brochures are nothing more than a "mere puff"'.


So homebuyers should set more prudent criteria, which include the external environment factors (perhaps related to *Fung Shui*), building quality, property management standard in place, as well as internal finishes. Besides those physical elements, neighborhood is one of the most influencing factors. Similar to Jonathan's experience, staying 30 minutes or even longer in the vicinity can help intending buyers identify,

in reality, what type of people or families are residing there. As far as I know, some home purchasers in Canada are even spending four seasons round to survey the entire locality before they make their decisions to move into the neighborhood.

Hong Kong is a relatively small and dense city whereas each location has certain unique features, be these advantageous or disadvantageous. Data on the respective locations' air quality, crime rate, density of degree holders, average age of households, ownership/leaseholders ratio, etc. are almost unavailable. Homebuyers might need to carry out their individual studies in order to understand their differences and consider them together with their own prioritized preferences such as convenience of public transports, proximity to CBD, serenity and tranquility, age-profile of nearby buildings, future supply, school networks, proximity to University, etc.

Professional input from estate agents in respect of choices of stocks, property-specific information and market data could not replace your personal judgment. Your own feeling towards the surrounding environment and knowledge of the local neighborhood are also crucial factors in determining the choice of home.

Owning an ideal home is everyone's dream, especially for Jonathan's cell family. Applying prudence and sensibility wisely, though not necessarily reaching the goal faster, could save it from falling apart.

*Note: This was made by Judge Burrell in Chan Yeuk Yu v Church Body of the Hong Kong Sheng Kung Hui (2001) – see pages 178 and 183 in Hong Kong Conveyancing and Property Reports 2001.* 



# Quantifying land boundary problem-prompted lots



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It is just common knowledge that land boundaries are uncertain in the New Territories. In a time that the land survey industry is promoting systematic re-survey for the whole New Territories and the Land Registry is striving for titles registration in Hong Kong, it would be helpful to have some figures on how good ( or how bad ) the situation is. The

government, Survey and Mapping Office (SMO) in particular, has a correlated land boundary record covering all 3,100 sheets of 1:1000 maps in Hong Kong. An internal check on each correlated lot boundary against legal grant plans (Demarcation District Sheets) and registered area as listed in the Schedule of Block Government Leases would give a good estimation of those potentially problematic lots on land boundary. Furthermore, if the occupation features do not conform to the leased boundary, the information is also of prime interests to landowners.

If this information is available to the general public, it would be handy for landowners in solving land boundary problems well before any development applications. However, without a proactive land boundary government policy, SMO is difficult, if not unwilling, to disclose such information, not to mention the danger of being blamed for provoking boundary disputes.

To probe for an indicative figure, we started a small research project by digitizing a few Demarcation District Sheets and compared that with the registered area. For those differences exceeding 0.01 acre in DD 17 and DD 333 and 0.02 acre in DD 76 and 125 are classified as problematic. Table 1 shows that the tested DDs have an overall problematic lots varying from 22% to 37%, and, within these problematic lots, more lots have larger graphic area than the registered area.



DD No.	% of Problematic lots	No. (%) of lots with digitized area <b>larger</b> than registered area	No. (%) of lots with digitized area <b>smaller</b> than registered area
17	30%	251 (57%)	186 (43%)
76	37%	112 (35%)	209 (65%)
125	22%	269 (65%)	145 (35%)
333	31%	119 (69%)	54 (31%)

Table 1 Digitization results

The result has been reported to the 22<sup>nd</sup> Cadastral Survey Consultative Committee. It raised some interests of the Committee and the Chairman promised to support further investigation by supplying digitized DD Sheet images. We are going to make use of a raster-vector conversion software to compute area efficiently. By generating more accurate figures on individual lot area discrepancy, we wish the project could raise more attention and support to the systematic re-survey of the New Territories.

# Views of Research Team\* on “Real Estate Investment Trusts in Hong Kong”

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The research team is currently undertaking a research project, funded by the Hong Kong Polytechnic University (PolyU), on the development of Real Estate Investment Trusts (REITs) in Hong Kong.

Last month, the research team submitted a paper to the Hong Kong Securities and Futures Commission in response to its consultation paper on the Draft Code of REITs. The submission is part of the research team’s initiatives for this project i.e. to give recommendations on the regulatory and institutional framework conducive to the development of REITs in Hong Kong.

## REITs benefits to Hong Kong

We believe that the introduction of REITs will benefit Hong Kong in enhancing the competitiveness of the property development market, and the maturity and efficiency of the capital market.

### Property Development

Due to high land prices, property development in Hong Kong has perhaps been among the most capital intensive in the world. This capital intensity has given rise to local property developers being the largest in the world (Chiang *et al*, 2002). Property development requires considerable financial resources and thus the financial barrier to entry is formidable. Commissioned by the Hong Kong Consumer Council (1996), the PolyU consultancy team found that there had been high market concentration in the residential property sector. This high concentration was partly attributed to the financial barrier to entry. A mature REIT

market would benefit the development of a more competitive property development market if finance could be made accessible to more potential property developers.

### Property Investment

In terms of investment performance, REITs are “halfway house” between direct properties and indirect property stocks. Studies in the USA, based on mean-variance analyses, have consistently concluded that their risk-adjusted returns are typically somewhat in between direct and indirect property investment. Without the limitations of direct property investment on illiquidity and lumpiness, REITs offer an alternative investment vehicle for investors interested in real properties. We believe that the launch of REIT will complete the spectrum of investment instruments in or related with real properties that Hong Kong could offer: indirect property (or property stocks), REITs and direct properties. Providing a risk and return profile somewhere in-between equities and bonds, REITs could be an alternative investment instrument as well for those seeking investment assets that offer yields higher and are less volatile than equities.

### Development of Capital Markets

REITs also help develop deeper and more liquid financial markets. A survey by Chiang *et al*. (2000) reports institutional investors’ perception that liquidity of the property market would be enhanced by mortgaged-backed securities (MBS) already launched by the Hong Kong Mortgage Corporation, and the Mandatory Provident Fund (MPF) Scheme that was about to be implemented. However, the MBS remains all but a smallish market, and REITs have good potentials to complement the local equity market to consolidate the status of Hong Kong as a financial centre. The local property market, which remains in the doldrums, might also get a boost if REITs are successfully launched here.

Further, a regulatory and institutional reform, necessitated by the development of REITs, has the effect of reducing the over-reliance on the banking sector. Syndicated loans in the form of revolving credits have been a major form of financing for local developers. In Hong Kong, the large proportion of bank loans that goes into property development and residential mortgages is conducive to the development of a market of securitized real estate assets. Hong Kong is already the most active in securitization in Asia, contributing about 60% of all the volume (Ong and Sing, 2001). Securitization provides a match of maturity that should be essential to banks. More than half of all bank loans have typically gone to property development and residential mortgages (Chan *et al*, 1998). However, residential mortgages are usually long-term but deposits are short-term generally. This poses a mismatch of maturity in assets and liabilities, and thus a liquidity risk to the banks. Whilst the banking sector in Hong Kong remains sound and solvent, there has been increasing concern for the over-reliance of the two sectors on each other. More portfolio capital will be attracted into this SAR enclave if both the capital markets and the banking sector are thus made more mature, well-regulated and information efficient.

## Specific Comments to the Draft Code issued by the Hong Kong Securities and Futures Commissions

The above has highlighted the strategic significances for a REITs market in Hong Kong. Our comments specific to the draft code are as follows:

### Investment Scope

We do not agree with the limitation on investment scope which confines to Hong Kong properties only. It concerns us that such restriction would limit the varieties of REIT products and dampen the momentum for developing a larger REITs

industry in Hong Kong. For instance, many foreign REITs management companies may wish to set up office in Hong Kong and manage fund flows raised from local and global capital markets. Part of the funds may invest in Greater China region to capitalise on the greater potential it offers in the longer term. The reasons for them to choose Hong Kong as the fund centre are: we have a better regulatory and legal system, more advanced market infrastructures and a defined REIT code in the near future. With this limitation on investment scope, we may lose not only the business opportunities but market edge to other competing financial centres in the region - Singapore or Shanghai – REITs will also come to PRC one day. We believe a tightened rule for REITs investing in foreign properties is a better alternative to the idea of a wholesale restriction currently proposed by SFC. Investors should have the opportunity to make their own judgement provided sufficient information and risk factors regarding the investment are fully disclosed.

### **Borrowing limit**

As regards the leverage, we think that it could be more relaxed than in the case of direct properties. We appreciate the rationale of the SFC in drafting the regulations so that investing in REIT should not be fundamentally different from direct properties. However, we believe that the default risk of REITs is generally less than that of the individuals or individual firms who borrow to pay for their properties. In particular, risk-adjusted expected returns of institutional investors' portfolios might be enhanced by time-varying optimal capital structure, of which the leverage ratio could at times exceed a pre-determined limit. We believe that an efficient capital market would appropriately price any leverage premiums that may arise from time to time. A mature REIT market in Hong Kong also implies that investors have the opportunity of constructing more diversified portfolios, thus collectively diversifying unsystematic risks further to reduce risk premiums.

### **Tax breaks**

In Hong Kong, investment grade office and commercial properties are owned and managed by property developers and investors. It is believed that institutional investors collectively own a very small portion of the stock, in contrast to the situations overseas including the UK where the institutional share of property investment has increased to more than 30% in 2000 (Lizieri, 2001). Hong Kong developers are cash-rich and low geared. Syndicated loans have been readily available to developers, at least the bigger and the more established ones.

There may not be much incentive for them to bundle their investment-grade properties into REITs. Thus, the attitude of these major developers/investors becomes important in the development of REITs in Hong Kong. Whether and, if yes, when they would package their properties into some sorts of REITs are important.

Besides the fact that most of the investment grade properties are held by big developers which is a real concern for whether we could have a sufficient supply of quality assets for REITs, the low property yield, an inherent characteristic in Hong Kong property market, is another major for a thriving REIT market in Hong Kong.

Given these rather unique features in the Hong Kong property market, a tax break would be instrumental to help develop the REIT industry on a stronger footing. We suggest an exemption of stamp duty and reduction in property tax (if elected for the corporation tax regime, property owners could claim more deductible expenses) to encourage existing property owners to transfer assets into REIT vehicles.

### **PolyU Research**

We have formed a research team, funded by the Hong Kong Polytechnic University, to explore the potential of a REIT market in Hong Kong. We aim to achieve five objectives: (1) to understand how the macro-economic environment has given rise to the launch of

REITs overseas particularly in other Asian economies, (2) to evaluate the impact of the REITs markets on the property sector and in particular the integration between real and financial markets, (3) to estimate the yields of REITs based on historical performance analysis of real and financial assets in Hong Kong and overseas, (4) to survey the perception of the industry on the potential and constraints of REITs in Hong Kong, and (5) to give recommendations on the regulatory and institutional framework conducive to the development of REITs in Hong Kong. The project is scheduled to be completed in September 2004. We would be happy to publish our findings when available.

Send your comments to Dr. Y H Chiang at [bschiang@polyu.edu.hk](mailto:bschiang@polyu.edu.hk)

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# Electronic Tendering

'Everyone has won and all must have prizes.'



In a significant step towards the UK Government's e-business targets<sup>1</sup> for 2005, the Northern Ireland Housing Executive<sup>2</sup>, Northern Ireland's comprehensive Regional Housing Authority, has introduced Electronic Tendering for its planned maintenance and repairs contracts.

The CD based tendering system, which was developed in-house takes an incremental approach to electronic tendering and has the potential to deliver savings of £100,000 per year as well as many other benefits.

Whilst modern PC based office software is fully utilised, the CD based documentation is seamlessly incorporated into the organisation's normal tendering practices thereby achieving maximum efficiency, whilst providing minimal concerns to lawyers and auditors.

Initially the CITE (Construction Industry Trading Electronically<sup>3</sup>) file format for electronic Bills of Quantities was quickly identified as a good solution to the file exchange problem. The convention for laying out Bills of Quantities information within an ASCII file was being taken up by a significant number of both Quantity Surveying and Estimating systems, making it possible to port information from one to the other without scanning.

Unfortunately a survey of Housing Executive contractors (small to medium in size) revealed that few of them used estimating systems and therefore would have little use for a CITE file.

The only option immediately apparent was to offer these contractors the free software from CITE which would enable them to input prices into the EBQ (Electronic Bills of Quantities). This is available either as a small stand-alone program or as an Excel add-in.

However this was not an ideal solution, as it would only give the contractor another task with little business benefit to him. Also, the problem of relating all the Bills together, providing a Preliminaries Bill and a General Summary were not addressed.

The answer the Housing Executive came up with was to import the CITE files for the measured work into an Excel file, one bill per worksheet, and to provide Preliminaries, General Summary etc. as separate worksheets. The resulting file would bind all the traditional sections of a Bill of Quantities into one electronic document.

It was quickly realised that it would also be possible to link the CPI (Co-ordinated Project Information<sup>5</sup>) references in the Bills to the Housing Executive Standard Specification, which is held in Word files.

Previously the Standard Specification had been distributed to every Housing Executive approved contractor (1,600 copies), in two large ring binder folders each of 500 pages, a process which is both expensive and inflexible.

The possibility of providing the Standard Specification on CD hyperlinked the project Bills of Quantities offered cost savings, business efficiencies and environmental benefits.

A small in-house utility was written in Visual Basic for Applications to import CITE files into an Excel worksheet and (once a priced Excel file was returned from tender) to export a priced worksheet to a CITE file. As seemed appropriate in the Internet age the product of the system was named e-Bills.

As CITE files are imported into e-Bills (the process takes approximately 30 seconds per file) several tasks are performed

- ▶ Appropriate formulas are added to ensure rates automatically calculate.
- ▶ Colours and other cell formatting is set-up.
- ▶ Cells are locked (except pricing cells).
- ▶ Hypertext links to the standard and project specification are added (making CPI very easy to use).
- ▶ The worksheet is password protected.

Other worksheets are then added for preliminaries, drawing lists (with hypertext links to Adobe Acrobat or AutoCAD files), and summary pages. This is usually done by copying these worksheets from a previous contract and modifying them.

Electronic tendering has many features, which deliver significant business benefits including:-

- ▶ The automatic computation of the Bills of Quantities, thus relieving contractor's staff of significant work and the elimination of arithmetical errors.
- ▶ There are no onerous software purchasing requirements, MS Office is already widely used by many contractors.
- ▶ Contractors with estimating systems no longer have to scan the Bills of Quantities into their software, as the CITE files used to produce the e-Bills are included on the CD.
- ▶ Contractors have much faster access to the Specification through the hyperlinks inserted in the e-Bills.

- ▶ Sections of the Excel file can be e-mailed to sub-contractors for quotes, thereby saving time in scanning or faxing.
- ▶ The entire tender documentation is contained on the CD thereby improving documentation management and archiving.
- ▶ Cost savings identified by the Housing Executive include staff time saved
  - ▶ fixing arithmetical errors,
  - ▶ re-keying rates,
  - ▶ checking paper Bills of Quantities for printing errors
  - ▶ printing costs
- ▶ Ecological benefits include an estimated saving of 5 tonnes of A4 paper per year.

In the introduction to his 1994 report 'Constructing the Team', Sir Michael Latham reminded us that 'win-win' was management jargon and he preferred to quote the words of the Dodo in "Alice's adventures in Wonderland",

**'Everyone has won and all must have prizes.'**

Electronic tendering certainly seems to have a prize for everyone.

It is also interesting to note that the same Latham report endorsed the use of CPI (Co-ordinated Project Information<sup>5</sup>) stating-

**'CPI is a technique which should have become normal practice years ago.'**

The Housing Executive believes that by demonstrating the use of hyperlinks to automate Co-ordinated Project Information it will help convince others of the benefits of this technique of tender documentation.

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<http://www.cite.org.uk>
- 4 Constructing the Team by Sir Michael Latham  
Her Majesty's Stationery Office  
<http://www.hmso.gov.uk>
- 5 Construction Project Information  
<http://www.productioninformation.org> 

# Football Club Appeal for a Penalty



Most of you will know that one of the traditional features of a liquidated damages provision is that it must be a genuine pre-estimate of the loss that the injured party is likely to incur and not a penalty.

This was of course established in the landmark case of **Dunlop Tyre v New Garage** (1915) where Lord Dunedin said:

*“The essence of a penalty is payment of money stipulated as in terrorem of the offending party; the essence of liquidated damages is a genuine covenanted pre-estimate of damage”*

and as an example of what he considered to be a penalty he went on to say that:

*“If the sum stipulated is extravagant and unconscionable in amount in comparison with the greatest loss that could conceivably be proved to have followed from the breach it will be regarded as a penalty and unenforceable.”*

However, in recent years commentators have perceived that the courts have begun to place increasing emphasis on the agreed nature of the liquidated damages provisions. For example, in the local case of **Philips v Attorney General of Hong Kong**, the court emphasized that the fact that the parties were able to agree beforehand the damage recoverable for a breach of contract was to the advantage of both parties since they should be able to estimate with a reasonable degree of certainty the extent of their liability and the risks which they run.

Thus, it is argued that a contractor when deciding whether to enter into a construction contract makes a commercial decision balancing the potential rewards from the contract with the potential risks, which risks of course include liquidated damages in the sum per day stated in the contract.

However, in a recent case in England the Court of Appeal has re-affirmed (if such re-affirmation was needed) that the courts will not accept a sum as liquidated damages that is extravagant and unconscionable in amount in comparison with the greatest loss that could conceivably be proved to have followed from the breach, i.e. that is a penalty.

The case is not a construction case, but is one that involved a football club to whom the term penalty would usually have an entirely different connotation!

The case of **Jeancharm v Barnet Football Club** was decided in the Court of Appeal in January 2003. Jeancharm are a clothing manufacturer who had entered into an agreement with Barnett Football Club to supply the team with football jerseys, shorts and socks.

The contract in effect contained two liquidated damages provisions for:

- ▶ Breach of contract by Barnet if they failed to make timely payment of sums due in accordance with the contract, in the amount of 5% per week, and
- ▶ Breach of contract by Jeancharm if they failed to deliver the kit in accordance with the timing set out in the contract, in the amount of £0.20 (approximately HK\$2.50) per individual garment per day.

Disputes arose under the contract. Jeancharm made some deliveries later than the timing set out in the contract, and additionally Barnet complained that some of the garments were not of the agreed quality set out in the specification. Accordingly Barnet made a claim for liquidated damages for the late deliveries on the basis of the rate set out in the contract of £0.20 per garment per day, and set off the resultant sum from amounts due to Jeancharm.

Jeancharm refused and the matter went to court. In the action Jeancharm did not raise argument that the £0.20 per garment per day was a penalty. Instead they argued on the merits of each of Barnet’s specific claims that particular garments were late. The judge accepted some of Barnet’s claims but rejected others with the result that he ordered that a balance was due and payable to Jeancharm in the approximate amount of £5,000.

Jeancharm then argued that, because there was a payment due to them of £5,000 which was in effect a late payment under the contract, the provisions of the liquidated damages clause should apply, i.e. that they should be entitled to interest on the amount payable at the rate of 5% per week.

Barnet contested the interest claim on the basis that it was a penalty clause, and as such under English law unenforceable. They argued that an interest rate of 5% per week amounted to 260% per annum even on a simple interest calculation. Barnet said (following Lord Dunedin in **Dunlop**) that 260% interest per annum was extravagant and unconscionable in amount in comparison with the greatest loss that could conceivably be proved resultant from the late payment of the £5,000.


Jeancharm argued that it simply was not enough to look at the 260% per annum interest clause to decide whether it was a penalty or not. They said (following **Phillips**) that the court should take into account the commercial situation, and in particular the fact that the parties had agreed at the time they entered into the contract both the rate of £0.20 per garment per day for Jeancharm's late delivery and 5% per week for Barnett's late payment. This agreement was not only to the benefit of both parties, argued Jeancharm, but importantly it was the commercial deal struck between them.

In short, Jeancharm said that the court should uphold the commercial arrangement that the parties had agreed to.

The Court of Appeal did not agree, and importantly stated that the decision in the **Phillips** case did not depart from the law as promulgated by Lord Dunedin in the **Dunlop** case. In particular, the court held that the rule that liquidated damages must be a genuine pre-estimate of loss and not a penalty remained a fundamental principle.

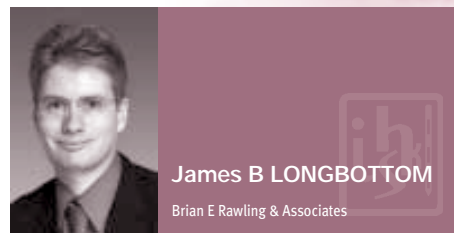
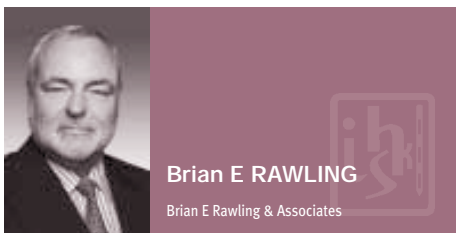
With regard to this particular case the court considered that it was clear that 260% per annum was an extraordinarily large sum to have to pay for interest or administrative costs and on this basis they held that it was a penalty and thus unenforceable.

Lord Justice Peter Gibson re-affirmed that there are four principles relevant to distinguishing a penalty clause from a valid contractual provision for the payment of damages, and these form a good summary of the current position for us all to use as a reference.

- ▶ The description in the contract is irrelevant, the court must look to the substance of the matter rather than the form of words.
- ▶ The provision will not be construed as a penalty where a genuine pre-estimate of loss has been carried out.
- ▶ The question of whether such a clause is a penalty or a genuine pre-estimate of loss is a question of interpretation of the contract at the time of making the contract, not at the time of the breach.
- ▶ Finally, if the amount is extravagant or unconscionable in comparison with the greatest loss that could be perceived, the clause will be a penalty. 

# Contractor Owned Plant

## - The Cost of Owning - Part II



This is the second article of a three part series, covering the complications of assessing the costs of contractor owned plant and considers capital lock-up, replacement and earning potential in times of inflation or deflation.

To help explain the principles, a worked example (as featured in the previous article) is provided for a Caterpillar 330L hydraulic excavator purchased new in 1996, by DIG Ltd, for a delivery price of HK\$1,400,000, (i.e. the all in cost).

To briefly re-cap, in the previous article, the hourly owning cost of DIG Ltd's excavator was assessed at the amounts shown in **Figure 1**.

330L Excavator (costed in 1996) HK\$/p.h.

Depreciation	108.19
Insurance	5.56
Finance	16.55
Subtotal for hourly cost	<u>130.30</u>

Over a plant life of 6 years this equates to an income of about HK\$238,883 per annum (i.e. HK\$130.30/p.h. x 11,000p.h. ÷ 6 years)

**Figure 1** Hourly owning cost – straight line method of depreciation

### Capital Lock-Up

The first article considered the cost of finance,

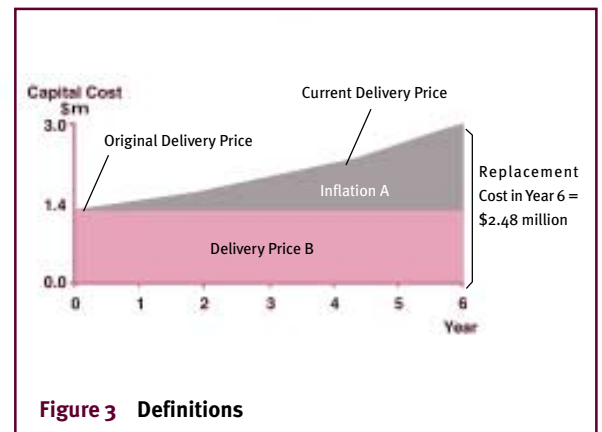
but what about capital lock-up? This is the cost of financing DIG Ltd's negative cash flow, or the cost of using the capital invested in the excavator until that capital is recovered. The interest on capital should be considered whether the excavator was bought outright or, as in the example, was bought through hire purchase. The capital lock-up cost can be assessed by a cashflow study similar to **Figure 2**.

In this example, funding was assessed at 6.5% simple interest on:-

- ▶ the residual value of the excavator (which will not be realised until the end of year 6); and
- ▶ the negative cash flow caused by a relatively short (2 years) hire purchase agreement.

The interest rate to be used when assessing capital lock-up cost should be that which the company pays if it borrows the capital or that which the company could earn if it invests its own capital.

The advantage of a 2 year hire purchase agreement is lower finance charges relative to the cost of capital locked-up in the excavator. If the



hire purchase agreement was to run for the useful life of the excavator (6 years) then the capital lock-up would be limited to the residual value of the excavator but the overall cost of financing would be greater as the hire purchase interest would be higher than the capital lock-up.

### Inflation / Deflation and Replacement

We now move onto the contentious stuff! But let's first consider the following definitions with the help of the diagram in **Figure 3**.

- ▶ **Inflation** shown by area A is the difference, at any given time, between the original delivery purchase price and the current delivery price for a similar excavator.



<u>End of Year</u>	<u>Capital Cost</u>	<u>Finance</u>	<u>Insurance</u>	<u>Cash Out</u> [A] + [B] + [C]	<u>Cash In</u>	<u>Difference</u> [D] - [E]	<u>Cumulative</u> <u>Differences</u>	<u>Interest (6.5%)</u> ([G] x 0.065)
	<b>[A]</b>	<b>[B]</b>	<b>[c]</b>	<b>[D]</b>	<b>[E]</b>	<b>[F]</b>	<b>[G]</b>	<b>[H]</b>
	<u>HK\$</u>	<u>HK\$</u>	<u>HK\$</u>	<u>HK\$</u>	<u>HK\$</u>	<u>HK\$</u>	<u>HK\$</u>	<u>HK\$</u>
1	700,000	91,000	10,000	801,000	238,883	562,117	562,117	36,538
2	700,000	91,000	10,000	801,000	238,883	562,117	1,124,234	73,075
3			10,000	10,000	238,883	(228,883)	895,351	58,198
4			10,000	10,000	238,883	(228,883)	666,468	43,320
5			10,000	10,000	238,883	(228,883)	437,585	28,443
6			10,000	10,000	238,883	(228,883)	208,702	13,566
	<u>1,400,000</u>	<u>182,000</u>	<u>60,000</u>	<u>1,642,000</u>	<u>1,433,298</u>			<u>253,140</u>
						Plant life		<u>+ 11,000 p.h</u>
						Hourly cost of capital lock-up		<u>\$23.02 / p.h</u>

**Figure 2 Capital lock-up**

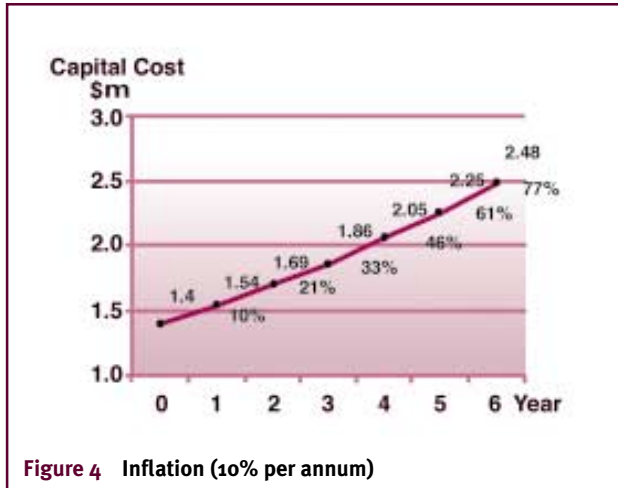


Figure 4 Inflation (10% per annum)

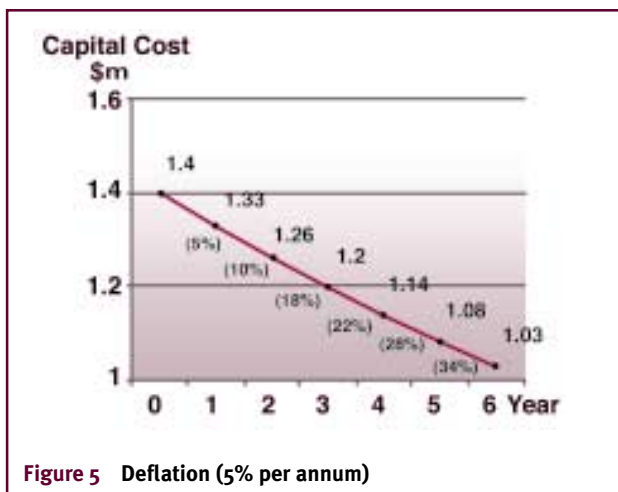


Figure 5 Deflation (5% per annum)

- **Replacement Cost** is the cost of replacing the excavator with a similar excavator at the end of its useful plant life i.e. Delivery Price [B] + Inflation [A].

The example which has been chosen is one of inflation, but deflation works in a converse way and would impact on the capital lock-up cost as returns would diminish.

### Inflation Costing

If DIG Ltd did not account for inflation and priced work based on the 1996 delivery price, then it would not be valuing the excavator at current market rates. By year 6, at 10% annual inflation, DIG Ltd would be underpricing the inflationary trend by about 77% (see Figure 4).

If the converse occurred, and there was 5% deflation per annum over a 6 year period which resulted in lower delivery prices for plant, then DIG Ltd would be overpricing the deflationary

trend by about 34% (see Figure 5). If DIG Ltd did not reduce its prices it would be out of work and out of business.

Taxi fares are one analogy of age, value and inflation which may help to further explain the philosophy. A new taxi and a taxi which is 5 years old both charge the same fares even though both taxis have a different value in terms of potential earnings due to the differences in remaining useful life. The taxi fares charged are the same irrespective of whether it is the first day of use of a new taxi, with its full working life ahead of it, or the last day of use of an old taxi which will be retired on the next day. However, for an operational day, both new and old taxis have the same current earning potential for that day provided that the productivity of the old taxi can match the

productivity of the new taxi. The same applies to old and new plant if the old plant is capable of productivity to match the new plant. The plant rates are the same regardless of whether the same type of plant was manufactured in, say, 1991, 1993, 1995 or 1996.

Inflation and earning potential may be logical business sense but are they “direct loss and/or expense” and/or “additional cost”?

The definition of “Cost” in the KCRC General Conditions of Contract for Civil Engineering and Building Work includes for “*depreciation in value of any Contractor’s Equipment owned by the Contractor, but excluding profit*” [emphasis added]. Therefore, the “value” of the plant has to be assessed before depreciation can be calculated. As “value” is related to inflation and earning potential there is good reason, in BERA’s opinion, to suppose that these factors should be included in the assessment of cost, at least insofar as KCRC contracts are concerned.

When determining “value” it is not sufficient to limit considerations to what an item cost when it was purchased. For example, take an apartment purchased in early 1997 for \$10 million. Today, the value of that apartment is not \$10 million but about \$5 million. Therefore, “value” is related to market conditions not purchase price.

As DIG Ltd bought the excavator near the top of the construction market in Hong Kong in 1996 then the value (earning potential) in 2003 will be much less due to deflation even though the price of a new Caterpillar 330L excavator may not have depreciated.

Accordingly, when calculating depreciation after year 1, the “value” of the excavator in any year of use should reflect the current delivery price in that year as opposed to the original delivery price. At 8% inflation at the end of year 1 the current depreciated delivery price of a similar excavator would add an additional \$8.65 p.h above the hourly cost of depreciation at the beginning of year 1 (i.e. HK\$(1,400,000 8% x 85%)+11,000 p.h’s).

The converse would apply in times of deflation.

### Replacement Costing

Where there is an ongoing business venture, the work that DIG Ltd does today should generate sufficient income to set up a fund for financing the replacement of the present excavator with a new one which will have to be purchased in the future if the company is to continue business. This is rather like inflationary or deflationary costing but projected for the useful plant life.

T M Ryan in an article entitled “Plant Cost Estimating I and II” published in the Institute of Quantity Surveyors’ ‘The Quantity Surveyor’ considered, at some length, the effects of inflation and recovering the replacement cost of plant. Basically, he submitted that the owning costs should account for depreciation for the cost of a replacement excavator purchased in the future not the cost of the present excavator i.e.:-

“The rate for each year should rise to match inflation in the cost of a new machine and still produce an amount which will show a return on the capital invested and at the same time provide funds for the replacement of the machine at the required time.”

At the time when Mr Ryan wrote his article (August 1980) inflation in UK had been rampant and accounting for replacements was perhaps more essential.

The principle is illustrated in **Figure 6**. Based upon an annual inflationary trend of 8%, DIG Ltd would recover HK\$1,571,356 for depreciation. However, the depreciated replacement cost for a new excavator at the end of year 6 is HK\$1,888,380, a shortfall of \$317,024.

Spon's Civil Engineering and Highway Works Price Book (1999), at page 104, recommends that plant-owning costs should *"be updated annually or bi-annually...to ensure complete recovery of the costs associated with the item of plant and return of capital to enable the machine to be replaced at the end of its life with the contractor. The purchase price must also be adjusted to ensure recovery of the replacement cost and not the original cost of purchase"*.

## Summing Up

The costing of company owned plant should reflect inflationary/deflationary trends. If there was persistent deflation in the cost of new plant then, if the deflationary trend was not taken into account, the new plant would have an hourly cost lower than the old plant. That cannot be correct in assessing a reasonable and proper cost for an item of plant which is not new. In times of inflation, obviously the converse applies.

There is then the question of replacement. If the contractor only recovers the delivery price of an item of plant, then when it has reached the end of its useful working life, if the company is to continue in business, it must refinance to purchase a replacement. That is risky as in times of a downturn bank managers will not look favorably on loans to purchase new plant. However, in downturns the plant manufacturer may be able to offer special deals including deals on funding.

Therefore, is replacement really a cost and should it be part of an assessment of direct loss and/or expense and/or additional cost?

BERA consider that there is no fixed answer as it will depend upon the individual contractors and their company policy. For instance, if the company is a major earthworks contractor whose accounting procedures provide for replacement, then replacement costing may be allowable. However, if the contractor financed each plant purchase with a bank loan or hire purchase then replacement costing would not be allowable.

If replacement costing is allowable then the cost of capital lock-up would reduce as recovery of the capital lock-up would occur quicker.

Similarly, if inflation pricing occurs then the cost of capital lock-up reduces for the same reasons as replacement costing.

The next article considers plant operating costs.

For further information please contact [bera@netvigator.com](mailto:bera@netvigator.com) 

<u>End of Year</u>	<u>Delivery Price at 8% Inflation</u>	<u>Residual Value</u>	<u>Depreciation</u>	<u>Yearly Depreciation Adjusted for Inflation</u>
		$([B] \times 15\%)$	$([B] - [C])$	$([D]/6\text{years})$
<b>[A]</b>	<b>[B]</b>	<b>[C]</b>	<b>[D]</b>	<b>[E]</b>
HK\$	HK\$	HK\$	HK\$	HK\$
0	1,400,000	210,000	1,190,000	0
1	1,512,000	226,800	1,285,200	214,200
2	1,632,960	244,944	1,388,016	231,336
3	1,763,597	264,540	1,499,057	249,843
4	1,904,685	285,703	1,618,982	269,830
5	2,057,059	308,559	1,748,500	291,417
6	2,221,624	333,244	1,888,380	314,730
				1,571,356

**Figure 6** Inflationary and replacement costing

# Property Market in the wake of the SARS



**N**o doubt, the SARS (severe acute respiratory syndrome) dominated the scenes in March.

The property market was hard hit by the SARS. There were reports of postponement, even suspension, of sales launches by developers.

Property sales activities in early March were still quite buoyant in spite of the war in Iraq, especially in new projects such as Tseung Kwan O Plaza, Vianni Cove in Tin Shui Wai and Hampton Place in Kowloon West. At a price range of HK\$2,300 to 2,500 per sq. ft., Tseung Kwan O Plaza, the first project launched in March, sold 400 flats in the first week and more in subsequent weeks.

Then came the outbreak of the new atypical pneumonia called the SARS and the panic. As a result, the local economy and the property market in particular came to an abrupt halt.

Against the backdrop of plummeting confidence and transactions, there were few reports that some buyers offered lower prices to cash in on the SARS crisis. Offers still came in for Amoy Gardens, despite the fact that its reputation - being one of the most popular estates in Kowloon East for its close proximity to the MTR and offering relatively more affordable housing budgets for home-starters - has been severely tarnished by a litany of SARS infections in one of its blocks. But those offers were down to a range of HK\$400,000 to 500,000 for a typical two-bedroom flat, some 40% lower than the transaction prices recorded before the SARS outbreak.

We believe the SARS crisis would exacerbate the property market, with a 7 - 8% fall in property prices. The extent of the fall shall depend on how soon the SARS would run its course.


To alleviate the pains of property owners and tenants in this unprecedented crisis, some financial relief from the Government should be adopted to boost the much-weakened confidence. Suggested measures include:

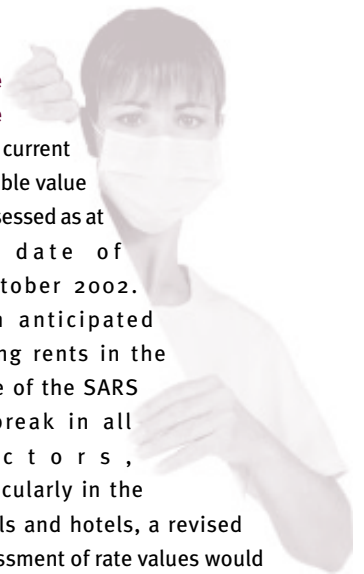
1. **Rates relief** - waive the payment of rates for at least one quarter, or longer if the SARS continues for more than three months.

- 2.

**Rateable value**

- the current rateable value is assessed as at the date of 1 October 2002. With anticipated falling rents in the wake of the SARS outbreak in all sectors, particularly in the retails and hotels, a revised assessment of rate values would bring in lower rates.

3. **Stamp duty** - in these very difficult times, exemption of stamp duty, or at a significant reduction, in property transactions is a most welcome sign and a strong stimulus to the market.
4. **Property tax** - a reduction in property tax could compensate the loss of property owners who are facing a tide of requests for rental reduction from tenants. 



# We have Nothing to Fear But Fear Itself



Jim YIP  
Hon Editor

What is the most common Achilles' heel for a professional? Fear to admit I have a problem in my writing. We are professional in our job, but this does not necessarily mean our writing skills are all up to a professional standard.

Not admitting our weakness is not helpful in finding the cure and the drive to tackle it.

And the fact is that for most of us, including native speakers, we all have to struggle with writing from time to time. So why fear to admit it?

A high standard in English is vital to maintain Hong Kong's leading edge as Asia's commercial and financial hub.

On a personal level, a better than average English language skill could be more important than an MBA in employment. At least our largest developer Sun Hung Kai Properties thinks so. The company has moved to ask their staff to take English tests as a requirement for promotion.

In one recent RICS Open Forum, the RICS president elect Mr Nicholas Brooke said: "Far too frequently, we play a supporting/technical role when we should be acting as the team leader and process manager."

Quite right, it is the time for us to re-establish our position as the premier provider of property and construction related services. If we aspire to play the leader's role, amongst many initiatives one should not ignore is to strengthen our language skill.

So in this first monthly column, which focuses on English writing skills, I will share the writing tips I learnt from others and stories of accomplished writers. I hope this column will stimulate your thought in writing and foster a stronger culture for surveyors contributing articles to Surveyors Times – soliciting contributions from more members is actually my key performance pledge as this year's Hon. Editor.

A monthly column like this also benefits me, by pushing myself at least once a month to think of good writing. I also particularly like the idea of admitting and confronting my weaknesses in an open setting.

I am not armed with any specialist knowledge but I have plenty of miserable experience in writing to share. For more than a year I had suffered from a typical syndrome for every writer - the writers' block. Spending many hours in front of my computer could yield no more than a few good sentences. The right words did not come easy, and most of the sentences were awkward and halting.

I thought more reading could help, however, it seems that the more you read on how people have written on the topic, the more inertia you have to start writing.

It depresses me a lot and it becomes almost unbearable each month when the time fast approaches the submission deadline.

Recently I have used one basic method and found it helpful. The method is simple: memorize and recite a good passage (suggest adopting the news stories from the *New York Times* or *Asian Wall Street Journal*) each day. This traditional

## Some writing tips to share:

Writing tips	Explanatory notes in property terms
Create an interesting title for your article.	A development named like Residence Bel-Air or Bellagio sounds more prestigious than Fu Keung Fa Yuen.
Don't use passive voice unless necessary.	"We sold 500 flats" tells a more compelling story than "500 flats were sold".
Don't begin the sentence with weak words, such as "there is" and "it is".	There are 5,000 home seekers waiting outside the sales room or 5,000 home seekers queued outside the sales room. Which one is better?
Use visualization skills in writing.	Describing what you see at the show flat is easier than figuring it out from the plan.
Create sentences/paragraphs of contrasting characters or scenes to achieve strong impact on readers.	Hong Kong property at Shenzhen prices can be an attractive sales headline.

rote-learning method helps strengthen my sense on sentence flow and structure as well as to kill the time I spend each day on a long travel journey from home to work.

In next month's column, we will have Christine Loh, CEO of Civic Exchange, as our first guest writer. She will share her experience on writing.

### What are the coming themes?

**The culture factors** – Linguists say one's original language culture has an influence on the way one speak and write in a foreign language. Judging by one's accent, we can easily tell whether he is a Singaporean, Japanese, or Chinese. How the cultural difference has affected our writing?

**An actor in the cinema?** – Despite having watched Hollywood movies for many years, we still rely on reading the Chinese subtitles to get by. Why? Any solutions?

Share your views on writing experience and your comments to [jimyip@hkis.org.hk](mailto:jimyip@hkis.org.hk)

In a drive to create more interesting articles in this publication, the Editorial Board invites you to share your personal experience in travel, wines, food, golf, photography, self-improvement skills, films, DIY techniques, computer hardware and software and health tips. Please send your contribution to [editor@hkis.org.hk](mailto:editor@hkis.org.hk)



# VALUING TECHNOLOGY

## *The New Science of Wealth in the Knowledge Economy*

Written by Chris Westland  
ISBN 0-470-82056-X



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I feel ashamed to say that (partly because of my present role) my small personal library at home contains only a few textbooks on property valuation. But when I spend times in bookstores or libraries, valuation titles are my frequently visited items. This month, I would recommend a good book on a new way of valuing information and service businesses, which, according to an estimate, generates over 80% of the wealth in developed countries.

Assessing the business values of corporations in the old economy rests on the economics of scarcity – scarcity of manpower, physical resources like machines and materials or capital. These traditional business models rely usually on Discounted Cash Flow (DCF), a weighted average cost of capital (WACC) discount, or some other financial models to value the business assets, which requires raw financial accounting data, typically from audited reports. The knowledge economy is, however, not dominated by scarcity of resources but dominated by information – so should a shift of managerial attention from supply-side cost reduction to demand-side wealth

creation. The second feature of knowledge assets are that they are non-rival in nature, that is, one's consumption of the good does not necessarily reduce the quantity available to others. And the third feature is that the acceleration of technology development makes it increasingly difficult to predict the shape of products or markets in any timeframe. Finally, competitive strategy is increasingly held confined by forces outside the market, that is, by government, industry, and institutional governance. All these shifts promote the velocity of changes in four major trends – technology acceleration, network externalities, organizational scaling and geographical scaling.

Gordon Moore, the co-founder of Intel and CEO from 1979 to 1987, yielded the first technology acceleration estimate, Moore's Law – typically couched in terms of computing power for price doubling every eighteen months. More importantly, it suggests the ultimate futility of depreciation accounting for technology assets. Computer makers like DELL makes use internal models that completely depreciate inventory over a 3-month period.

Network Externalities are what lie behind Metcalfe's Law, i.e. the value of a network goes up as the square of the number of users. As quoted from my previous book recommendation on *Information Rules*<sup>1</sup>, 'the information age is built on the economics of networks. For example, the more VCRs there were, the greater the demand for prerecorded videos. Information economy could benefit from the growth of more and

more users.' This network effect will enable intelligence being shared. Such practice has also revolutionized the marketplace, created new sources of wealth, and restructured the character of work.

Geographical Scaling enabled by communication network technology strongly impacts fields that are knowledge intensive. Globalization demands more on government policy and infrastructure investment in finance, censorship, ownership and regulation, etc. Money and business will go where it is treated well. On the other hand, physical product will foster more customer-orientated approach and keep the global supply at its best. Michael Dell is the master of "build to order," and the automobile industry is also expending huge sums to gain expertise in this area. As quoted from an article in the *Asian Wall Street Journal* on 7 April 2003, Kia Motor's Sorento SUV takes 30,000 parts from suppliers as far afield as China, Thailand and Mexico.

The shift to knowledge economy is fast changing work and jobs, with mass production and large organizations disappearing. Global transportation and communication networks have also brought fundamental changes in organizational structures. Organizational scaling has flattened the hierarchy, with no more 'command and control'. Moreover, downsizing has removed workers with lower skills, so firms basically consist of a small core of smart and adaptable employees. Finally, efficient market coordination through the global networks provides efficient market alternatives to internal

production, making better use of individual contributions to organizational goals.

Based on the above four new trends that are shaping up our knowledge economy, the author argues that changes in the world's industrial structure have made the 600-year old conventions<sup>2</sup> of Generally Accepted Accounting Principles (GAAP) obsolete, endangering the credibility of corporations, financial markets and the entire investment community because GAAP does not account for all value or loss generating activities up and down the value chain; nor fully report any activities at all of risks and variance. Therefore most of the forecast future cash flows and earnings, relying on these numbers, may only be imprecise and may or may not be inaccurate.

The intention of this book is to promote the need for revisions in accounting and financial valuation. As mentioned above, traditional business valuation relies on DCF and WACC discount. DCF is a tool for aggregating the different insights provided by information derived from accounting statements, press releases, forecasts and processes; and much of the DCF forecasts are based on historical figures, modified by assumptions about future markets, operations and opportunities. Their combined effect easily swamps the entire evaluation. Since knowledge is non-rival (not consumed after use), so knowledge economy value cannot be accurately measured in terms of DCF especially when many of these companies usually have a short history, and may have changed their business model every few years.

Prior to the debacle of Enron Corporation, the author had already pointed out his doubt on the 'objectivity' of the accounting profession. But during the past two decades, the accounting profession has changed because all the big accounting


practices earn the majority of the income from non-audit consulting businesses. Accountants who rely more on a growing level of consulting revenue are less likely to be 'independent'.

While this book criticizes the deficiency in the present methodology on valuation of knowledge-intensive businesses - such deficiency had cost nearly US\$8 trillion dot-com investors a lesson in late 1990s, this book has yet to offer a new science for computing the value of knowledge-intensive companies (to be followed up with a more comprehensive system of valuation in his new book *Financial Dynamics*). But this book could expand our views to see valuation from a different angle.

The author, a Certified Public Accountant and currently Professor in the Department of Information Systems and Management at the HK University of Science & Technology, has expressed disappointment about Hong Kong's technology policy that has lagged behind other Asian countries/cities like Singapore, Taiwan and Shanghai. He was cited as saying<sup>3</sup> that our government 'has opted to protect its civil service, financial community and property developers over more enlightened policies at a time when business is increasingly global and virtual.' This message would hopefully remind our Government to think more laterally and do immediate actions to position Hong Kong correctly as an international city!

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Notes:

- 1 *Information Rules* (A strategic guide to the network economy) written by Carl Shapiro and Hal R. Varian
- 2 See page 189 – In 1487, Luca Pacioli published his 600-page book, *Summa de aritmetica geometria proportioni et proporcionalita* (*The Collected Knowledge of Arithmetic, Geometry, Proportion and Proportionality*), which described the double-entry bookkeeping used by the Venetian merchant marine – the first formal accounting system.
- 3 See <http://ihoe.ust.hk/~westland/interview.htm> 



# The Urban Marshal

An Interview with Dr Edmond Cheng,  
Managing Director of Urban Group



Danny Cheung  
JO Editorial Board Representative

The office is glitzy and bright. Through the big glass wall on the right of the reception desk several LCD computer monitors lay around the table. It is Urban Group's 24-hr CRM Call Centre, but it looks like a modern internet cafe.

Walking through the corridor, the workspace is neat and tidy and no piles of documents and files are found on the desk. But the whole office is swarming with the postings of a colorful "Total Quality Management (TQM)" slogan banner - we can even find some on the toilet wall.

This is, after all, what the company's marshal Dr Edmond Cheng has been working hard for the past two years. He is mobilizing his 3,500-strong workforce to embrace a new work ethos - total quality management.

Urban Group is the property manager for some of the prestige developments in the territory such as Mei Foo Sun Chuen, City One Shatin, New World Tower and Park Lane Shopper's Boulevard. A total of 160,000 residential units plus 20 million sq.ft. of commercial and industrial floor areas with a total gross floor area of 125 million sq. ft. are under their management. Their market share, currently 16%, is rising steadily, partly because of acquiring some of the outsourcing contracts in the public sector.

Dr Cheng worked his way up from his first job as a property management trainee 22 years ago. Before he took the realm of Urban Group, he held a record of 12 job promotions - virtually one promotion every two years. He was chartered in 1995 and became a Fellow member last year. In 2000 - 2002 he was the president of The Hong Kong Institute of Housing. He is not only the youngest CEO of one of the largest property and facility management groups but also the youngest president of a housing professional institute at the age of 40.

The failure of getting into university after the A-Level exams didn't dent his quest for academic

achievement. He worked hard and studied even harder. From a diploma course in Housing Management, to an external degree course in Estate Management, to an MBA and finally a PhD in management, he pursued his academic achievements while at the same time delivering excellence in job performance. He is one of the few who possesses extensive industry experience and a PhD in the property management field.

*Many years ago you had already been very successful in your career, what are the reasons that drive you to keep on with further studies in all these years?*

**Dr Cheng:** What has shown quite clearly in the past five years is that there is no such thing called job security in the market. Banks and public sectors - sectors we used to think that provided rock solid employments - have cut their workforce in this downturn. As we all work for others, there is really

no guarantee that you can stay on the job forever or that you can find another senior management post in other organizations. Working experience is important, but the value of 15 or 25 years experience may not be materially different from that of 10 years if you stay on the same post. So a strong academic

background may give you some additional firepower. Moreover, the business environment is changing fast, we need to equip ourselves with new knowledge to help us and the company to capitalize on the opportunities and to grow the business.

*How did you find value from these studies?*

**Dr Cheng:** Immensely. When I was studying the MBA course in 1993, I was already in the senior management position. The course has enhanced my skills in management and strategic planning. My thesis for my PhD was about quality improvement for property management services in Hong Kong. As you can see, I am now actually utilizing the knowledge I learnt and pushing through the TQM management concept in our workplace.

*How did you make all your staff share the common goal of total quality management?*

**Dr Cheng:** TQM is about providing our clients with quality services; services of a six-star standard. Our services must not only meet our clients' expectations, but also exceed their expectations. To achieve that, strong commitment from every one of our 3,500 staff is needed. In order to help them understand the concept, why embrace it and the benefits it would bring to themselves and the company, I met and discussed with each one of them through 14 commitment days. The same message must also go to our clients. Last year, we held a big ceremony in the Hong Kong Convention and Exhibition Center and invited more than 1,000 guests to witness our pledge on quality service delivery. The guests were the owners' representatives from all the estates we manage and our business partners. No doubt from now on, they will check our service standard every day and see if we keep our promise.

*What is Urban Group's management strategy?*

**Dr Cheng:** As you know we are one of the market leaders in the industry, we have a large service team and we have a much larger cost base compared with the small players. In bidding for the service contracts, we cannot beat them on cost, but we beat

them on the quality of service we provide. We rely on three core principles - Professionalism, we have a large in-house team of professionals from surveyors, property managers, engineers to architects; Quality services, we are now implementing TQM at all levels; and the Technology edge, we have invested \$20 million in our Smart

Urban System. This is a very sophisticated and web-based IT system that can help us issue bills, store building maintenance records, provide customer services, and even offer online training to our staff as well as many other functions.

*Can you tell us the interesting aspects of a property manager?*

**Dr Cheng:** Our clients - owners and occupiers - always place high demand on our services that make our job



sometimes very difficult. Some see our jobs tedious and boring, but I see the challenging side of our job. In terms of the degree of interaction with other people, I would think no other profession could compare with us. We deal with people from all walks of life, from a hawker, housewife, CEO, government official to a politician, basically working on a day-to-day basis. For example, in one of the properties under our management, the owners comprised five judges, you can imagine how challenging it would be in an annual general meeting discussing the contribution for renovation works that led to a debate on certain provisions of the Deed of Mutual Covenant and Building Management Ordinance (BMO). In another residential estate, we once asked the owners' approval for a slope maintenance work, the owners sent in a team of auditors and civil engineers - they were also residents in the estate - to check and scrutinize every detail of our proposal. You need to be well prepared and make good presentations. In other projects you may deal with a group of housewives, then you need a different set of interpersonal skills to communicate and build up trust. Good property managers are also good managers in human relationship. Apart from our endeavor in routine management practice, property managers are now more actively looking for creative ways to build a good community. For example, we now have a team of volunteers who organises regular visits to the aged people in the estates. We also pay more efforts in promoting green living style in the neighborhood.

I think property management provides a good career prospect. With the continued completion of new developments each year, more job opportunities will be provided for property managers. Even though the units are unoccupied, the property owners still have to pay the management fees as this is provided in the MBO whereas in PRC, there is still no such provision.

*Can you tell us one of your proudest moments in life?*

**Dr Cheng:** The graduation ceremony of my first degree in Reading, UK in 1992. I had spent more than 5 years on this ever since my first part-time diploma course in Housing Management in the University of Hong Kong. I promised myself I would get a degree when I didn't have a chance to go into university after finishing secondary school. I had achieved my dream. It came 15 years later, but it was nice. My parents, wife and my brother were all there at the ceremony.

*Can you share with us your successful working experience?*

**Dr Cheng:** When I was an Estate Officer, I used to carry out the decoration work in a shopping mall for the

Chinese New Year at the hour of midnight on New Year's Eve. There were not many staff willing to take this shift because they wished to stay with their families for the traditional meal. I would be the one to take this job and I was happy to do it. A couple of years ago there was a water leakage in the shopping mall. I joined in with the cleaners to mop the floor. I didn't mind doing it even though I was the property manager of the shopping mall. To get to the top you need a lot of people to help you, you need to meet some good bosses, but one most important thing is you need to create and seize opportunities for yourselves. The initiative to work hard is essential. Willing to sacrifice your time and take up the odd jobs shunned by others can set you apart from others. In the past 22 years working in the property management field since my first job as a property management trainee in Hang Lung Group, I have had 12 promotions, virtually one promotion in every two years, in one year I even had three promotions. I am always aiming to achieve the best for myself, in career, profession and education.

*What are your attitudes towards life?*

**Dr Cheng:** In the past I had done a lot of odd jobs, I had been a night-shift taxi driver, LPG gas delivery worker and a waiter. These experiences have enriched my life. Opportunity always lies ahead if you keep on fighting. Think positive and stay healthy. I play a lot of sporting activities. When I was a schoolboy, I was a life-guard and played in the school gymnastic team and won numerous prizes in the inter-school competitions. The tough training taught me one good thing - be brave to face challenges - and it also gave me a strong body.

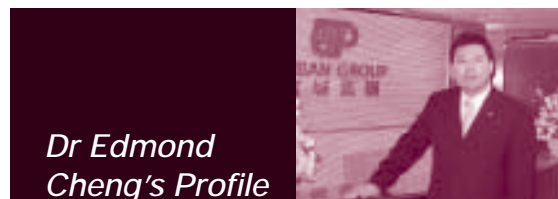
I bought a property on 26 June 1997 and I am sure you can work out how much the property value has lost. But this has not affected me because I didn't buy it for speculation. I am an optimist and I am very lucky that I have a happy family. My responsibility is not only to my family, but also to our 3,500 staff and their families. If they are not happy, how can we ask them to give happy smiles to our residents?

*Tell us about your APC experience*

**Dr Cheng:** I failed the APC twice before getting my surveying qualification. At that time it was difficult for people like me with working

experience mostly on property management, as most of the questions from the APC assessors leaned towards non-property management field. Six months before my third attempt I asked for a secondment in FPD Savills office, the parent company of my then employer (Guardian), and gained some useful working experience. And I passed in this attempt. Last year, I was an APC assessor and in my panel, two out of three candidates from the property management field passed the APC. Surveyors' involvement in the property management field is rising.

Past interview articles at this link:  
[http://www.hkis.org.hk/hkis/html\\_join\\_events\\_reserved2.jsp](http://www.hkis.org.hk/hkis/html_join_events_reserved2.jsp)



**Dr Edmond Cheng's Profile**

**Education:**  
 Diploma in Housing Management, University of Hong Kong (1987)  
 BSc Honours Degree in Estate Management, University of Reading, England (1992)  
 Master of Business Administration, University of Hull, England (1995)  
 Doctor of Philosophy in Business and Management, University of South Australia, Australia (2000)

**Professional Qualifications:**  
 Fellow of the Hong Kong Institute of Housing  
 Fellow of the Chartered Institute of Housing  
 Fellow of the Hong Kong Institute of Surveyors  
 Fellow of the Royal Institution of Chartered Surveyors  
 Fellow of the Hong Kong Institute of Facility Management  
 Fellow of the Hong Kong Institute of Real Estate Administration

**Career:**

1979	Joined Hang Lung Group and was promoted to Senior Estate Officer in 1987
1988	Joined FPD Guardian Group and was promoted to Executive Director in 1995
2000	Joined Urban Group and was promoted to Managing Director in 2002

**Institute and Community Services:**  
 Council member of the General Practice Division (1995-97)  
 President of The Hong Kong Institute of Housing (2000-02)  
 Member of the Real Estate Services Training Board – Vocational Training Council (2000-04)  
 Member of the Contractors Registration Committee – Buildings Department (2001-04)  
 Member of the Review Committee – Urban Renewal Authority (2002-03)