

# CHANGE WITH THE TIMES

## — 因時制宜



Dear Fellow Members,

Let me start by expressing my sincere thanks to your support for electing me the President of the Hong Kong Institute of Surveyors. Since its formation in April 1984 with members of no more than 100, and through the hard works of the members, particularly the past Presidents and Councils, the Institute has grown from strength to strength and is now one of the most influential professional bodies in the real estate field with membership of over 6,000. However, as we approach beyond the 20th anniversary, it is essential for us to take a hard look at the increasingly competitive markets we seek to serve and at the threats that face us, and ask if our Institute was responding good and fast enough to all the challenges we faced. I believe the answer is obvious and changes to meet with the market demands in the years ahead are essential.

Over the past years, we saw we lost our role in some key areas of practice that we had held for long time. The incoming Office Bearers and I are determined to make changes to our Institute targeting to serve the best interests of the members. There are issues, and I shall continue to identify others during my year in the office, some of them have been raised over the years and pigeon holed for a variety of reasons must be addressed. Unless we act promptly I fear that we may find ourselves increasingly irrelevant in the commercial world.

We are a members' organization. The responsibility for the direction of our affairs lies with the members, through the General Council and the Office Bearers. Over the past 6 years as a member of the General Council, I noticed that the Institute relies too much on our members in dealing with issues affecting the Institute. Office Bearers and Council Members have to spend hours and hours of their spare time on an enormous amount of Institute affairs. We all owe them a lot. However, as the Institute is becoming larger and there are increasingly demands for us to respond to matters affecting the profession in a proactive manner, I strongly believe it would not be in the best interest of the Institute to continue such practice. Whilst I look forward to the continued support of the members to ensure the best outcome and standard, we need a strong and well structured Administration Office, professionally run, to assist us in planning our future and put in hand actions to meet the demands of tomorrow's market place. I therefore intend to commission a study on the appropriate structure and strength of our Administration Office for providing quality services to the members and maximum supports to the General Council, Divisions and Committees of the Institute. Unless we have the set up that coincides with the needs ahead, we shall see our profession slide into the second league in the not too far distant future.

Since the Asia financial turmoil in late 1997, there have yet been any strong signs of recovery of the Hong Kong economy. Over the past 6 years, our members suffered much for the reduced business and employment opportunities. Last month, after more than 3 years discussion the Institute signed a Reciprocity Agreement with the China Institute of Real Estate Appraisers under which, and subject to certain requirements, the General Practice Corporate Members are permitted to obtain licence to practise in the Mainland. No doubt, such arrangement will enhance the job opportunities of our members. In the coming year we shall build on the momentum and secure

similar agreements for other divisions and also offer assistance to members to capture the benefits of the agreements.

None will deny the great potential of the Mainland market. With the implementation of the recently signed Closer Economic Partnership Arrangement (CEPA) commencing on 1 January 2004, it is crucial that the Institute should have a well organized plan to promote and elevate the status of the HKIS qualification and quality services provided by our members to the Mainland. Sufficient resources must be allocated to this area. Furthermore, as there are expected increases in the number of members working in the various cities of the Mainland, we have to strengthen the communication link with these members and to work out proper arrangement on how to assist them in further developing their professional skill and knowledge, and the field to which they seek to serve.

Apart from the Mainland, it is of equal importance that we shall expand our link and network, and to promote the Institute in other regions. At present, the Institute has signed Reciprocity Agreements with a number of overseas professional organizations including the Australian Property Institute, the New Zealand Property Institute and the Singapore Institute of Surveyors and Valuers. We must not shirk from doing things that we can do to support our members by raising the profile of the profession, and of the leading edge services that are provided. With the recent set up of the Hong Kong Chapter by the Royal Institution of Chartered Surveyors, it may be the right time for us to review our relationship with RICS and to set the appropriate way forward.

In March, I was asked by the General Council to chair a Working Group on the Amendments of Constitution and Bye-Laws of the Institute. All

proposed amendments, save those relating to direct membership, resolved at the EGM held in October 2003 are of paramount importance to the future development of the Institute. In the coming year the Council, with support of the Administration Office will work out the details for implementing the changes including the admission and training of the Technical Grade members.

Being a professional body we have to ensure our members' services meet with the market demands. Over the years there are mounting requests that our existing 5 Divisions should be expanded and regrouped to align more closely to the market. For example, we should have a Property Management Division to allow such services be promoted in a more effective way. The approval to the setting up of Forum would enable us to work towards such direction. However, as such changes are fundamental, it is most important that members are fully consulted and issues are properly debated before their implementation.

I have set out at above some basic issues that needed to be attended. There may well be an urgent need for change in some areas but I am more concerned about getting it right rather than having change for change's sake and rushing into quick fix solutions. To this end, members' participations and view are crucial, and I invite the whole membership to respond.

In closing, I would like to thank the outgoing Council for their hard works in the past year and look forward to members' continued support in the year to come. Thank you.

Tony Tse  
President

*(Presidential Message delivered at the HKIS AGM on 12 December 2003)*

# NEWLY ELECTED PRESIDENT AND GENERAL COUNCIL 2003/2004

The Annual General Meeting of the Hong Kong Institute of Surveyors was held on 12 December 2003 at the Hong Kong Convention and Exhibition Centre. Mr. Tony Tse was elected President for the term 2003-04, Mr. T. T. Cheung as Senior Vice-President, Mr. Wong Chung Hang as Vice-President, Mr. Bernard Chan as Honorary Secretary and Mr. Alex Wong as Honorary Treasurer. The full list of members to the General Council for the term 2003-04 are as follows:

## Office Bearers:

President	Mr. Tony TSE	謝偉銓先生
Senior Vice-President	Mr. T. T. CHEUNG	張達棠先生
Vice-President	Mr. WONG Chung Hang	黃仲衡先生
Honorary Secretary	Mr. Bernard CHAN	陳國輝先生
Honorary Treasurer	Mr. Alex WONG	黃來發先生

## Members:

### *Building Surveying Division*

Chairman	Mr. Raymond CHAN	陳旭明先生
Vice-Chairman	Ms Cecilia WONG	黃佩儀女士
Council Member	Mr. Kenneth YUN	甄英傑先生

### *General Practice Division*

Chairman	Mr. YU Kam Hung	余錦雄先生
Vice-Chairman	Ms Serena LAU	劉詩韻女士
Vice-Chairman	Mr. Lawrence POON	潘永祥先生

### *Land Surveying Division*

Chairman	Mr. LAM Li Wah	林利華先生
Vice-Chairman	Mr. Dominic SIU	邵偉青先生
Council Member	Mr. Henry CHAN	陳漢鋸先生

### *Planning and Development Division*

Divisional Representative	Mr. Edwin TSANG	曾正麟先生
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### *Quantity Surveying Division*

Chairman	Mr. Gilbert KWOK	郭靖華先生
Vice-Chairman	Mr. Sam CHENG	鄭森興先生
Honorary Secretary	Dr. Paul HO	何學強先生

### *Junior Organisation*

Chairman	Mr. Tony WAN	溫偉明先生
Vice-Chairman	Mr. Lesly LAM	林力山先生

## Ex-Officio Members:

Immediate Past President	Mr. Kenneth CHAN	陳佐堅先生
Chairman of the Board of Education	Mr. Barnabas CHUNG	鍾鴻鈞先生
Chairman of the Board of Membership	Mr. K. K. CHIU	趙錦權先生



# HKIS Submission to the Bills Committee on the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 (“the Bill”)



In responding to the Government’s public consultation on the Landlord and Tenant (Consolidation) Ordinance - Security of Tenure, the HKIS submitted a paper on 4 March 2003 in which we advocated:

- Option D - Removal with a Grace Period is our preferred option to ensure enough time for the private market to react to the new changes.
- The minimum notice requirement for commercial tenancies should be maintained.
- In addition, with the removal of security of tenure, the current statutory notice requirement in residential tenancies will no longer be applicable. We call for the Government to spell out a new requirement of the notice period for the residential tenancies.

We noticed that the Bill proposes a complete removal of security of tenure after an appointed date, which according to the Legislative Council Brief submitted by the Housing, Planning and Lands Bureau, would be two months after the passage of the Bill, at the very latest, June 2004.

We are concerned that such hasty arrangement might create chaos in the rental market, stir up undesirable tensions between landlords and tenants and defeat the good intentions upon which the removal of security of tenure was made.

## Removal of Security of Tenure

We support the removal of security of tenure for the following reasons:

- Security of tenure is a legacy of the rent control era.
- The removal will reduce intervention to the rental market, a view long held by the HKIS.
- Change of market fundamentals in recent years warrants for a call to restore the balance of power between landlords and tenants.
- Without the statutory protection, residential tenants can still protect their right of security of tenure through other effective market measures, which can be mostly achieved through private negotiation.
- Such market measures have been widely adopted in commercial tenancies and we expect the proposed change will bring residential leasing practice to be in line with the commercial market.

In the long run, with the removal of security of tenure, we believe the positive impacts to the residential market would be:

- Stimulate property investment in residential properties.
- Facilitate sale of rented properties.
- Facilitate urban redevelopment by private sector.
- Create longer lease term.
- Encourage private settlement on rent dispute.

The removal of the statutory right will allow the private rental market to operate more freely and lead to better utilization of our landed resources.

Given the long history (some 20 years) of the operation of the residential security of tenure, market measures to secure occupation rights by tenants such as: (1) long lease term (with or without rent review) and (2) option to renew have not been seen in the residential leasing market.

We would recommend public education prior to the implementation of the legislative change so as to ensure smooth transition in the rental market. The public needs to be aware of how their occupation rights would be affected by the law change and how they can secure their needs through contract arrangement. The Government is in the best position to handle this education process.

The immediate effect of removal of security of tenure after the appointed date as proposed by the Bill is that existing tenants will be deprived of their rights for statutory renewal. Existing tenants would not have anticipated that the security of tenure would be removed by law at the time of negotiating the tenancies and would not have introduced contractual terms to safeguard their occupation rights.

These tenants would be put into disadvantageous position when negotiating with landlords upon tenancy renewals and some of them might be subject to unreasonable rental demand by landlords if the tenants wish to stay on the premises upon tenancy expiry.

We, therefore, believe the appointed date should be set at a later time, to allow the public to be aware of the imminent changes in the residential tenancy legislation and to get prepared for such change.

Alternatively, the Government should consider giving a grace period to the existing tenancies as we originally proposed during the consultation period. For tenancies expiring during the grace period, tenants have the right to apply for tenancy renewal for one more term.

We believe a 24-month grace period may be more appropriate, given that it is the usual lease term in the residential leasing market.

## Minimum Notice Requirement in Non-domestic Tenancies

We believe that the existing minimum notice period requirement is good market practice, as it serves the tenant a reminder and kick-starts tenancy renewal negotiation process. Without the notice requirement, ill-informed tenants could be most vulnerable.

The minimum notice period doesn’t hinder the landlord’s right of possession nor constraint the market rent. The existing notice requirement provides guidance to landlords and their property manager in tenancy management. We are not aware of strong voice from the market calling for its abolishment.

We therefore opine that the minimum notice requirement should remain in the law.

On the other hand, we also see the merit of the Government’s view in the proposal for removal of notice requirement as to reduce intervention in the private market as much as possible. Landlord and tenant should be free to negotiate the duration and terms of the notice period in their tenancy contracts.

To strike a balance of free market principle and minimum protection for the tenants, we suggest that where there is an agreed term on notice period explicitly stated in tenancy, the statutory requirement be “contracted out”.

## Minimum Notice Requirement in Domestic Tenancies

The Bill is silent on the treatment of the existing statutory notice procedure for residential tenancies including such notices like Forms CR 101, CR 102 in the new regime. If the security of tenure is removed, we are of the view that a minimum notice period should be maintained and it should also be spelt out in the new law.

Assuming there would be no security of tenure and no minimum notice period by landlords, ill-informed tenants could be held to pay hefty compensation / mense profit for occupation after expiry of tenancies.

We support the amendment made by the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 that the minimum notice period by residential landlords is shortened to not less than 3 months.

Such notice need not be in prescribed form but should be in writing, in the same manner like the non-domestic tenancies sector.

# CONGRATULATIONS

*TO THE FOLLOWING WHO WERE ELECTED AS  
HKIS MEMBERS ON 20 NOVEMBER 2003*

## FELLOWS (9)

### GP DIVISION

LAU SZE WAN SERENA  
LEUNG SUN CHUEN

### LS DIVISION

SHIU WAI YEE WINNIE

### QS DIVISION

CHAN HON CHUEN  
CHENG SUM HING  
CHUNG KAM WING  
KWOK CHING WA GILBERT  
KWOK SIU WING  
TANG KI CHEUNG

## MEMBERS (15)

### BS DIVISION

LAM FUNG PING  
LEUNG KWOK FU  
TSUI SIU KAI

### GP DIVISION

CHAN HIU KWAN  
CHOW DING EULOGIUS

### QS DIVISION

CHEUNG WING ON  
CHOW WING SZE  
LIU KUEN WONG BENJAMIN  
MA CHI LAI  
MOK WAI LUN  
PANG CHUN WAI  
TANG HING CHEUNG  
WONG KWOK SUM  
WONG SZE PING  
YU KAM HING

## REINSTATEMENT (1)

CHAN CHUNG KAY (GP)

## RESIGNATION (2)

CHUNG WAI SUM PATRICK  
MAU KING IP ISAAC  
SPENCER, WAYNE ROBERT WILLIAM

## OBITUARY

Miss CHENG Wai Ling Clara, MHKIS,  
General Practice Division, elected 27 April  
1995, passed away on 13 November 2003.

# *Facility* Management to *Facilitate* HKIS?




Hon P C LAU

I attended the HKIS Property and Facility Management Forum on 11 December 2003 where members were encouraged to speak out on the way forward for HKIS on Property and Facility Management (PFM). While most attendees were of General Practice and Building Surveying divisions, I could also spot a few Quantity Surveyors around, me included of course. Thus, PFM is one aspect of the land and building trade that is practised by surveyors of different disciplines and, in fact whether you like it or not, by non-surveying professions such as engineers, accountants, IT personnel etc. as well. The fact of the matter is that PFM is not, on its own, a single professional discipline in much the same way as project management, which role can be assumed by an architect, engineer or surveyor alike.

While I am a QS in practice and have nothing to do with PFM, I spoke at the forum of my view on the way forward for HKIS including an initiative from ourselves to embrace change and accept the fact that non-surveying professions are already in the trade and may well be better organised than HKIS. I suggested perhaps HKIS could consider to attract and absorb non-surveying professionals into HKIS' PFM membership particularly those from sister

professions such as M&E engineers who like us have already attained a recognised professional qualification. Many would recall how RICS expanded itself through merger and acquisition with estate agents, valuers, brokers etc. and that HKIE embraces some 16 different disciplines such as civil, structure, M&E, chemical, marine etc...

I hate to reminisce on the old wounds of the GP division in having lost ground to the estate agents and the housing managers, but the fact is that they have fared much better than surveyors in terms of grasping the right opportunities at the right moment in establishing themselves through relevant legislations. They may not be the same as surveyors in the quality of services content but they certainly were and still are perceived to be cognate with the nature of their respective services. **Thus, what you are may not be the issue, what you are perceived or seen to be is the issue.** My proposal to the HKIS PFM Committee Chairman Mike Price at the forum was that we should package and promote ourselves not only to our clients but more importantly to the relevant government officials that HKIS PFM, and not others, is the authority in PFM. Why? Because the last thing we want is to allow this niche of the market to slip from the surveyors' hands. Our strategy must, in my view, be to initiate a new piece of legislation in PFM under the auspices and in the name of the surveying profession i.e. HKIS. Only when we hold the horns can we rein in this field, or else we will lose out again as we did in estate agent and housing management. 

# BECOMING A MEDIATOR ON THE HKIS/HKIA PANEL



The introduction of the new Standard Form of Building Contract in the near future will surely be a great event for the construction industry. It is anticipated that the HKIS/HKIA will play an important role in resolving disputes arising from or in connection with the contract.

In order to assure the quality of those who will be appointed mediator by the HKIS/HKIA under the new form, and to provide an opportunity for those who are interested in becoming a mediator, the two institutions have put together a training course for construction mediation.

The fulfilment of the attendance requirement for the training course and the passing of the assessment upon completion of the course, plus a minimum of 7 years post HKIS/HKIA relevant experience, will be the basic threshold for inclusion onto the HKIS/HKIA panel of mediators.

The training course will be held from 12-14 and 19-20 March, 2004 and the assessment will be carried out on March 21 and 22. As a training course at high level as such is doomed to be resource-consuming and the number of participants cannot be too high, it is anticipated that no similar training course will be run again in the near future. There will be further information coming with the newsletter so please pay attention to the details when it arrives.

Mediation services of the HKIS/HKIA need your contribution and I look forward to seeing you in the training course.

H.F. Leung


Chairman, Mediators Working Group 

# The **missing firepower** in public speaking

Reported by Simon POON

MHKIS, MRICS

**C**ontents and words are the first things that jump into every speaker's mind, but according to a research, the words of a speaker only leave a meager 7% total impression mark to the audience. Guess what comprises the chunk? Body and Voice.

In "How to Speak with Impact" CPD event held on 2 December 2003, our guest speaker, Mr. Gavin Brown, showed us the ways and strategies for preparing an impressive talk from using interesting, logical and original material for presentation to delivering a speech with sparkling style. The interactive and lively event was well attended by 150 members. 



# Children and the land use settings - *Are we building an environment they enjoy?*

Reported by Kelvin NG




**S**tudies around the world have shown that there is a significant correlation between young children's development and the neighbourhood environment in which they are brought up.

While the neighbourhood environment is a master set of a vast number of inter-dependent and inter-mingled variables, one particular factor, the physical land use environment sometimes tends to be overlooked. In fact, all other environmental variables work inside the framework of the land use settings as all human activities take place on and above land and certainly within some form of physical structure.

Dr. Li Ling Hin, an Associate Professor at the Department of Real Estate and Construction, University of Hong Kong, has extended his research

interests into the social aspects of land use policy and this project marks the beginning of a number of other ongoing studies, some of which are linked with the UNESCO youth projects.

In a recent CPD, Dr. Li provided some insights into this particular aspect by a qualitative analysis. A major youth survey was carried out and views from the young people on two major aspects of land use settings were collated. He also examined how the physical land use system affects young people and how much they enjoy it in the micro-system and how much they can and are willing to articulate their views in the macro level.

"We found that land use environment in the neighbourhood does impose important effects on young people. However, young people do not seem to be able to capitalize the benefits of the "routine activities" due to various reasons, and among them management of public space is a major one," Dr. Li said. Dr. Li advised that the government should do more to stimulate young people's interest in contributing to the debate of urban land use policy. 





# A Review of the 7th South East Asian Survey Congress Hong Kong - 3-7 November 2003

Theme : From Compass and Pacing to Cyber Spacing -  
How does SE Asian Surveying Measure Up?

Venue : Kowloon Shangri-La Hotel, Hong Kong

From all accounts, delegates attending this congress were more than happy with the way this event was staged. Here are a few comments that I have received.

From one of our Keynote Speakers: "Thanks for the wonderful support you gave me in the buildup to and during the recent conference."

From one of our presenters: "The HK Congress was great! My warmest congratulations to you, TN, Winnie, and the whole team."

And another overseas presenter: "Please pass on my thanks to TN and all the team for a well run and enjoyable conference."

While this one is more of a compliment to Hong Kong as a venue: (speaking of his home town compared with HK)... "streets seem empty and dull and lifeless by comparison" !

And finally from our banquet Guest Speaker: "I would like to warmly thank you for inviting me to speak at the Congress... and for making me feel so welcome."

Everyone seemed to have a good time, and I must say I enjoyed myself immensely. So let's take a look at the week in retrospect.

## Opening Session

Monday, 3 November saw the start of the Congress with the introduction of all the dignitaries, followed by an address by TN Wong, Chairman of the Organising Committee. He stressed that the objectives of SEASC should include:

1. More formal four-yearly Surveying Congresses should be held in a country within the geographical area of SE Asia and Pacific Rim.

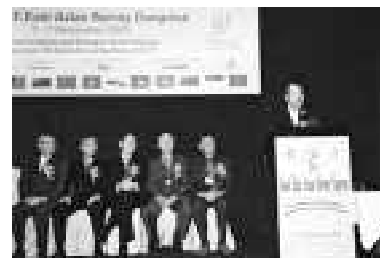
2. To provide a venue for all the professional surveyors around the region to meet and make friends with each other, to exchange ideas, expertise and technological advancement and development in surveying; to share our experience, to foster closer links and relationships and establish better understanding and to improve closer co-operation through more regional conferences; regular meeting of heads of department and professional institutions to discuss the common problems, to devise ways and means to resolve them; and to identify the imminent and future needs of each nation taking the cultural elements into consideration.
3. Richer nations should assist poorer nations in their nation building; setting up of professional surveying bodies to concentrate the efforts, expertise; training of human resources towards their nation building: better management of land and natural resources using LIS/GIS and Remote Sensing; better land management system for cadastral surveying and land economy for better taxation and generation of national revenue and planning of national building and hence better living.
4. Long term and sustainable planning and development scheme for future generations. Our seniors had made the present earth a good place to live and enjoy. It is our duty and responsibility to make this earth a better living place for our future generations to live and enjoy. It's our duty because we are land managers and are pioneers to every development. We are the information gatherer. We have access and the knowledge and expertise to the use of the latest instrumentation for collection and use of vast volume of land and geographical data. We know the land better. We should speak to our government in a professional way in presenting more constructive views and stronger participation in national planning and development process.

This was followed by an address by Mr. Kenneth Chan, President of the host organisation, the Hong Kong Institute of Surveyors. Mr. Kenneth Chan then introduced Mr. Michael Suen, Secretary for Housing, Planning and Lands, who gave the official welcoming address. It was then time for a sleepy Southern Lion to be awakened - and to really get the Congress off to a vibrant and energetic start, by performing an extremely active Lion Dance, to the exciting throb of the drum. The Lion danced on and up to an elevated position where it unfurled a message - "Welcome to Hong Kong"! - and we were ready to go.

## Keynote Speakers

Immediately following on from the opening ceremony two Keynote Speeches were presented. The first from Mr. SHIH Wing Ching, the Chairman of the Centaline Group was on "Business Opportunities in Mainland China for Surveying Professionals." His message was that the "best way to taste the pear was to take a bite" - just go and do it!

His address was followed by a presentation from Dr. Ing Andreas Drees, Deputy President of FIG. His topic dealt with the role FIG was expected to play in furthering the surveying profession in this changing world. The title - "Shaping the Change - FIG Policy for the Challenge of Today's World."



The Congress programme was arranged so that for each morning of the 4 days, 4-7 November, there was a Plenary Session with a Keynote Speaker. In order of presentation these speakers were:

Mr. Earl James, Past President and Hon. President of FIG. He spoke on the "SE Asian Survey Conferences into the 21st Century." He reviewed the development of the SEASC over the past 24 years, and raised some queries as to the structure and the role of the congress in the next 50 years.

Dr. Bill Robertson, former Surveyor General and Director General of Lands in New Zealand, had as his topic - "Surveying! Preparing for Change and Opportunities into the Future." He advocated that the surveying profession must not be complacent with what they have achieved - but should be proactive and innovative in moulding future change.

Next to speak was Prof. Yang Kai, President of the Chinese Society of Geodesy, Photogrammetry and Cartography. His subject was "The Strategies and Policies for Development of Geo-spatial Information Infrastructure in China." He provided a highly interesting assessment of the PRC's current situation in the geo-spatial world, well illustrated with excellent graphics in his PowerPoint presentation.

The final day saw Dr. KHOO Boo Khean, the President of ASEAN FLAG, give his Keynote address - "Pacing the Times." He spoke of the changes and the challenges in today's surveying world, and made the point that the professional surveyor must adapt - but should never forget or sacrifice the basic principles of the profession - the provision of accurate data, and the maintenance of ethical conduct.

Within the 5 days of the Congress, delegates were privileged to hear the thoughts, the comments, and the advice from six excellent Keynote Speakers, providing a wealth of thought-provoking analysis of the surveying profession, with particular reference to the SE Asian Region.

## Technical Papers

There were 68 Technical Papers submitted for discussion, and presentation was made in two parallel sessions.

The highest number of papers was in the area of GIS and Spatial Information Management. The 20 papers presented ranged from topics such as 3D terrain modelling, to an automated system from vegetation mapping, and an insight into the history of spatial databases.

The next highest number was in Photogrammetric Surveying and Remote Sensing with 11 presentations ranging from discussion of the latest in Rader and LIDAR, to the latest developments in terrestrial photogrammetry.

Cadastral Surveying was well represented with 9 papers. Topics ranged from the English Cadastre, to the Macau cadastral system, and the cadastral record system in Hong Kong.

The Geodetic and GPS areas were covered by 6 papers - dealing with topics as varied as the use of hand-held GPS, to a study of GPS crustal deformation monitoring and landslide monitoring.

The Hydrographic sector was very active, and in addition to site visits to local installations, they presented 6 papers dealing with topics such as the combination of photogrammetric and bathymetric techniques, and the planning of a marine cadastre.

Valuation and Land Management, together with Project-Cost and Contract Management were covered in a total of 6 papers, and Engineering Surveying provided another 3 papers. There were 2 papers dealing with Surveying Instruments, and 3 presented papers and 2 video presentations in the History of Surveying sessions. The video presentations covered **Surveyors in the Movies**, and commentary was provided by John Brock. John is achieving something of an international reputation as an authority in the depiction of surveyors on the silver screen, and in TV coverage. Keep up the good work Brocky!

Full details of all papers can be found on the website [www.seasc2003hk.org](http://www.seasc2003hk.org) and this site will remain active until June 2004.

## Technical Exhibition

Tuesday, 4 November saw the opening of the **Technical Exhibition**. In addition to the 2 booths of the Co-sponsors (the HKIS and the HK Lands Department), there was a total of 15 companies who participated in this Exhibition. The Exhibition opened in the afternoon and the Congress Director officiated at the official opening of the Exhibition that evening.

All the Exhibitors were thanked for their participation - as the SEASC could not be staged without their support.

The Exhibitors were - Autodesk Far East Ltd; Bentley Systems Hong Kong Ltd; Centamap Company Ltd; China Siwei Surveying and Mapping Corp., Geocomp Consulting Pty Ltd; Hewlett-Packard HKSAR Ltd; Leica Geosystems Ltd; PCCW Directories Ltd; PIL Systems Ltd; SinoMaps Press; Soka Precision Instruments Ltd; Sokkia Singapore Pte Ltd; SuperMap GIS Technologies, Inc.; The Hong Kong Institute of

Surveyors; The Lands Department, the Government of the HKSAR; Topcon Optical (HK) Ltd and Trimble Navigation Ltd.

Mr. Eric Pow from Leica Geosystem Ltd, the Diamond Sponsor of the Congress, was invited to make a speech on behalf of his company and the other Exhibitors, before the Exhibition was declared to be officially open. The Exhibition attracted delegates and many trade visitors to its booths until its closure on Friday, 7 November afternoon.



One booth at the Publicity Corner was devoted to the Survey Publications sector. The three organisations represented were **GIS Development** from the SE Asian region, **Position** (and **asm** - [www.asmmaq.com](http://www.asmmaq.com)) from Australia, and **Geomatics World** (UK).

## Social Programme

The social functions at any congress are an important part of the event, and the 7th SEASC was no exception. Tuesday, 4 November saw a busload of delegates head to the Happy Valley Racecourse for a barbecue lunch and drinks and the opportunity to watch the televised running of the **Melbourne Cup** on the large screen at the track. The sun shone, and we were able to mingle with members of the HK Australian Society - the ladies sporting their attractive race-day hats. Some delegates ventured a few dollars on the tote - but it was doubtful if the return was great! That same evening saw the **Opening of the Exhibition** - where delegates were able to sample the Shangri-la's spread of cocktail food, and mingle with the



Exhibitors, while enjoying a refreshing drink.

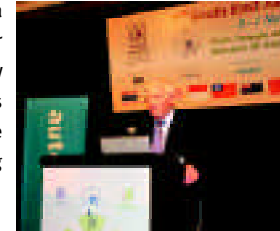
The next function on the programme was the **Congress Banquet** on Thursday night. This was held in the Shangri-La Ballroom, and the evening saw a total of 260 guests seated for a Chinese Banquet. Autodesk Far East Ltd. was the banquet sponsor, and the event commenced with a welcome speech from the Organising Committee Chairman, TN Wong, and an address from Mr. Srinivasan Venkattappan, a Manager of Autodesk. Later the Guest of Honour, Mr. Patrick Lau, Director of Lands gave a speech in which he describes the current HKSAR Government policy in land allocation. The banquet then got underway, and later in the evening the Guest Speaker, Mr. Gavin Menzies, was invited to give his address.

Mr. Menzies is the author of the best-selling book



**"1421-The Year China Discovered the World"**. He gave a highly interesting account of the factors that led to his research, and to the writing of his book. He gave a PowerPoint presentation showing the evidence provided by ancient maps and charts that stimulated his research. A table prize of one signed copy of his book was made to each of the banquet tables.

The final social event took place on Friday night, after the official closing of the Congress. The **Boat Trip to Lamma Island**, where a magnificent seafood dinner was enjoyed was in the view of many overseas delegates a most memorable conclusion to the week-long congress.



It seems fitting at this point to make a comment on the food that was served at the venue throughout the week. Feedback we have received (Sorry! No pun intended!) indicate that most delegates were more than satisfied with the food that was served up at the Breakfast, Lunch and Tea/Coffee Breaks. They were happy with the range of food, the quality and the quantity. Full marks to the Shangri-La!

On a final point - it would be a good idea for any budding congress-organiser to consider our strategy of providing a simple Continental Breakfast half an hour before the first session of each day. It really works in getting the delegates there in good time for that initial session.

## Closing Ceremony

The Closing Ceremony and the closing of the Exhibition took place on Friday afternoon. On this occasion there were no resolutions or recommendations passed by the assembled delegates at the final Plenary Session. The feeling of the Congress was that an effort should be made to put the organisation of the SEASC on a more substantial basis by establishing a representative controlling group. Before dealing with this matter, however, delegates had to consider the selection of the next Congress venue.

Two countries, Brunei and New Zealand, had expressed an interest to host the next Congress. Both countries gave presentations to highlight the attractions of their proposed venue as a Congress destination.

The matter of selection was resolved in a most amicable manner, whereby proposals were made, and adopted by the assembly, to hold the 8th Congress in Brunei in 2005, and the 9th Congress in Christchurch, NZ, in 2007. These decisions were agreed unanimously.

Another important proposal put forward at this Closing Session was that a **Working Party** be established to consider the future role of the SE Asia Survey Congress. The Working Party would then make reports and recommendations to the 8th Congress in 2005.

This was agreed by a majority vote, and the following 7 representatives were selected as members of the Working Party.

Mr. Hak CHAN (HKIS) - Convenor  
Mr. Newas UKOI (BIG - Brunei)  
Mr. Bruce MORRISON (NZIS)  
Mr. TEO Chee Hai (ISM)  
Mr. LEO Nardy (ISA - Indonesia)  
Mr. WEE Soon Kiang (SISV)  
Mr. Malcolm MCCOY (SSI)

The President of ASEAN FLAG, Mr. Khoo, called



for a vote of thanks to Mr. TN Wong and the 7th SEASC Organising Committee, and this was carried by acclamation.

TN Wong thanked all members of the Organising Committee and all the other helpers, and the Congress closed with the singing of Auld Lang Syne.

## Post Congress Technical Tours

A tour to the Lands Department on Saturday, 8 November, and a 2-day tour to Macau on 9 November to see current developments, and to visit the Cartography and Cadastral Bureau, was well attended.

So there you have it. A lot of hard work by a large group of people - but a most satisfying and happy outcome. Our thanks must also go to the two organising bodies, the HKIS and the HK Lands Department for their support.

Let's have more of the same at the 8th Congress! See you all in Brunei in 2005.

Gordon Andreassend  
Congress Director  
7th SEASC Organising Committee  
November 2003



# Time Limits for Arbitration Proceedings



**John B MOLLOY**

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

In life these days everything is subject to time limits. In particular, most standard forms of contract provide time limits for the Contractor to pursue his rights under the contract, and argument always arises as to whether the time limits are conditions precedent.

The clauses that give the Contractor the right to refer disputes to arbitration are no exception. As an example the Government Conditions Clause 86 provides that if the Contractor does not accept a decision of the Engineer it may refer the matter to arbitration, provided such reference is within 90 days of a variety of events, principally the failure of mediation or the refusal of one party to agree to mediation proceedings.

But what if the Contractor (or indeed the Employer) fails to make the reference within the stipulated time period.

Prior to 1996, if a party needed an extension it was handled under Section 29 of the Arbitration Ordinance that provided that the Court may extend the period for such time as it considers proper if it is of the opinion that in the **circumstances of the case undue hardship would otherwise be caused.**

The test of what would be considered to be undue hardship was set out in the case of **TS Wong & Co Ltd v Compagnie Europeene D'Assurance Industrielles S A**, 21 May 1993 where the court said:

*Undue hardship means excessive hardship and, where the hardship is due to the fault of the claimant it means hardship the consequence of*

*which are out of proportion to such fault. In deciding whether to extend time or not, the Court should look at all the relevant circumstances of the particular case; in particular the following matters should be considered: (i) the length of the delay; (ii) the amount at stake; (iii) whether the delay was due to the default of the claimant and the degree of such fault; (iv) whether the claimant was misled by the other party; (v) whether the other party has been prejudiced by the delay and if so, the degree of such prejudice.* ”

However, this test has now been superseded. Section 29 of the Arbitration Ordinance was repealed in 1996, and this element of the Section was replaced with Section 2GD which provided that the arbitrator (or the Court if an arbitrator has not been appointed) can make an order extending a period only if it is satisfied that -

*(a) the circumstances were such as to be outside the reasonable contemplation of the parties when they entered into the arbitration agreement, and that it would be just to extend the period; or*

*(b) the conduct of one party makes it unjust to hold the other parties to the strict terms of the agreement.*

*The wording of Section 2GD is very similar to Section 12 of the United Kingdom's Arbitration Act 1996, and in particular Sections 12(3)(a) and (b) are, in all important aspects identical to Section 2GD(5)(a) and (b) of the local Ordinance.*

Section 12(3) of the Arbitration Act was considered in **Harbour and General Works Ltd v Environmental Agency** [1999] BLR 143. In that case, a dispute was referred to the Engineer for his decision and he gave one on 29 June 1998. Eight days after the time for commencing an arbitration had expired, i.e. on 6 October 1998, Harbour and General Works Ltd (“HAGWL”)

served a notice of arbitration and applied to the court for extension of time under section 12(3) of the Arbitration Act 1996 in England.

HAGWL sought to argue that the circumstances outside the reasonable contemplation of the parties were firstly, that there was a procedural mistake in that instead of giving notice to refer to arbitration within time on 23 September HAGWL gave notice of conciliation out of time, and secondly, that the Environmental Agency (“EA”) on receipt of the notice did not draw to HAGWL's attention a particular procedural error until 5 October 1998 when it was too late.

The court ruled, inter alia, that the fact that HAGWL made a mistake as to the operation of clause 66 of the ICE contract which resulted in HAGWL notifying EA of the five claims within the period for starting an arbitration but failing to actually start an arbitration comes nowhere near the area of circumstances outside the reasonable contemplation of the parties envisaged by section 12(3)(2a) of the Act.

Colman J commented as follows:

**“It is the circumstances which gave rise to any miss, however near, that are relevant and in this case it was HAGWL's failure to operate the clause properly. That was a matter entirely within their control and not outside the parties' reasonable contemplation.”**

and

**“As Mr. Geoffrey Brice QC held in *Cathship* at page 729, mere silence or failure to alert the Claimant to the need to comply with the time bar cannot render the barring of the claim unjust.”**

The commentary on this case by the editors of the Building Law Reports at pages 144 and 145 is also helpful:

**“This case is warning to all parties to ensure that they comply with any clauses requiring**

**steps to be taken within a specific time to commence arbitration that they cannot rely upon the benevolence of the courts to extend time should they fail to commence proceedings within time...”**

The judge's robust approach gives rise to the question what circumstances might in fact fall outside the parties' reasonable contemplation. None of the above circumstances did. Indeed the first two of the above reasons were considered to be **“exactly what one might well anticipate happening”**.

Silence by a respondent on the question of a time bar or a failure by a respondent to draw to the Claimant's attention a time bar are not the type of conduct which would make it unjust to hold a Claimant to the strict terms of the contractual time bar.

What is evident is that under section 12 of the Act parties must take care to comply with all agreed steps within any period agreed as a time bar to commencement. Mere carelessness or ignorance of a party in such matters is unlikely to provoke assistance by the courts under this new regime of party autonomy.

In Hong Kong this decision was followed almost exactly in **Downer & Company Limited, Paul Y Construction Company Limited v The Airport Authority** (10 September 1999), HCCT 000015/1999, and so it is clear that the courts (and an arbitrator will similarly follow such precedent) will require very good reason to extend the time limit for serving a Notice of Arbitration in a situation where the party wishing to commence arbitration proceedings has failed to meet the time limits set out in the contract. Clearly mistakenly reading the clause is not sufficient, nor a failure by the other party to remind the party of the time limit.

# Success in mediation

## - a preparation check-list for the mediation hearing



Patrick O'NEILL

Brian E Rawling & Associates

In last month's article the writer discussed the importance of being prepared for the mediation and concluded that preparation in advance was an important element to a successful conclusion for both parties in any construction mediation. This month's article looks at the aspect of preparing for the actual mediation hearing itself from a practical perspective and, whilst not intended to be a definitive check-list of those items which should be borne in mind when preparing for a typical construction mediation hearing, it covers those areas of concern which, from the writer's experience, each party needs to give careful consideration to in the lead up to the mediation hearing.

### The Selection of the Mediator

It is a fact that there are more mediators in Hong Kong than disputes capable of being mediated and so the choice of available mediators is considerable. Indeed, the Hong Kong International Arbitration Centre maintains a general panel of accredited mediators and the list currently contains no fewer than 182 No accredited mediators from which to choose.

The criteria that the parties consider when selecting the appropriate mediator may differ on a case by case, or even on a party by party, basis. However, the essential ingredients of neutrality, credibility, formal training, relevant experience and cost will inevitably be factors affecting the respective parties' choice.

Mediation is supposed to be a consensual process and so it is vital that both parties are comfortable with the chosen mediator. This process of agreeing on a particular individual can take time and so should be borne in mind when the parties begin to consider the timetable for the proposed mediation hearing.

### The choice of an appropriate venue

Contrary to what many of the textbooks on mediation may say, it is not essential that the venue for the mediation hearing be a neutral venue. Provided that appropriate equipment is available to meet the needs of both parties and provided that sufficient space can be made available, the costs of the mediation hearing can be significantly reduced if one of the parties' offices is used as the venue. Despite suggestions to the contrary there is no real disadvantage to opting for such an arrangement, however, it is fundamental that the area for the mediation is kept isolated from the day to day business activity of the host venue. Whilst it may be perceived by some that one team appears to be "playing at home" and can, therefore, be perceived to have gained an immediate advantage, in the writer's experience the location of the venue has made no difference at all to the success, or otherwise, of the mediation.

In the writer's experience, the ideal minimum accommodation required for a construction mediation is four separate rooms to be made available for the duration of the mediation hearing; one room for each of the parties, one room for the mediator, and one larger meeting room capable of accommodating both parties and the mediator for

the joint sessions. However, subject to the mediator's preference, the fourth room for the mediation is not essential as the mediator can use the meeting room when not involved in the caucus sessions.

It is worth bearing in mind that if the venue is to be at one of the parties' offices, it is vital that the "home team" players, and in particular the "home team's" decision makers make themselves exclusively available for the duration of the mediation hearing and do not attempt to divide their time between the mediation hearing and their normal daily office duties.

### Establish a realistic timetable

Despite the fact that the mediation hearing itself may typically last for two to five days, a considerable amount of preparation work is needed before the mediation hearing can actually commence. There may be a need to prepare internal reports to secure funds for use in the settlement negotiations or for the purpose of justifying to a Board of Directors that mediation is the better option at this time rather than taking the dispute(s) to arbitration, or litigation. It will also be necessary for each of the parties to prepare position papers for issue to the other party and to the mediator, setting out their respective positions in the disputes. In the writer's experience, these submissions can take a considerable time to research and prepare and, consequently, a realistic timetable for the mediation hearing needs to take into account the timing and subsequent approval (where necessary) of such papers. As the mediation process affords the parties a significant degree of flexibility (and even imagination) in how to present their respective positions, the position papers should be complete, persuasive and delivered sufficiently in advance of the mediation hearing to allow both the mediator and the other party an opportunity to digest their contents. If a party does not programme sufficient time into the overall mediation timetable to research and prepare such quality documentation, the impact may be lost, come the date of the mediation hearing itself.

### Ensure that sufficient funds are available to settle

There is no point in a party entering into the mediation hearing to negotiate if that party has no financial ability to settle. In the circumstances where approvals are necessary in order to secure funds to settle the dispute, then those approvals must be sought and obtained well in advance of the mediation hearing commencing. Prior to the mediation hearing, the mediator may well ask each party whether they have secured funds with a view to settling the dispute, or whether there are funding approvals that still remain outstanding. Each party should pre-empt such a situation and instigate internal fund approval procedures as early as possible, which would include securing any necessary reserves that may be required to achieve a settlement. The writer has experienced situations where, depending on the composition of the client organization, a pre-requisite to securing approval for such settlement funds from a finance or treasury body is the submission of reports justifying a ceiling figure for a proposed settlement. Once again, the time necessary to research and prepare such reports and the likely delay in receiving approval for settlement funds should be borne in mind when considering the timetable for the actual mediation hearing.

### Secure the availability of persons with authority

It is vital that persons with the authority to settle are in attendance for the duration of the mediation

hearing. Each party needs to make arrangements well in advance of the mediation hearing, particularly for senior decision-makers, to ensure that such people can guarantee their availability. Each party will expect a commitment to settle from the other side if an acceptable range of conditions is met. It can be both unfair to the other party and frustrating for all concerned if the key decision-makers are not present at the critical time to broker a settlement. Both parties should ensure that the key decision makers' diaries are suitably arranged in order to guarantee their attendance at the mediation hearing, including the caucus sessions, even to the extent that their availability may ultimately dictate when the mediation hearing is to take place.

### Establish and secure the availability of the other participants

It is also important to ensure that the participants in the mediation hearing are committed to the proposed hearing date, and once this date has been established, they must be committed. The participants, who may be chosen to suit the particular circumstances, may well include lawyers, consultants, site staff, etc, and can be thought of in two distinct groups - those that were part of the problem and those that are included for the purpose of resolving the problem. From the writer's experience, the number of participants who were part of the problem should be kept to an absolute minimum, otherwise there is a real danger of the mediation hearing getting bogged-down with individuals focusing their energy on what happened in the past and attempting to score points with their counterparts, rather than focusing on resolving the dispute. The mediation hearing may take an entire working week to reach a settlement and so the chosen participants must commit themselves for the entire duration of the mediation. This factor should be borne in mind prior to agreeing to the hearing dates with both the mediator and the other party.

### Prepare the opening statement in advance

Whilst each of the parties are given considerable flexibility in the manner they present their views of the dispute during the mediation hearing, it is normal practice for each of the parties to deliver an opening statement at the beginning of the mediation hearing setting out their sides position, and, perhaps, identifying the key issues to be addressed. From the writer's experience, the parties should prepare as much of this opening statement in advance of the mediation hearing as possible, clearly and concisely setting out their sides position. This opening statement should also address the other parties' position and clearly identify the issues in dispute. By this stage of the dispute, the issues should have become crystallised not least by the exchange of position papers.

The opening statement will, therefore, need to address the issues in the position papers.

From an employer's perspective, the need to respond specifically to points raised by a contractor in its opening statement will clearly necessitate that some of the content of the opening statement may have to be prepared on the day of the mediation hearing. However, in the writer's experience, the key issues will be known in advance to both parties since it is not difficult to anticipate what is likely to be said by the other side, bearing in mind the respective positions will have been documented and rehearsed numerous times during the actual construction of the works.

The opening statement should, therefore, be prepared and developed in advance of the mediation hearing with the assistance of lawyers and consultants, although it is not absolutely necessary to involve either lawyers or consultants in the mediation.


In order to take maximum advantage of the opportunity, it is best that careful thought is given to what is to be said, and who is going to say it, and that it is not just an "off the cuff" approach.

### Arrange the pre-hearing meeting with the client

Acting as a consultant, the writer has found it a useful exercise to meet with the client (whether that client is an employer or a contractor) prior to the mediation hearing in order to ensure that both the client and its team are fully prepared for the forthcoming hearing. It is an ideal opportunity to rehearse the presentation to be made during the hearing and to think through the strategy that might be adopted by the team as a whole. In the writer's experience, the pre-hearing meeting(s) has proved to be an ideal opportunity for the team to consider the options, alternatives and the possible "what ifs" in advance of the mediation hearing. The agenda for a pre-hearing meeting might typically cover the following:

1. A final rehearsal of the presentation of the issues in dispute and in particular an opportunity to review the content of the party's opening statement.
2. Clarifying the roles and responsibilities of each of the participants in that team, dividing the team into those actually participating and those providing backup.
3. Clarifying those pertinent questions that may need to be put to the other party.
4. Ensuring that all funding arrangements are in place and that all necessary permissions have been obtained in order to reach a settlement, should the circumstances dictate.
5. Clarifying once again the settlement goals. As part of this exercise it is useful to draw up a list of the non monetary components of a possible settlement that may have value but which may be easily given by the other party, for example - the provision of additional spare parts for an air conditioning system or the extending of a warranty for possible latent defects in a patent glazing system.
6. Ensuring that all the team understands the best and worst alternatives to a negotiated settlement, since neither party should be forced into having to settle at any cost.

In the writer's experience, an essential part of the process of ensuring that each party is adequately prepared in advance of the mediation hearing is the necessity to ensure that a realistic timetable is not only established at the onset, but is monitored and revised as and when required by the parties, so as to ensure that each party is fully prepared come the day of the mediation hearing itself. Once again it is that essential feature of adequate preparation that is the all-important factor to success in mediation.

Next month's article, which will be the last in the series, will deal with the actual conduct of the mediation hearing from a consultant's perspective. 



# The China-euphoria in Hong Kong Property



Chi LO

Market sentiment has improved since late June, when the fading of SARS and a series of policy initiatives have combined to send the Hong Kong markets higher. The Hang Seng Index has risen 27%; luxury residential prices have gone up by 10-15% and commercial landlords have cut leasing incentives, raising effective rents in the core Central office market. Meanwhile, economic activity has returned to pre-SARS level. There is a feel-good factor stemming from a clearer economic direction for Hong Kong. Much of the credit goes to a series of policies since late June, including:

The signing of the Closer Economic Partnership Arrangement (CEPA) with China.

Beijing's relaxation of policy to allow more Mainland tourists to visit overseas.

Hong Kong's relaxation of immigration policy to ease access for Mainland professionals and entrepreneurs to the territory.

Beijing's approval for building the Hong Kong-Zhuhai-Macau Bridge and the Western Corridor in the New Territories to link Hong Kong closer to the Pearl River Delta (PRD).

While these measures will help improve Hong Kong's market fundamentals, how real are they in justifying the recent market run-up, and is the ascent sustainable?

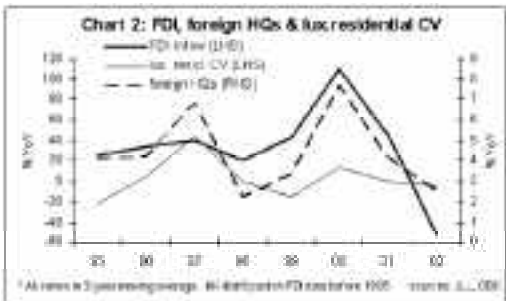
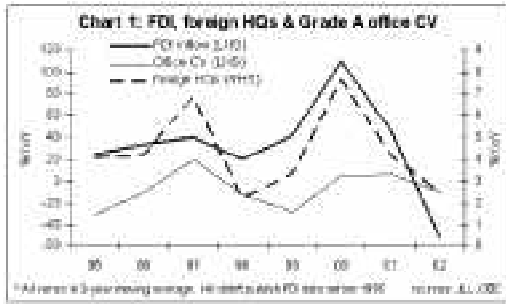
## The relevance of CEPA to the market

Over the long-term, CEPA will help boost Hong Kong's property value, as successful economic integration with China's economy will raise Hong Kong's economic value-added and, hence, growth potential.

Beijing aims at using CEPA for integrating the Greater China economy (the Mainland, Hong Kong, Taiwan and Macau) into a free trade area. As a next step, it also intends to use CEPA as a platform for forming a much bigger free-trade zone that brings north- and south-east Asian economies into one big trading bloc, counterbalancing the EU and the NAFTA.

CEPA is, thus, a strategic step for Hong Kong to spearhead an Asian trading bloc under Beijing's initiatives, and the territory will assume the role of a development engine in the PRD region. This should attract FDI inflows and boost Hong Kong property values. FDI flows affect Hong Kong's property prices as the underlying changes in foreign companies and expatriate arrivals tend to affect the demand for prime office space and luxury residential property (Charts 1 and 2).

However, the short-term impact of CEPA on Hong Kong is small. The expected HK\$750 mn saving in tariffs for Hong Kong-made goods under CEPA amount to only 0.75% of the total taxes paid by



the Hong Kong businesses to the Chinese government. So the boost to local business bottom lines is small.

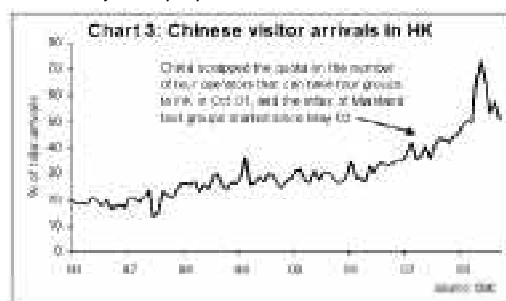
Any CEPA benefits for Hong Kong's manufacturing are also trivial because the sector accounts for only 5% of GDP. No other city that has moved on from a manufacturing centre to a services economy has turned back the clock, and Hong Kong will not be an exception.

On the other hand, CEPA's implications on Hong Kong's service exports are more crucial since they account for over 50% of total exports (or over 60% of GDP). Not only that, CEPA will also allow local firms to expand rather than relocate to China. This will help stem the hollowing out process that has negative implications on Hong Kong property.

To the extent that CEPA leads to an expansion of the local service sector employment, it will give a direct boost to the local property market. Empirical studies found that FIRE (finance, insurance, real estate and business services) employment is statistically significant in explaining rental growth for both Grade A office and luxury residential properties in Hong Kong. But this positive impact will unfold only slowly as invisible protectionist measures remain in the Mainland.

## Rescue from the Mainland visitors

Following the signing of CEPA, Beijing has relaxed its travel policy to allow more Mainland tourists to visit Hong Kong. The number of Chinese tourists has indeed jumped sharply (Chart 3). Chinese tourist spending, which averages HK\$5,200 per visit, has now surpassed the average tourist spending by North Americans (HK\$5,000) and other Asians (HK\$4,000). This has led to optimism that the Chinese spending will boost the local economy and even buy local properties.



Such optimism is exaggerated. Despite the increase in arrivals, a large number of Mainland visitors stay with friends and relatives. Others stayed at budget hostels. Industry data shows that the average Mainland tourist spends only 15% of total outlays on hotels (vs 45% by North Americans).

It is true that the Chinese spending has helped boost Hong Kong's retail sales. For example, Chinese buying accounted for about 12% (or HK\$21 bn) of Hong Kong's total retail sales last year (from 8% in 2001), or 1.7% of GDP. More recently, it was the Chinese demand that helped contain the decline in Hong Kong's retail sales to only 0.1% YoY in September 2003. Without their support, sales would have fallen by 3.5%.

However, even assuming a 20% rise in Chinese spending in Hong Kong in each of the next five years while local GDP grows at a long-term average of 4% a year, Chinese spending will probably raise Hong Kong's GDP growth by an average of 0.4 percentage point a year.

But it is unlikely that Hong Kong will get the full benefit of Chinese tourist spending on retail sales. This is because a lot of popular goods that the Chinese buy, including jewellery, watches, cameras, medicines, cosmetics and clothing, are imports. And imports are leakages from the local economy so that their real boost to growth is much smaller than the estimated 0.4 percentage point addition to growth.

## Impact on the housing market

Mainland visitors will have no material impact on the local housing market as long as capital controls remain. Currently, each Mainland individual is allowed to bring no more than US\$5,000 per overseas trip. The recent cases of Chinese visitors buying Hong Kong flats are anecdotes but unlikely to develop into a trend.

An extensive survey by investment bank Goldman Sachs in September this year found that Mainland buyers accounted for less than 3% of total housing sales in Hong Kong since Beijing's relaxation of the travel rules. Even this 3% might have been overstated. This is because the property agents tend to include in the Chinese purchase data those Mainlanders who have already had business in Hong Kong. But their funds are based here and are not subject to capital controls. Thus, they should not be counted as Mainland buyers.

On the other hand, the new work-permit scheme may have a positive impact on Hong Kong's luxury residential market, though the actual impact is difficult to pin down at this point. Since July this year, the Hong Kong government has eased the requirements for Mainland citizens to work, and entrepreneurs to do business here. This should raise the number of well-off Chinese to come to Hong Kong.

The average monthly salary of the initial dozen Mainland professionals approved to come here was HK\$42,000, compared to the local median household income of HK\$16,000. If we assume 1% of China's large businesses were to open offices in Hong Kong and each company were to send 5 senior staff, some industry players estimate that that could create demand for almost 3,000 luxury (1,100 sq ft

or larger) homes, or 3.7% of current stock and 1.2 mn sq ft of office space, or 2.1% of stock.

## Benefits to retail properties

Following the relaxation of travel rules, Hong Kong can expect a rising flow of Mainland visitors, who will help boost local retail sales and, hence, the value of retail properties. Indeed, Mainland visitor arrivals have jumped 92% since the first relaxation of travel rules in October 2001. Their increasing arrivals, when spread over the 17.2 mn sq ft retail property, will lower the rental cost-to-sales ratios for retailers. This will, in turn, afford landlords the opportunity to raise rents without affecting retailers' margins.

The China impact on the retail sector is catching investors' attention. In the first nine months of this year, investors spent almost HK\$11 bn on buying retail properties. The largest deal was the Wing On Group's purchase from Lai Sun its Causeway Bay Plaza I for \$1.2 bn (well above market expectations of \$0.8-1 bn). Meanwhile, international luxury retailers are expanding aggressively, trying to ride both the cyclical economic recovery and the wave of Chinese visitors to Hong Kong. Exclusive brands, including LV, Prada, CD, Hermes and Ermenegildo Zenga are taking up prime retail space of 3,000 to 10,000 sq ft in recent months.

## The bottom lines

Much of the recent run-ups in property prices are based on sentiment. The economy needs to deliver the fundamental improvement to sustain the recent asset price gains. On a cyclical basis, the economy is poised for a recovery. The necessary conditions for the local market to recover are in place - ample liquidity, high housing affordability and more affordable business costs. The sufficient condition to make the recovery sustainable is the revival of local confidence.

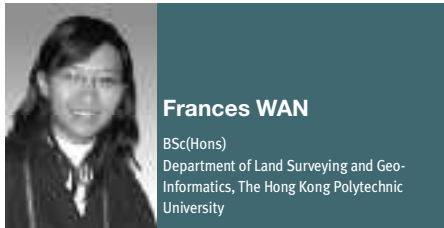
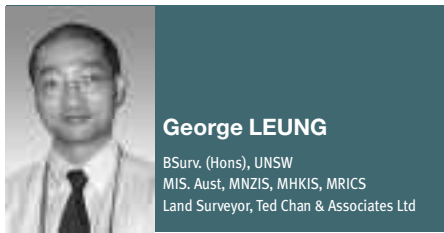
Policy measures such as the CEPA and the relaxation of travel rule by Beijing have helped turn around local confidence. But their impact on Hong Kong's assets will only be seen in the longer-term. Only the retail sector will see some direct benefits. Those shopping areas that are popular among Mainland visitors should continue to enjoy high potential upside.

Finally, we should not lose sight of the shock from economic integration with China. There are undeniable pains for Hong Kong to integrate its expensive economy (with an annual per capita income of US\$24,000) with China's developing system (with an annual per capita income of only US\$1,000). The sustainability of Hong Kong's asset price recovery depends on structural changes to carve out a niche for its survival under China's shadow.

Chi Lo is author of the new book "When Asia Meets China in the New Millennium", Pearson Prentice Hall, 2003, ISBN 0131028421

# MODERN TECHNOLOGY IN LAND SURVEYING

## 3D LASER SCANNING



3D Laser Scanner has already been put onto the market for a few years. Laser Scanners are developed by various manufacturers, but only the instrumentations of Cyrax Laser Scanner, Cyrax HDS2500, by Cyra technologies is available in Hong Kong at this stage. In general, the theories of laser scanners of different manufacturers are all similar to each other. However, no scanner can meet all of ones needs!

### What is a 3D Laser Scanner?

The first photogrammetric measurements were made from terrestrial photographs taken from a Photo-theodolite. Later, we had Total Stations, which combined theodolite and electronic distance meter (EDM), and now we have 3D Laser Scanners.

3D Laser Scanning can be classified into either Aerial (i.e. from the sky) or Terrestrial (i.e. ground based). A Terrestrial 3D Laser Scanner is a hardware which is an active imaging system that enable the user to convert and record an object (2D or 3D) to a digital format, and is able to extract data Line by Line, but not the whole image taken at one instant. It is a reflectorless Total Station which is able to observe a huge number of points at fast speed and is an active system that directly measures 3D co-ordinates over an entire surface. However, it is not a point-able instrument but delivers a sampled representation of a surface with dense point clouds of X, Y, Z measurements in the scanner space.



photo-theodolite

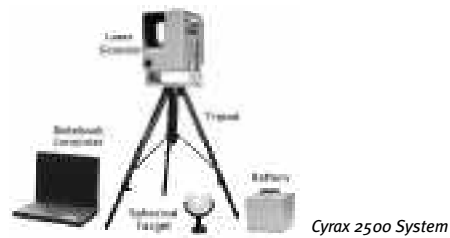
### Why Laser Scanning?

By comparing the conventional surveying methodologies, while very accurate, but limited to a network of a few discrete points at selected locations. Conversely, laser scanning acquires several millions of 3D points (i.e. point clouds) over an entire structure and provides a more complete representation of the structure.

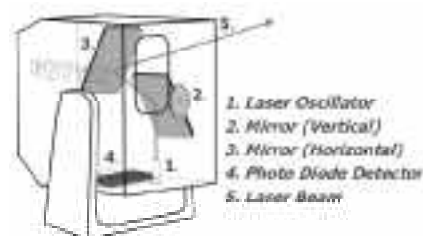
Laser scanning is a direct measurement of the objects, of which the co-ordinates can be achieved in real time. It is also capable to observe unreachable positions whilst the surveyed points can be evenly and densely distributed. The scanned point clouds can be used directly for 3D visualization or point-to-point measurement. The data can also be converted into 3D models such as contours, profiles or sections, etc. With the use of Laser Scanner, the cost and schedule for construction works may be slashed and provides a faster, safer, less obtrusively and more complete achievements. On the other hand, 3D Laser Scanning technique can be applied on various fields such as Mining, Engineering and Architectural, Archeology and Heritage, Emergency Services and Defense, and Movie Production, etc. This technique is useful in Hong Kong especially for those as-built survey of inaccessible bridge joints and heritage record surveys (e.g. St. John's Cathedral).

### Instrumentations

The components of the Cyrax HDS2500 system include the Laser Scanner, tripod, battery, targets and a notebook computer. Two types of targets, spherical and plate targets, can be used for registration purposes. The main components within the scanner include the Laser Oscillator and Photo-diode detector that emit and receive the laser signals, and two mirrors driven by servo motors in horizontal and vertical directions are used to control the angles of the emitting laser beam. A digital camera is used for capturing the scanning region. The scanner's operation is controlled from a notebook by means of a cross-over cable. The scanner software Cyclone is used for controlling the scanner, and to view and manipulate the 3D data.



Cyrax 2500 System

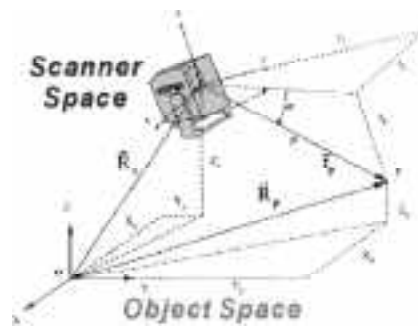


Internal of Cyrax 2500

The angles of Field of View (FOV) are 40° in both horizontal and vertical planes. A maximum of 1,000 points can be scanned in each column and in each line, which results in a million points (i.e. 1,000 x 1,000) in each scan. The minimum scanning interval is 1 mm. The observable range is between 1.5 m. to 100 m. with the scanned object having a minimum of 5% diffuse reflectance. Measurements are made at equal intervals of arc, (i.e. Equal Angle Increment [EAI] Point Sampling) in both horizontal and vertical planes of the scanner coordinate system (i.e. Scanner Space). The single pointing accuracy is about ± 6 mm at 1.5 m to 50 m range with the distance measurements accuracy and angle measurements accuracy of ± 4 mm and ± 60 micro-radians respectively.

Cyrax Laser Scanner uses the Class 2 Pulsed Green Laser which is safe for eyes unless direct or long term exposure. The ranges are derived via measuring the Time of Flight (i.e. forward and backward) of the pulse. The scanner observes the Range ( ), Direction ( ), Elevation Angle (Z or ) and the Return Signal Intensity (E) with respect to the Scanner Space, and deliver the spherical co-ordinates of the scanned point clouds of the object.

The Laser Scanner needs not to be set up over any known position, instead special scanning targets ( 3) are placed in the scanner's FOV. Targets are surveyed and coordinated in the traditional way or set up on known positions.



Relationship between Scanner Space and Object Space

The scanner observed Spherical Co-ordinates are then converted to Cartesian Co-ordinates by the Spherical to Cartesian Co-ordinates equation.

$$\begin{bmatrix} X \\ Y \\ Z \end{bmatrix} = \begin{bmatrix} \rho \cos \alpha \cos \theta \\ \rho \cos \alpha \sin \theta \\ \rho \sin \alpha \end{bmatrix}$$

Spherical to Cartesian Co-ordinates Equation

As the co-ordinates of the scanned objects are in the Scanner Space, these co-ordinates must be oriented or geo-referenced to the "real world" system (i.e. Object Space) by Direct or Indirect Geo-referencing. This is done by transforming the scanner position to the object space where the position and orientation parameters are to be estimated by 3-D rigid body or similarity with at least 3 non-collimated known points required.

### Operation

The scanner is set-up at the selected positions and is manually pointed to the direction of the required scans. Targets are positioned within the FOV of the scanner. At least 3 of these targets or identical feature points should be in common to different scans for registration purposes.

Once the hardware is set-up, the FOV is then captured via the internal digital camera of the scanner. The displayed image indicated the scanner's FOV (i.e. 40° x 40°), of which the scanning region is being selected. Probe the distance to a defined point to check the distance between the scanner and the object. Define the scanning resolution and Cyclone will calculate the spacing of the laser points. Scanner starts scanning as soon as the resolution and orientation are selected. Fine scans on targets will be undertaken after the scanning is completed. Each of the scanned targets will be assigned with a unique ID. Once a scan is completed, another scan can be carried out if necessary.

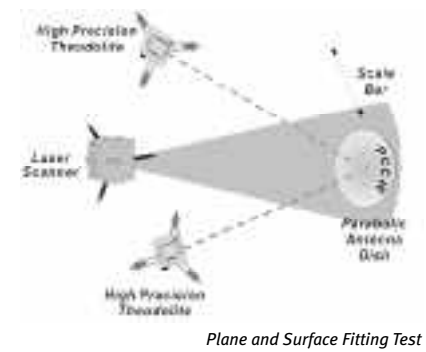
The scanned objects are presented in pseudo colours with respect to the returned signal reflectance (i.e. Reflected Intensity). The Signal Intensity is dependant on the material type, the colour of the object, the roughness of the object surface as well as the incident angle of laser, etc. The noise within the scanned point clouds can be removed by either Manual Point Selection, Intensity or by Trimming Edges. Different scans are joined together to form a TRUE 3D representation by matching up the names of the scanned targets. The scanned point clouds can also be exported to AutoCAD or MicroStation for designing and plan production purposes.

### Quality Management

Instrument calibration is a standard procedure for surveyors. The aim is to determine the systematic errors inherent to the scanner, to quantify instrument precision and accuracy, and also to ensure the quality at the time of purchase and periodically thereafter. There is no exception for Laser Scanners. However, the Laser Scanner only derives 3D co-ordinates and there is no distance and angle measurement readings provided. Therefore, the Laser Scanner cannot be calibrated in the usual way. Instead, some experiments can be undertaken in order to define how accurate the scanner is performing or whether the deliverables are within the tolerance as stated by the manufacturer! These tests include Baseline Test, Plane and Surface Fitting Test, Network Type Test (On-Job Testing) and Indoor Calibration Target Array Test.

The Baseline Test is to compare the calculated joins between the scanned co-ordinates of the targets which are set up on the pillars, against the known distances between them. The derived values may also be put into least square adjustment.

The Plane and Surface Fitting Test is to test the surface fitting and modelling at close range. An object, for example, a plane wall, cylinder or a parabolic dish antenna may be selected for this purpose. The object is firstly scanned by the laser scanner, and is then surveyed by precise theodolite intersection techniques which uses scale bar. The observations are then put into least square adjustment in order to best fit the surface.

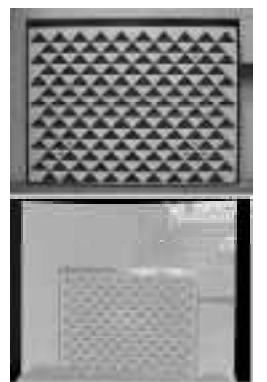


Plane and Surface Fitting Test

The Network Type Test (On-Job Testing) is done by locating 3 or more targets, which are a few metres from each other and are mounted on standard tribrachs, within the scanner's FOV. These targets are scanned and the calculated joins are compared with the independent measurements (e.g. Total station). A least square adjustment is then undertaken in order to combine the targets co-ordinates from the scanner with the co-ordinates (in a different datum) from the conventional survey. Of course, the transformation or any other parameters may be included for investigation of significance.

The Laser Scanner can be tested by using an indoor camera calibration target array or the calibration wall in the Indoor Calibration Target Array Test. The scanner is firstly located a few metres from the array at close range (e.g. 3 m.) or medium range (e.g. 50 m.).

The target array is then scanned several times at different angles. The joins between the array are calculated and compared with the known co-ordinates and distances, and again put into least square adjustment.



Indoor Calibration Target Array

### Limitations

Laser Scanner is a powerful data-capturing device, which capture everything in the FOV, but at the same time the noise (i.e. useless and unwanted) may also be observed. Therefore, manual enhancement is required. The Scanner may not operate under hot weather when the housing of the scanner is being heated up by direct sunlight in summer. It is therefore important to shade the scanner when operating on sunny days.



As the scanned data is directly transferred to the connected notebook computer and there is no internal data storage inside the Laser Scanner, the scanning must be completed and the targets must be registered in each scan, or otherwise the scanning will have to restart again. The Instrumentations are extremely heavy and are difficult to transport especially without vehicle access. Laser Scanners are expensive and are not cost effective for short-term contracts or individual projects. This is especially the case during the weak economy in Hong Kong. The software CYCLONE is not for design purposes. Only regular shaped items (e.g. block, sphere, etc.) can be modelled with the scanned point clouds. It is also very time consuming in the modelling process.

### Future Developments

Two new models, HDS3000 and HDS4500, are scheduled to be launched in early 2004. These new models comprise advanced techniques compared to HDS2500, and those functions are what a land surveyor have expected such as centering function, larger FOVs, smaller instrumentations, etc. Of course, a lower cost of using such instrumentations will be much appreciated. ☺



# A Claim on Uncertainties - Real Option Analysis



**Lawrence PANG**  
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A project or an asset can be valuable because it generates cash flows now or because it is expected to acquire such capability in the future. For this reason, the discounted cash flow (DCF) approach to valuation is an important tool in the analysis of a capital investment. In this regard, valuing a single project or an entire business enterprise is not necessarily different. It involves estimating the future incremental cash flows, discounting these flows to the present using the appropriate project cost of capital or risk-adjusted rate of return, and then, comparing present value of these cash flows with the present value of the investment outlays. Nevertheless the DCF approach may not capture the realistic valuation of an investment. Consider the valuation of a project that is endowed with the exclusive right to production that may generate income. Whereas the standard DCF techniques would attempt to estimate the future cash flows that may be produced as a result, what is missing from the analysis is the ability to capture the flexibility of the investor has, for example, to expand or contract production or even abandon the project in due course when the market is not encouraging. This management flexibility is usually valuable though this flexibility or opportunity is not readily recognized.

Also, comparing the price/earnings ratio or years' purchase cannot help either because the current or even projected earnings do not fully capture the potential growth that can reasonably be estimated. This is especially the case when the outcome of the future growth is uncertain. It is difficult to analyze the appropriate discount rate that may reflect the risk or knowledge of the actual probabilities of the outcomes.

Here, Fujian Zijin Mining Industry Co. Ltd. (2899), the first gold-mining company recently listed in Hong Kong, perhaps provides a good example. The table below contains data extracted from the listing prospectus. However, by the nature of its business, exploration of mineral resources is speculative. The historical performance may not be a good indication of that in the future. Notwithstanding substantial expenses have to be incurred from initial drilling to production, there is no assurance that exploration can lead to the discovery of economically feasible reserves. As a general comment of Steffen, Robertson and Kirsten (Australasia) Pty Ltd., an independent technical consultant of mineral assets, both the estimates on quantity or ores and on metal reserves stated in the prospectus were based on lower than desirable levels of supporting information and often lack tight geological control.

In addition, resources and reserves are non-renewable and the exploration of new and potential resources is crucial to a mining enterprise. If the company fails to replenish its mineral resource levels in existing or new mining areas, the company may not be able to maintain the current gold production level after the remaining usable life of the existing mining areas. This is particularly important for Fujian Zijin Mining Industry Co. Ltd. because it only owns the mining right to Zijinshan Gold Mine, which had contributed a major portion (97%) of its turnover, for 15 years only.

Operating performance	For the year ended 31 December						For the 6 months ended 30 June
	2000	% change	2001	% change	2002	% change	2003
Mass of gold produced (kg)	4,119	28%	5,262	48%	7,812	21%	4,725
Mass of gold sold (kg)	3,957	31%	5,197	39%	7,225	45%	5,222
Minerals mined (processed)(million tonnes)	5.46	29%	7.07	48%	10.45	19%	6.21
Revenue from gold sold (RMB/gram)	¥ 75.30	-5%	¥ 71.70	13%	¥ 80.90	15%	¥ 93.00
Cash operating cost (RMB/gram)	¥ 37.71	-7%	¥ 35.19	-4%	¥ 33.94	0%	¥ 33.88
Indirect cash costs including admin. expenses, selling expenses and finance cost (RMB/gram)	¥ 7.80	13%	¥ 8.84	2%	¥ 9.03	-26%	¥ 6.64
Total cash production cost (RMB/gram)	¥ 45.51	-3%	¥ 44.03	-2%	¥ 42.97	-6%	¥ 40.52
Total production cost including non-cash items (RMB/gram)	¥ 53.28	-1%	¥ 52.91	-3%	¥ 51.51	-6%	¥ 48.52
	RMB' 000		RMB' 000		RMB' 000		RMB' 000
Turnover	296,097	25%	369,757	60%	592,654	69%	500,134
Cost of sales	(161,684)	29%	(207,879)	45%	(301,278)	54%	(232,567)
Gross profit	134,413	20%	161,878	80%	291,376	84%	267,567
Net profit	48,427	36%	66,102	109%	138,283	123%	154,117

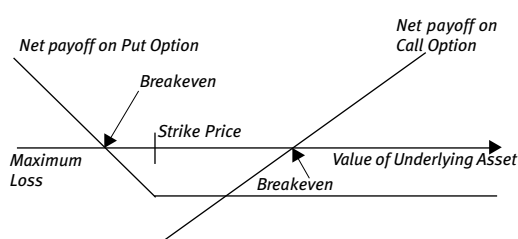
\* Source: Prospectus of Fujian Zijin Mining Industry Co. Ltd.'s IPO

# Assuming the 6 months result represent that for a whole year, which might not be necessarily the case.

The company's performance will also be highly influenced by the changes in the price of gold in the PRC and in the exchange rate of Renminbi.

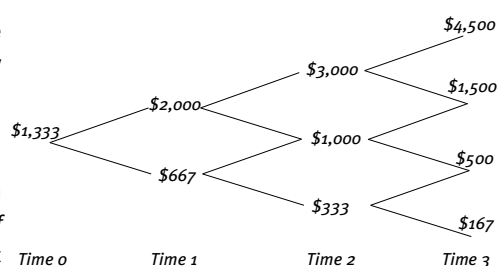
But you may now consider the investment is an option or consists of a multiple of options, if the cash flows are contingent on the occurrence or non-occurrence of certain events. This consideration has largely come about because of the development of option pricing models. While these models were initially used to value traded options, there has been an attempt in recent years to extend the reach of these models into traditional valuation. In 2001, Eddie C.M. Hui, Barbara Y.P. Leung & Margaret O. Y. Wong of Hong Kong Polytechnic University, Department of Building and Real Estate, attempted to apply the option pricing theory to the real estate development: "Option Pricing for Real Estate Investment: The case of the Hong Kong Disney Theme Park"; in 2002, Alberto Moel and Peter Tufano tried a test on whether the open and closure of U.S. gold mines supported the predictions of real option model: "When are Real Options Exercised? An Empirical study of Mine Closings", *Review of Financial Studies*, vol. 15, no. 1 (March 2002). About the same time, Don M. Chance and Pamela P. Peterson produced a research monograph: "Real Options and Investment Valuation" on behalf of the Research Foundation of AIMR. They used the continuous time Black-Scholes model<sup>1</sup> to value the real options associated with Cisco Systems and attempted to show how real option valuation uncover value that traditional methods overlook.

An option or a contingent claim is a claim that pays off only under certain contingencies - if the value of the underlying asset exceeds a pre-specified value for a call option or is less than a pre-specified value for a put option.



Identifying the options associated with an investment opportunity is the first step toward the correct valuation of real options. Consider the scenario below which is a project of three periods in which the values of the project are given as indicated. The project requires an initial investment of \$1,150.

The numbers in the tree represent values of the project at the relevant time period. In this scenario, for the sake of simplicity, just assume that at Time 3, the project is terminated and pays the possible cash flows of \$4,500, \$1,500, \$500 or \$167. (In the case of analyzing Fujian Zijin Mining Industry Co. Ltd., the relevant time period may be 15 years.)



At all previous time points, the numbers represent discounted values of these future cash flows. In other words, the value of the project at a previous period is obtained as the present value of the probability-weighted sum of the next two possible outcomes. Thus, the value of \$3,000 at the top state of Time 2 is obtained from the value of \$4,500 and \$1,500 if the risk-adjusted discount rate of the investment is 30%, assuming the probability of an up move is 80% or the probability of a down move is 20%:

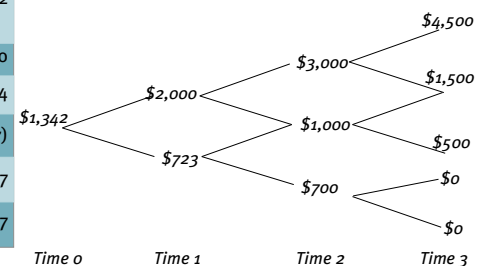
$$\text{Valuation of project at Time 2, top state} = 0.8 (\$4,500) + 0.2 (\$1,500) = \$3,000 \quad 1.3$$

Similarly, the remaining values in the binomial trees can be obtained and especially the value of the project at Time 0 is \$1,333, which is obtained as follows:

$$\text{Valuation of project at Time 0} = 0.8 (\$2,000) + 0.2 (\$667) = \$1,333 \quad 1.3$$

Thus, with the traditional analysis, the present value of the project is only slightly higher than the initial investment of \$1,150.

However, this analysis does not capture the possibility that during the life of a project, a company may choose not to proceed if the expected outcome is below \$800. Assume that at Time 2, the company can terminate the project and receive a value of \$700 by saving the resources. The project is now illustrated below:



Then, the value of the project at Time 0 is \$1,342 instead of \$1,333, adding a value of \$9 by exercising the option<sup>2</sup>. But similar option or options exist throughout the project and the value added by their existence can be significant<sup>3</sup>.

The fundamental premise behind the use of option pricing models is that discounted cash flow models tend to understate the value of projects that contain payoffs that are contingent on the occurrence of an event. Just consider the investment of Fujian Zijin Mining Industry Co. Ltd. as an example, the return from the mining reserves will be based on expectations of gold prices in the future. But this estimate would miss the fact that the company will develop a reserve only if gold prices move up and will not if gold prices decline. Of course, there is also the risk that the reserve itself will not meet expectation and the company would save up resources by not proceeding with the mining of the reserve. The basic idea of real options valuation is to consider that the value of an investment extends beyond its value as measured by traditional DCFs or Net Present Value (NPV). In other words, the value of a project is supplemented by the value of its options.

**Notes:**

1 The model was developed by Fischer Black and Myron Scholes (1973) and Robert C. Merton (1973) The model's impact on the financial industry has been tremendous and has led to the growth of a large market in financial options and other derivatives. In recognition of their contribution, Scholes and Merton received the Nobel Prize in economics in 1997. Black might have received the similar honour if he had not died in 1995.

2 This approach assumes the risk or probability of up or down movement is constant for the course of the project, which may not be justified in many real option projects.

3 L. Trigeorgis, in his "The Nature of Option Interactions and the valuation of Investments with Multiple Real Options" (Journal of Financial and Quantitative Analysis 28:20, 1993), pointed out that a single investment project often entails several distinct real options creating scope for multiple option interactions. Once multiple options come into play, the value of each individual option tends to increase. They, together, would also add up synergize, or antagonize in terms of their contribution to the overall option value of the investment project. [\[1\]](#)

# Planning with **Wisdom** before Speaking with **Confidence**



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Coincidentally I have had the chance to come across two different exposures on the same subject of presentation or public speaking this month. It is interesting to know that people are often very eager to learn more about how to deliver a better speech despite the fact that many of them are already experienced speakers. While both events I joined lay the stress on what people could do better during a presentation, like be aware of the eye contact, body gesture and so forth, I am inspired to share some insights on what we could do before a presentation, or put it simply, how we should prepare a presentation.

## Introduction

To prepare a presentation perfectly we need more than confidence. I see many people start looking at the topic, brainstorming ideas within themselves, researching and analyzing the options before going to the PowerPoint tool to create their fancy templates. There are also some who just sit at the desk, prepare some idea flows and then go to meet the clients. Both approaches have obviously ignored the essence of presentation, which is communication.

Communication is always a two-way delivery, which means it can never be done by one party. Think about the economics and get similarities from its well-known model of demand and supply and we will realize the importance of getting the audience involved in presentation.

## Dissect your Audience

Having said that, the problem is how we can involve our audience in our presentation rather than the Question and Answer time during or after the presentation. Yes, there is a way to let them take part in the preparation stage and I call it "Audience Dissection".

Many people I know are seasoned speakers. They are very good at evenly spreading their eye contacts, expressing with gestures and speaking with up-and-down tone when delivering a speech in front of many people. The problem they often face yet is that they have conducted a good presentation but the successful rate of getting what they want to achieve at the end is still very low.

I sat in one of their presentations the other day. My friend was presenting to a group of twenty plus from a large cosmetic company on the subject of raising sponsorship. He started off introducing himself and then continued to do the presentation in his humorous way as he used to do in his company. He spread his eye contacts evenly, looking around at all the people and expressed with smiles frequently. The presentation was conducted in English, as he saw it required as a matter of formality, and it was finished in about 45 minutes.

Two days later, my friend received a response from that cosmetic company. To his disappointment, the company said that they had decided to sponsor another organization.

Forget about the nature and other irrelevant background of this story, the critical failure factor, as opposed to the famous phrase "critical success factor", is the lack of understanding of the audience as he later discovered.

The cosmetic company that my friend solicited sponsorship from in fact is a very locally run organization notwithstanding its scale. Its structure is like what Henry Mintzberg would classify as "Bureaucratic" and decisions are always made top-down by one person. This person is a traditional Chinese, who speaks in Mandarin and communicates in English only when necessary. She is also a time runner, which means she hates things going on too long. Unfortunately enough, my friend was only able to find out these pieces of information after his presentation. The result is therefore inevitably a failure.

A good presentation starts with understanding what you want to deliver and communicate rather than simply knowing the topic. Very often people prepare a presentation without really thinking what they should talk about. They just tell the audience what they think is related to the topic, ignoring the objective of the presentation and the profile of the audience. Whether they are a big group or a small group, very senior or

not, prefer English or Chinese, expect PowerPoint or Flipchart, humorous or serious, have a very tight timetable or not will all affect the way we plan and prepare the presentation.

Sitting down with your audience to clarify their expectations and examine their personalities is the best thing we can do before a presentation. For smaller and less formal ones, I still recommend to gather some knowledge of our audience first, though to a less in-depth extent. Do some researches on the audience's expectations and personalities.

## Simulate the Environment

The second thing that contributes to a successful presentation in the preparation phase is whether or not you have got sufficient practices, or I call it "Environment Simulation".

I have another friend who was invited by a commerce chamber to deliver a talk on CEPA some time ago. His preparation work really impressed me a lot and it is quite worthwhile to share with the readers here. There were a total of 14 days remaining from the time when he accepted that invitation. He was however busy with some other projects at that time. He only started his preparation work when there were only three days left.

3 days to go - he called up the chamber inviting him to clarify and confirm the expectations of the chamber as well as to get some basic understandings of the attendees. He asked about the group size, the variety of industry participating in the session etc. Knowing the profile of the audience and the objective of these people, he started to do the research and analysis immediately. And I joined his research team.

2 days to go - this friend was a very efficient person. He finished all the research and analysis in one day and decided to talk about "Risks associated with CEPA". He drafted a presentation structure, with key points, and then circulated them among his think-tank. On the same day, he collated all the feedback, revised the draft, and sent it to the chamber of commerce for comments.


1 day to go - he received comments from the chamber, so immediately he incorporated their ideas into his presentation and started pulling everything into a PowerPoint slideshow. I thought the work was done, only to receive an urgent call from him in the afternoon on the day before his presentation.

He asked me to go to his office conference room immediately for help. When I arrived, I thought I had just come to a "production house". Projector and laptop were set up. Inside the room there were placed about 40 folding chairs in a pattern very similar to the chamber's conference. Interestingly, like the real conference, there was a table serving some drinks on the side of the room. A facilitator was sitting in the front of the floor, ready to introduce him. Some ten to fifteen of his friends and colleagues were acting as the chamber attendees. "Ladies and Gentlemen..." and there he kicked off a serious rehearsal, in an environment very similar to the one he was facing the following day.

I did not quite realize the importance of rehearsing in the past. In fact I believe many people also forget or deliberately forget to practice before the presentation. However, it is true that only practice makes perfect. My friend did not give a very good presentation at the first trial. The "audience" gave him a lot of feedback, some direct yet constructive criticism. He listened, learnt and tried again and continued like this for the third and the fourth time. At the fifth trial, the "audience" finally could not raise even one more negative point against the presentation. And of course, then, on the day of the real presentation, he received a rapturous applause for his superb delivery.

Doing an average presentation is nothing difficult. Making it good requires some techniques and skills. But to turn it perfect, in addition to the first tip mentioned, it really needs practice.

## Conclusion

Recalling the two exposures that I had over the past month, they are basically all about speaking with confidence during your delivery. If speaking with confidence is necessary while we speak, building up confidence is what we should do before we speak. Two concepts have been elaborated in this article, namely "Audience Dissection" and "Environment Simulation", to help us gain more understanding of how to plan and prepare a good piece of presentation. These concepts concentrate on understanding our listeners' expectations and personalities, and getting familiar with the presentation environment. With these concepts, we would be able to prepare a more perfect delivery, and hence build up confidence. Before we can speak with confidence, let's plan with wisdom. 



# 讓和解為香港帶來多一點和諧



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**當**我們要排難解紛時，和解是其中一種較為可取的辦法。和解表面上看似是一門深奧獨特的學問，其實它既簡單又容易掌握，是一套實用哲學。而我們亦能從和解的過程中，對當事人待人處事的態度窺其一二。

和解的主要理念是期望爭執雙方能以大局為重，儘量避免使用權勢並且輕言鬥爭，尤其是避免雙方產生有仇必報的想法。在和解的過程中，和解員作為中立人協助爭執雙方找出更多有用的資料，使雙方對整個事件有了更深入的理解，並促使雙方一起面對困難及找出一個更可行的方法，從而達至共同為同一個目標而奮鬥的最終目的。和解課程導師曾說：「和解的

理念就像一首民謠歌曲《Both Sides Now》中的歌詞所說的「I've looked at life from both sides now, from win and lose, and still somehow, it's life's illusions I recall; I really don't know life at all.」亦即是說，生命中的勝與負都是幻像，並沒有甚麼實質的意義，創造雙贏的局面，以符合雙方利益，才是最重要的。

## 和解的歷史

和解或調解其實自古已存在。古時的調解者多是官吏或官威十足的人，在自上而下的壓力下，調解的結局往往不能盡如人意。一些公認的方法，如吃飯、打麻雀或是去桑拿室都是中國人在做生意遇上紛爭時所採取的傳統和解方法。最近，香港和解中心正極力推廣一種更為積極的新方法，讓普羅大眾能享用更廉宜、更快捷的和解服務。中心目前所採用的和解系統揉合了美國哈佛模式及香港「本地人」的生活方式，是一套極完善及重要的系統。在該套系統下，參予和解的人是完全自願的，整個和解過程會完全保密，而最終的和解協議書亦具法律約束力。筆者亦親身到工作坊嘗試角色扮演和解員，希望在這處跟各位分享一下。

## 和解員的工作及特質

有關金錢瓜葛的糾紛是和解員經常會遇上的課題，其實只要通過特定的和解過程，爭執雙方的態度就可能逐漸轉變，而事件也會慢慢淡化甚至完全解決了。表面上看來，和解員似乎在整個事件中充當著重要的角色，事實上爭執的雙方才是幕后的真正功臣，和解員的工作只是產生一種輔助作用，催化了最終解決方案的達成。

雖說和解員只是充當一個輔助的角色，但他需同時擔當多重身份，例如他不但是一位能準確掌握資料與數據的分析員，而且是才思敏捷的總結員；既是一名耐心的聆聽者，又是充滿創意的策略家，懂得運用不同的提問技巧，引導爭拗雙方主動提出建議方案。除此之外，和解員還要有能把擁有不切實際、一廂情願意念或夢想的人帶回到現實生活中的能耐，因此，說和解員渾身都是隱形的工具並不為過。其實，這些隱形的工具就是和解員所要具備的個人特質。他要一直保持中立的態度，對爭執雙方也要有一定程度的了解，並要具備足夠的洞察力，充分掌握雙方當事人身體語言的提示信息及話語的含義和暗示。和解員

也需擁有良好的溝通技巧，懂得掌握發問的最佳時機，這樣才能獲得當事人雙方的信任。

中國人都是愛面子一族，很多的糾紛都是源自面子問題，如果和解員能夠令當事人雙方都保住面子地找到下台階，那麼僵局很快就能打破。但這時當事人的說話往往會很隱晦和含糊，和解員須非常細心地聆聽雙方的要求，同時要令當事人雙方都明白「大餅原理」，就是說大餅只有一個，但一起合作就能創造一個更大的餅，雙方亦能分得更多。從這些方面著手，相信很快就能找到更多更新的解決方案。

爭執者有時因情緒激動而說出某些令對方難堪、刺激甚至會傷害對方的字眼，和解員必須要懂得如何中和這些刺激性的用詞，而用另一種比較婉轉的方式說出。譬如說，和解員會將「狐狸精」翻譯成「朋友」，把小孩的「撫養權」說成是「生活安排」，改稱「堆積如山的泥頭」為「環境衛生問題」等等。這樣才不會影響整個和解過程的順利進行。

## 總結

作為一名和解員，沒有什麼比看著一對黑著臉的爭執者到來，卻和顏悅色地離開更有滿足感。如果你對這門在香港新興起的和解專業有興趣並想知道更多詳情的話，可以到以下的網址瀏覽：

[www.mediationcentre.com.hk](http://www.mediationcentre.com.hk)。☎

# Second Hand Residential Units - A Review



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## Introduction

In recent years, the special offers offered by developers and the availability of virtually 90% mortgage loans have largely turned purchasers' attention towards first hand flats. When it comes to a choice, second hand properties have lost their popularity, their market and, inevitably, their value.

The residential property market, however, is not just about new flats. Far from it. After all, the annual supply of new accommodation is only around 20,000 to 30,000. Compared with an existing stock of more than one million, the new flats can best serve as a guideline and is not a true picture of the property market.

A review of the second hand flats is, therefore, a more important and pertinent study of what is happening in the residential property market and which direction it will go.

A survey on 100 residential estates in Hong Kong, covering 288,739 flats or 26% of the total housing stock, was conducted by Midland Realty in September 2003 and updated at the end of every month since then. This survey and its later updates focused on the supply (offer) and demand of these

flats, and their owners' or purchasers' expectations on the property market.

## Supply of Second Hand Flats

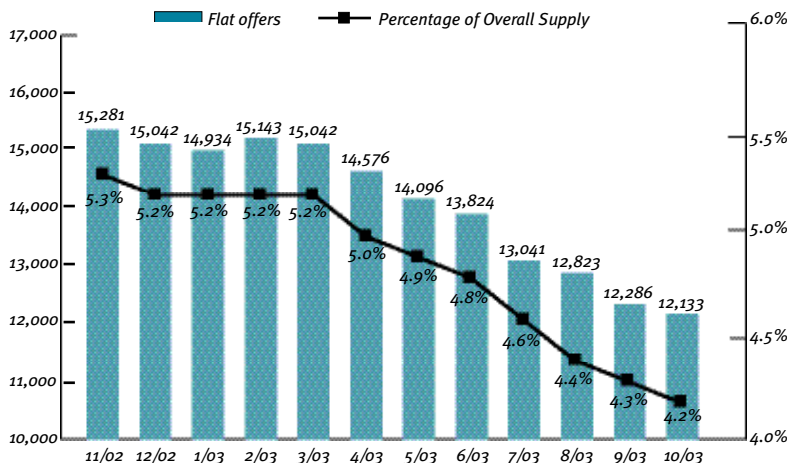
All along, up to the end of October 2003, the supply of second hand flats, i.e. those offered for sale by their owners, has been decreasing. There are two main reasons:

- i) Property prices, especially those of second hand flats, have undergone a significant decrease in recent years. Many second hand flats have failed to attract buyers in the market. Flat owners, sensing a weak response even at low prices, have stopped offering them on the market.
- ii) The situation was exacerbated in the outbreak of SARS. May 2003 recorded a new low of second hand flats on offer - the number fell, for the first time, below 5% of the total stock. It was understandable because nobody wanted visitors coming to their homes in the time of a killer disease. The percentage, however, continued to drop, as can be seen in Chart 1 below which covers the above 288,739 flats.

At this rate, it was projected the total number of second hand flats on offer fell from 57,869 in November 2002 to 45,947 now.

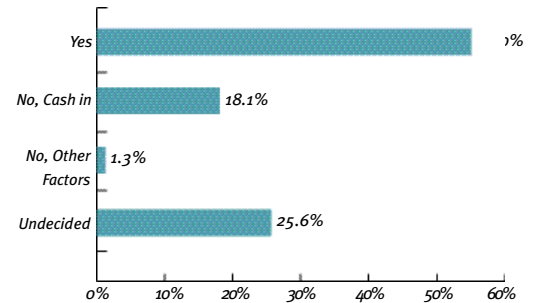
In October 2003 the percentage fell to 4.2%. The situation, however, was different. The low number on offer reflected the owners' optimism on the property market. Many felt that the property was on the rebound and the value of their flats would appreciate. It was, therefore, better to sell them later.

Chart 1 Number of Flats on offer in 100 Residential Estates



## Owners' Attitude

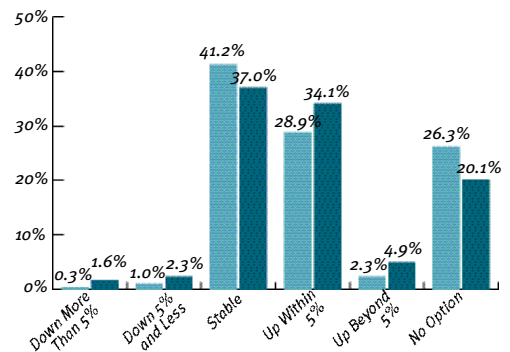
Chart 2 shows the intention of second hand flat owners



Such optimism was reflected in the later part of the above survey.

From those who would like to change their homes, about 70% favoured 3 bedroom flats. Among them, 59.1% intended to buy 701 to 1,000 sq.ft. flats and 21.6% wanted flats over 1,000 sq.ft. It was apparent that improvement in their living environment was of high priority, another sign of confidence in the market.

Optimism was further evidenced in Chart 3 below.



More thought both the volume of transactions and prices would rise.

In fact, according to Land Office records, transactions of second hand flats in the price range of HK\$2 million to 5 million have been increasing for six consecutive months from 300 in April to 762 in October. It is expected that the total number of second hand flat transactions could reach 66,000 in 2004.

## Leng Yen-thean

Assistant to Director of Chinese Estates  
told the *beauty of land management degree*  
and *her surveying career*

Kelvin NG



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

I chose surveying because I wanted to do something specialized instead of a general degree. I did my degree in the UK.

When I was in college I was in the science stream and always liked Maths, so I was hoping to do something related to finance or figures in university. At that time, only very few universities in the UK offered finance courses, such as Banking and Finance. Most universities offered Accounting related courses, which I wasn't interested in. I consulted my uncle who was a general manager in an established property development company and he suggested that I consider Land Management, a course which he thought was really suitable for females. I was under the impression that Land Management dealt mostly with property valuation and property finance so, in the end I went for a Land Management degree instead of a Finance degree.



*How did you get started with the surveying career? Do you remember your first job assignment?*

After graduation, I joined the development consultancy team of Chesterton Petty Ltd.

My very first assignment in Chesterton was a resumption case for a duck farm in Yuen Long affected by the Route 3 project, which was an interesting case. The land in question was for agricultural use, however, building waivers had been obtained for structures housing incubators, duck sheds, etc. The case also involved claims for business loss and extinguishment.

*How have your job skills changed in the past since your first job?*

I started off at Chesterton handling mainly land matters, feasibility studies and resumption cases, however, about a year and a half later, I was seconded to the West Rail Project Office to work on station related developments. After 2 years I was asked to join KCRC when the property development department set up a new team to work on the East Rail Extensions and Ma On Shan Rail. I've been a "development" person till I joined Chinese Estates about 2 years ago, which required my involvement in not only development projects but also sales and leasing, building management and China matters.

*What are the differences between working in a public body (KCRC) and the private sector?*

For me, the most apparent difference is in the authority for approval. In a public body, decisions on major issues are normally deliberated and approved by a management group, say, a Committee or the Board. In the private sector, decisions are primarily made by the "owner".

*How do you devise a name for a development?*

As Chinese Estates is not an established name for residential development and the scale of the projects launched is usually not big, a distinctive, preferably something refreshing, development name becomes essential to capture market attention. The names devised, to a large extent,

reflect the qualities of the development and help captivate the targeted market segment.

*What is your most memorable working experience?*

My recent experience in sales launches is definitely memorable, as it is an area I never thought I would get involved in. To make things more challenging, there wasn't a sales team / person in my company whom I could sort of learn the ropes. So you can imagine the risk I took and the pressure I was under in implementing those sales strategies. The fact that one has to juggle between the press, agents, purchasers, government, solicitors, interior designers, contractors, advertisers, JV partners, etc. requires a lot of tact. The need to sometimes stay till 3 a.m. in the sales office definitely didn't help.



*After several years of working in the industry, what are the key attributes that you see as important in a career?*

I can't really comment on the above question till I'm successful in my own career, but I believe the willingness to learn and continuously advance oneself is vital.

*What do you do in your spare time?*

I don't have much spare time at the moment and lead an extremely unhealthy lifestyle. I'm making changes and planning towards a more balanced lifestyle. When I have more spare time, I'd like to do more traveling and regular exercise.

*Do you have any particular interest?*

I love traveling, music and food. 