



香港建造商會
The Hong Kong Construction Association Ltd

A member of International Federation Of Asian And Western Pacific Contractors' Associations

6th November 2002

Ref: PC/AW/mn:737:02:IA13

Hon LAU Ping Cheung
Chairman, the Bills Committee on the
Land (Miscellaneous Provisions) (Amendment) Bill 2002
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear *Ms. Lau,*

Re: Land (Miscellaneous Provisions) (Amendment) Bill 2002

We refer to the Land (Miscellaneous Provisions) (Amendment) Bill 2002 Committee meetings held on 19 September 2002 and 24 October 2002 and the various briefing sessions arranged by the Government with the concerned parties. While some of the concerns have been discussed and addressed to, the Hong Kong Construction Association (HKCA) still has the following concerns and wish to draw to the attention of the Honourable members of the Bills Committee.

1. Undue Contractual Disputes

HKCA submitted a paper to the Bills Committee first meeting held on 19 September 2002 and HKCA's views have not change. If the Authority underestimates the extent of the sub-surface difficulties in determining the period of the excavation permit, or the work is being delayed for whatever reasons, say inclement weather, design change or additional works, the contractor will have to pay the additional daily fee and the penalty regardless of their being no fault, then have to go through the procedures for getting back the money. Because of the economic cost now introduced, the consultants will inevitably become extremely cautious or reluctant in granting extension of time. This parallel but separate imperatives of legislation and contractual obligations would become a potential area of undue contractual disputes.

2. Approval of Nominated Permittee under Section 10F(c) and 10I

The disapproval of a proposed contractor by the Authority to be a nominated permittee will result in not only another contractual dispute between the contractor and his client, but more importantly is the loss of valuable time as the client has to go through again the process of selection and nomination of a replacement contractor. HKCA suggests that contractors on the List of Approved Contractors for Public Works maintained by the Transport and Works Branch or on the Building Department List of Registered General Building Contractors are to be exempted from such approval requirement.

.../P.2

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Page 2

Ref: PC/AW/mn:737:02:IA13

3. Deletion of Imprisonment Terms under Section 10Q(2)

HKCA welcomes the consideration by the Government to delete the imprisonment for 6 months as suggested in the second Bills Committee meeting held on 24 October 2002 under Section 10Q(2). However, the suggested increase of the maximum fine from HK\$50,000 to HK\$200,000 is considered to be too harsh under the current economic environment.

4. Object the Inclusion of Daily Inspection Cost in Calculation of Permit Fee

As rightly pointed out by the Honourable Mr. Raymond Ho in the second Bills Committee meeting, the daily inspection cost should not be part of the Permit Fee under the "user pays" principle. HKCA objects the transfer of such cost from the Government onto the contractors.

Yours sincerely



Patrick Chan
Secretary General