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香港建築師學會
The Hong Kong Institute of Architects

Our Ref. : BLA/CIC2Bill/RC/cw/1204

13 December 2004

Hon Kwong Chi-kin
Chairman of the Bills Committee
Legislative Council
c/o Legislative Council Secretariat
3/F Citibank Tower
3 Garden Road
Hong Kong

By Fax and By Post
Fax No. : 2869 6794

Dear Sir

Construction Industry Council (No. 2) Bill

Further to our letter dated 18 November 2004 containing our preliminary comments on the captioned Bill and our presentation in the meeting of Bills Committee on 9 December 2004, we would like to deliver the transcript of the above presentation both in English and Chinese for your consideration and record.

Thank you for your kind attention.

Yours sincerely

Rita Cheung (Mrs)
Registrar

Encl

c.c. Hon Patrick S S Lau, LegCo Member (Architectural, Surveying & Planning)
Prof Bernard Lim, Chairman, Board of Local Affairs

Patron: Mr Tung Chee Hwa, Chief Executive, Hong Kong Special Administrative Region
A Member of The International Union of Architects (UIA), Commonwealth Association of Architects (CAA) and Architects Regional Council Asia (ARCASIA)

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Submission to Chairman of the Bills Committee, Legislative Council, on the Construction Industry Council (No. 2) Bill

1.0 Cl.4 Establishment of the Construction Industry Council (CIC)

The Hong Kong Institute of Architects (HKIA) supports the establishment of the statutory body to spearhead reforms and sustaining momentum to achieve continuous improvements across the construction industry.

2.0 Cl.7 Powers of Council

HKIA suggests that CIC shall have power to allocate fund to the private sector and institutions on projects approved by the Council relating to the improvement of the construction industry.

3.0 Cl.9 Composition of Council

3.1 Size of the Council

We consider that, by comparison with other Councils operating in Hong Kong with regulating functions in particular industry (e.g. Medical Council 28 members), there is scope to increase the membership from the max. 25 members proposed. This would allow greater representation for the proposed CIC, to achieve its aim of promoting self-regulation in a market-driven environment, in the best interest of the community.

3.2 Appointment of members

HKIA noted that the proposed CIC would take over the function of the Construction Industry Training Authority (CITA) established under Cap 317 and observed that the setting up, appointment of members and representation of the proposed CIC is different from that of the CITA, which has a number of representatives nominated by major professional institutes, including HKIA, and trade associations. By comparison with CITA, and other major Councils operating in Hong Kong with regulating functions in particular industries e.g. Hong Kong Medical Council, Legal Aid Services Council and Supplementary Medical Professional Council (Appendix 1), most of those have members nominated by major institutions. We consider that there is scope to increase and review the representation under Cl.9 (3)(b) such that the representatives of the professions and consultants are drawn from the professional institutes.



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HKIA emphasizes that with nominations from major Institutes is the only certain way for the CIC to achieve full consultation with major stakeholders in the industry and gain the benefit of representation processes, communication network and resources available in those bodies.

Another important reason for the professional institutions to make their nominations is to ensure that particular member properly represents and accountable to their profession. He will have the duty to communicate and report back to his professional affiliation and by doing so will ensure the most informative feedback for the CIC. Individual appointments are unlikely to have the same effect.

In addition, HKIA noted that under Cl.9 (3) of the bill regarding sectors of which the members represents, there is a definition of “employer”, “contractors”, “trade unions”, but there is no definition of “professionals”, “consultants”, “training institutes or academic or research institutions”.

Architects in Hong Kong are one of the principal stakeholders of the Construction Industry. HKIA, being the only professional institute for Architects in Hong Kong incorporated under Ordinance, representing members who discharge their duty mostly as the Authorized Person or their representatives under the Buildings Ordinance, should be represented in Council.

3.3 Chairman of Council

We support the proposal that the Chairman is not a public officer. And given the size of the Council, a Vice Chairman should be considered.

3.4 Lay Member of Council

We note that the functions of the Council will have a wider impact than on the construction industry itself. This is elaborated further in Annex B to ETWB’s paper ref. No. ETWB (IR) 310/13(02). We therefore propose that consideration be given to amending the composition of Council by increasing the number of lay-members, representing consumers and users and not drawn from the construction industry (i.e. that Cl. 9 (3)(f) be amended to “...not more than 4...”).

4.0 Cl.31 Establishment of Construction Industry Training Board (CITB)

HKIA supports the establishment of CITB.



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5.0 Cl. 32 Composition of CITB

HKIA noted that the proposed CITB would take over the function of the Construction Industry Training Authority (CITA) established under Cap 317 and observed that the setting up, appointment of members and representation of the proposed CITB is different from that of the CITA, which has a number of representatives nominated by major professional institutes, including HKIA, and trade associations. By comparison with CITA, and other major Councils operating in Hong Kong with regulating functions in particular industries (Appendix 1), most of those have members nominated by major institutions. We consider that there is scope to increase and review the representation under Schedule 3 Cl.2 such that the representatives of the professions and consultants are drawn from the professional institutes.

HKIA emphasizes that with nominations from major Institutes is the only certain way for the CIC to achieve full consultation with major stakeholders in the industry and gain the benefit of representation processes, communication network and resources available in those bodies.

In addition, HKIA noted that under Schedule 3 Cl.2 of the bill regarding sectors of which the members represent, there is a definition of “contractors”, “trade unions”, but there is no definition of “professionals”, “consultants”, “training institutes or tertiary education institution”.

Architects in Hong Kong are one of the principal stakeholders of the Construction Industry. HKIA, being the only professional institute for Architects in Hong Kong incorporated under Ordinance, representing members who discharge their duty mostly as the Authorized Person or their representatives under the Buildings Ordinance, shall continue to be represented in Board.

HKIA proposes that the Chairman of the Board is not a public officer.

6.0 Cl. 62 Production of Documents, etc.

Part 8 Cl.62 (1) states that, “An employer, a contractor, or an authorized person.... shall produce.... for inspection by the Council any document.... that relates to the construction operations....” We are of the opinion that the definition of “...any document... that relates to the construction...” is too wide. Much of the documentation in construction projects does not relate directly to the functions of the Council and hence we consider that the scope of this clause should be narrowed. We are also of the opinion that this clause would appear to relate primarily to the matter of levy, and since the Bill may become the



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model for the subsequence Ordinance, then it should be more properly be placed in Part 5 LEVY.

7.0 Cl. 65 & 66 Power to sign Council's Documents and Admissibility of Documents signed under section 65

Cl.65 and Cl.66 state that there is "... an officer of the Council...", but there is no reference of an officer of the Council under Cl. 9. The definition of "officer" should be clarified.

8.0 Sch. 2 Meeting and Proceedings of Council

Cl. 5(3) states that "... if there is an equality of votes, the member presiding has a casting vote in addition to his original vote". It should be clarified that who has the casting vote, or whether it is a typo error of "chairman" instead of "member".

9.0 Sch. 3 Composition, Meetings and Proceedings of Board, etc.

Cl. 8(4) states that "... if there is an equality of votes, the member presiding has a casting vote in addition to his original vote". It should be clarified that who has the casting vote, or whether it is a typo error of "chairman" instead of "member".

**The Hong Kong Institute of Architects
Dec 2004**

Appendix 1 Comparison of the Set up of different Councils/Authorities								
		Size	Appointment of		Composition	Terms		Remarks
			Chairman	Members		Chairman	Member	
Proposed CIC		<25	Appointed by the Secretary	<3 public officers appointed by the Secretary, <20 other members appointed by the Secretary	*Chairman, Executive Director, < 3 public officers, #< 20 other members	< 3 years	< 3 years	* Chairman and cannot be public officer, # <4 - employers, <4 - professionals or consultants connected to the industry, <5 - contractors, sub-contractors etc., <2 - training institutes or academic or research institution, < 2 - from trade union, < 3 - others.
Proposed CITB under CIC		13	Appointed by the Council	Appointed by the Council		Determine by the Council	Determine by the Council	4 represent professionals or consultants 3 represent contractors 1 represent training institute or tertiary educational institution 2 from trade unions representing workers 1 other person 2 public officers
1	CITA (Cap 317)	13	Appointed by CE	Appointed by CE	Chairman 12 other members	Specify by CE	Specify by CE	2 nominated by HKCA 1 nominated by HK Federation of EM Contractors Ltd. 1 nominated by HKIA 1 SE nominated by HKIE 1 nominated by HKIS 1 CE nominated by HKIE 1 from trade union 1 from trade union representing EM workers 1 Exe. Dir. From VTC 2 public officers 1 non-public officers not connected to the above
2	The Medical Council of Hong Kong (Cap 161)	28	Elected amongst the members	14 Appointed by CE, 7 nominated by HKMA and 7 elected		3 yrs	3 yrs	2 nominated by Director 2 nominated by HKU 2 nominated by CUHK 2 nominated by HA 4 lay members 2 nominated by Aca. of Med 7 nominated by HKMA 7 elected by registered medical practioners

Appendix 1 (Cont.) Comparison of the Set up of different Councils/Authorities								
		Size	Appointment of		Composition	Terms		Remarks
			Chairman	Members		Chairman	Member	
3	Hong Kong Productivity Council (Cap 1116)	< 23	Appointed by CE	Appointed by CE	Chairman, < *17 members, <5 public officers, #			* represent management, labour, and professional and academic interest # amongst the members, one to be appointed as Deputy Chairman
4	Legal Aid Services Council (Cap 489)	10	Appointed by CE	Appointed by CE except D of Legal Aid	*Chairman, (+)2 barristers, (+)2 solicitors, #4 other members, ,D of Legal Aid			* not a public officer, # person not connected with the practice of Law (+) CE shall consult Law. So and HKCBA for the appointments or both org. may recommend to CE
5	Supplementary Medical Professional Council (Cap 359)	<18	Appointed by CE	Appointed by CE	Chairman, Deputy Chairman, #<16 members	3 yrs	3 yrs	# <4 – public officers, 1 – nomination of HKU 1 – nomination of CUHK 1 – nomination of HKPU 1 – from each profession (5 total) 4 – other persons not being public officers
6	Council for the Hong Kong Society of Accountants (Cap 50)	<18	Elected by Elected members of the Council	Elected, appointed by CE, Co-opted, and public officer representative	#12 elected members, *2 public officers, (+)<2 members appointed by CE, < 2 co-opt members,			# - >5 full time professional accountants, >5 non-full; time professional accountants * - representatives of FS and D of AS + - representatives of university or institution,