2006年7月17日 討論文件

立法會規劃地政及工程事務委員會立法會公務員及資助機構員工事務委員會

私人審批建築申請

目的

本文件旨在匯報有關私人審批建築申請的研究的進展,以及與關注這課題的政府職工會會面的結果。

背景

- 2. 前經濟及就業委員會於 2004 年 3 月成立方便營商小組,目的是找出並取消過時、過嚴、重複或不必要的規定,從而促進商業發展和創造就業機會。方便營商小組已就整個物業發展過程展開全面檢討,並要求臨時建造業統籌委員會 (臨時建統會)就如何縮短施工周期及降低遵行現有法規的成本,提出建議。臨時建統會在 2004 年年底成立檢討發展過程施工階段專責小組(專責小組),負責這方面的工作。鑑於專責小組的職責範圍只限於施工階段,樓宇施工前期工作小組及城市規劃工作小組分別在 2004 及 2005 年年底在方便營商小組之下成立,以處理樓宇施工前期的土地及城市規劃事宜。
- 3. 經濟及就業委員會已於 2005 年 12 月解散,而方便營商諮詢委員會(方諮會)則於 2006 年 2 月成立,繼續其方便營商的職能。
- 4. 專責小組的討論項目,包括下列各項改善規管機制的措施:
 - (a) 協調各種主要發展參數,以減少不一致的情況,並簡化建築圖則的批核程序;
 - (b) 設立網上系統, 查察處理建築申請的情況;
 - (c) 透過中央處理建築圖則,以改善在解決跨部門的問題上的協調;

- (d) 透過轉授核查權力,減少對建築發展項目在規管上的重 疊;
- (e) 私人審批建築申請;以及
- (f) 全面檢討施工階段的規管機制,以找出策略方針,使規管 架構能配合業界發展。
- 5. 由於在諮詢各業界機構時發現了數個須予深入研究的基本議題,故此,專責小組於 2006 年 2 月委託顧問進行有關私人審批建築申請的研究,全面評估這項措施,然後才向方諮會就是否值得進一步考慮私人審批提出建議。待專責小組及方諮會完成研究後,便會就未來路向,向政府提交建議。

私人審批建築申請的研究

(A) 研究的目的及範疇

6. 這項研究的主要目的是探討透過由私營界別專業人士進行適當的建築設計核查工作和審批,以改善建築審批程序的可行性。不過,私人審批的基本目的,並非透過外判法定權力,全面取代現行制度,而是要找出個別適宜委託私營界別專業人士執行的審核工作,以及應該繼續由政府部門執行的部份。此外,研究的另一目的,是要制定一套實施策略,一方面保留現行保障樓宇使用者和公眾健康及安全的制衡機制,並同時盡量減少對法定架構的更改。

7. 研究的具體範圍包括:

- (a) 載述現行遞交、處理及審批建築申請的程序;
- (b) 確定建築申請程序有哪些問題和事宜,會影響物業發展的 成本和進度;
- (c) 找出可透過私人審批處理的問題和事宜,並且評估私人審 批在解決這些問題和事官方面的成效;

- (d) 確定私人審批的利弊、風險,以及可能影響其實施的問題,並制訂解決辦法;
- (e) 擬訂私人審批的實施策略;以及
- (f) 就試行私人審批並作出監察,擬訂建議。
- 8. 儘管該項研究會就私人審批實施上的問題擬訂解決方案,並且制訂 實施建議,但這些只屬輔助工作,目的僅在核實私人審批的可行性,以 便專責小組擬訂呈交予方諮會的建議。

(B) 進展情況

- 9. 該項研究的顧問,伯泰工程顧問有限公司,已完成資料蒐集工作,包括與載於附件 A 的業界機構會面,以搜集他們對現時影響建築申請程序的問題及事宜及私人審批建議的意見。此外,顧問亦已探討澳洲、日本、新加坡、英國及內地實行的私人審批制度,以找出這些制度的範疇、成效、優點、缺點,以及市民大眾對有關制度的認受程度。
- 10. 顧問現正分析蒐集得來的資料和擬寫研究的最後報告擬稿。

與職工會會面

- 11. 曾與顧問進行會面的業界機構,包括對私人審批表示關注的 5 個政府職工會,計有:
 - 屋字署本地屋字測量師協會。
 - 屋宇署結構工程師協會。
 - 屋宇署技術主任工作小組。
 - 屋宇署測量主任工作小組。
 - 土木工程拓展署土力工程師協會。
- 12. 與第一個職工會的會面於 2006 年 5 月 22 日進行,與其他 4 個職工會的會面於 2006 年 5 月 29 日進行。有關的會面記錄,分別載於附件 B 及附件 C。

13. 下文載述各職工會所提意見的重點,以及專責小組對有關意見的觀察所得。

(A) 對樓宇健康及安全的影響

- 14. 各職工會深切關注私人審批對樓宇健康及安全的影響。目前,建築事務監督在屋宇署和土木工程拓展署轄下土力工程處協助下,審核建築申請,然後才批核建築設計及發出施工同意書。如當局只按私營界別專業人員的建議批核建築申請,則建築事務監督便形同橡皮圖章,實際上放棄了他保障樓宇安全的責任。
- 15. 職工會亦特別指出,香港高樓大廈眾多,而且不少建築地盤位處 斜坡之上,倘若屋宇署和土力工程處沒有妥善查核樓宇的設計,建築物 便可能受到災難性的事件影響。此外,地價高昂加上承建商之間競爭激 烈,往往對建造業專業人士造成沉重的商業壓力。鑑於本港樓宇、地形 以及市場的獨特性質,政府所實施的管制對於確保樓宇安全,更形重 要。外國的制度或會不切合本港情況。
- 16. 安全及健康是專責小組的主要關注事項,亦是研究正在探討的核心課題。顧問會仔細全面考慮職工會的意見。在決定會否建議進一步考慮私人審批時,安全及健康均屬關鍵的因素。
- 17. 不過,專責小組希望強調,私人審批並不意味要放棄現時的保障措施。正如上文第 6 段所述,專責小組目的在探討可否一方面由私營界別專業人士負責合適的查核和審批建築設計的工作,而另一方面保留現行保障樓宇使用者和公眾的安全和健康的制衡措施,並且盡量減少對法定架構的更改。

(B) 研究範圍和經費安排

- 18. 職工會就研究範圍和經費安排,提出以下意見:
 - (a) 職工會並不認同除卻私人審批外,並無其他方法可以改善 建築批核程序。如確有問題,則應檢討整個發展批核程 序,而不是單單着眼於屋字署的制度;以及

- (b) 職工會質疑這項研究應否由政府斥資進行,因爲研究是由 臨時建統會爲私人發展商的利益而委託顧問進行的。職工 會亦認爲,在尚未評估公眾是否接受私人審批前,展開研 究,實屬浪費公帑。
- 19. 關於第 18 (a)段,私人審批並非加快建築批核程序的唯一措施,而是為改善建築發展的規管機制而作出的整體努力的一部份。正如上文第 4 段所述,除了私人審批外,專責小組的討論範圍還包括另外 5 項措施。方諮會轄下的樓宇施工前期工作小組及城市規劃工作小組,正研究如何精簡有關規劃及地政事官的程序。
- 20. 關於第 18 (b)段,基於數個主要經濟體系均已引入容許私營界別參與查核建築設計的制度,故此實宜探討在香港引入類似制度的優點和缺點。私人審批有潛能爲如何精簡規管架構帶來新的策略方針,而這些改變可以改善營商環境,推動物業市場的投資,爲建造業創造就業機會,使整個社會受益。世界銀行於 2005 年年底,發表 2006 年營商報告備受關注,正好提醒我們必須不斷改善規管架構才能維持本地經濟的競爭力。
- 21. 進行顧問研究是專責小組成員的共識,亦獲方諮會支持。立法會規劃地政及工程事務委員會亦已透過在 2005 年 12 月 20 日舉行的會議上討論的文件,知悉有關研究的範圍及目的。專責小組將致力確保研究的建議會顧及社會的整體利益,而不會偏頗於個別界別。

(C) 對員工的影響

- 22. 職工會關注私人審批對其會員的就業帶來的影響,並且認為政府應該在容許臨時建統會委託顧問進行研究前,先行諮詢員工;而該研究已嚴重打擊員工士氣。
- 23. 由於公務員事務不屬其職權範圍,故此專責小組不可以就上述關注作出回應。專責小組希望重申,進行研究並非引入私人審批的籌備工作,專責小組對私人審批仍持開放態度。進行研究亦不會把私人審批變成既定事實,因爲專責小組的職權範圍並不包括就引入私人審批作出決定。

政府的初步看法

24. 政府對私人審批建築申請持開放態度。政府堅定相信有關建議不應 損害樓宇的安全和健康。但是,按政府方便營商的政策,是值得考慮有 助理順建築圖則批核程序的建議。政府知悉職工會所表達的關注並會在 臨時建統會完成研究並探討有關的事項後,小心考慮未來路向。政府在 研究顧問報告的建議時,將充份考慮相關人士,包括職工會的觀點。

未來路向

25. 研究的最後報告擬稿將於 2006 年 8 月分發予業界相關機構(包括有關的職工會),徵詢意見。所收到的意見,將會在擬寫最後報告時予以考慮。專責小組將參考最後報告,就是否進一步考慮私人審批作出建議。專責小組的建議,在獲得臨時建統會通過後,將會呈交方諮會。倘若立法會的相關事務委員會提出要求,專責小組將樂意與其討論有關建議。

26. 上述工作的暫定時間表如下:

暫定時間	工作
2006年8月/9月	向業界機構分發最後報告擬稿,徵詢意見
	業界機構就最後報告擬稿提交意見
	擬寫最後報告以及對相關意見的回應
	專責小組審議最後報告,並制訂有關私人審
	批的建議
2006年10月	臨時建統會審議專責小組的建議
2006年11月	方諮會審議專責小組的建議
2007 年年初	向立法會相關事務委員會介紹專責小組的建
	議

結論

27. 專責小組希望按照以上工作進度表完成有關私人審批的討論。同時,歡迎委員提出意見,顧問在擬寫最後報告擬稿時將會予以考慮。

臨時建造業統籌委員會秘書處 2006年7月

業界機構名單

政府部門

- 建築署
- 屋宇署
- 土木工程拓展署土力工程處
- 房屋署

學術機構

• 香港城市大學

委託機構

- 香港房屋協會
- 九廣鐵路公司
- 地鐵公司
- 香港地產建設商會

專業學會及協會

- 香港建築師學會
- 香港工程師學會
- 香港規劃師學會
- 香港測量師學會
- 香港顧問工程師協會
- 工程界社促會
- 結構工程顧問商會
- 香港專業建築測量顧問公會
- 建築師事務所商會

商會

• 香港建造商會

職工會

- 土木工程拓展署土力工程師協會
- 屋宇署本地屋宇測量師協會
- 屋宇署結構工程師協會
- 屋宇署技術主任工作小組
- 屋宇署測量主任工作小組

其他機構

- 香港銀行公會
- 香港保險業聯會
- 消費者委員會

百泰工程顧問有限公司 香港鰂魚涌英皇道 979 號太古坊康和大廈 電話 +852.2880.9788 傳真 +852.2565.5561

會議記錄

(Form 2937/F1 Issue 1)

項目名稱	私人審批建築申請的研究	項目編號	G2937
地點	彌敦道 580A 號,周大福中 心 19 樓	客戶	財政司司長辦公室 經濟分析及方便營商 處
日期	2006年5月22日 下午4時至5時30分	本公司參考 編號	G2937
文件名稱	與屋宇署本地屋宇測量師 協會會議記錄	貴公司參考 編號	
與會人員	余德祥 霍桂泉 吳兆祺 楊元邦	屋宇署本地屋 屋宇署本地屋 百泰工程顧問 百泰工程顧問	宇測量師協會 有限公司
抄送		文件編號	G2937/103
發出日期	2006年6月6日	記錄人	楊元邦

事項	內容	承辦者
1.	吳先生首先簡單介紹百泰工程顧問公司(百泰)受香港政府 委託,進行有關建築圖則(包括拆樓方案、新建樓宇一般設計及規劃、結構、排水、地盤平整和加建及改動工程的圖則)採納私人審批這一課題的研究內容及範圍:—	
	i) 百泰不會就是否應在香港實施私人審批制度提出建議。	
	ii) 百泰將會報告香港現行的建築圖則審批制度的問題,以 及如實施私人審批可能可以改進的地方。	
	iii) 通過對其他已經實施私人審批的國家與地區所進行的調查與研究結果以及考慮香港建築業的現狀與特點後,百泰會對實施私人審批可能會帶來的問題與弊病進行分析研究。	
	iv) 百泰會根據研究的結果提出一套私人審批的試行方案與 實施方案。	

Meeting Notes (Form 2937/F1 Issue 1) Continued

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事項	内容	承辦者
2.	余先生與霍先生對現行的由屋宇署負責實施的建築圖則審批 制度作出如下的評價:	
	i) 現行屋宇署的圖則審批制度總括來說是令人滿意的。這個制度是必需的因爲它能保障建築物對公眾的安全、健康與環境保護方面達到可以令公眾接受的水平以及能滿足社會的期望。	
	ii) 一般來說,屋宇署審批建築圖則是不可缺少的。而所需的時間對整個建築工程進度的影響是不大的。審批圖則所需的時間是不能超出法定的時間限制的,因此是可以預先計劃的。根據霍先生以往在私營建築發展項目中的個人經驗,在項目的規劃與建築施工期間,由發展商提出的規劃與設計的修改對工程進度的影響比屋宇署審批時間對進度的影響要大得多。	
	iii) 為了加快圖則的審批程序,屋宇署目前已採取了一系列的簡化程序與便捷措施或機制。與此同時,抱着對業界負責的態度,屋宇署發佈及定時檢討為執業人仕所用的作業備考。另外,立法會還正在考慮採用小型工程類別的監管。	
	iv) 霍先生解釋:屋宇署會根據不同類型的建築物圖則,決定是否需轉介其他政府相關部門進行審議,有些工程圖則需要轉介多一些政府部門,而有些工程可能會需要少一些,因此屋宇署作爲中央處理與協調部門角色是很重要的。這個角色是很難由私營審批者來取代的,尤其是當政府各部門之間的意見不一致時更是如此。	
	爲了提高建築物整個審批程序的效率,不僅僅是屋宇署 一個部門需簡化其審批程序,政府其他相關部門都需採 取相應的簡化程序與提高其工作效率的措施。	
	v) 屋宇署在建築監管方面扮演了一個獨立、公平與公正的 角色。屋宇署一直以來都是堅持審批標準的一致性。屋 宇署現行的審批制度可以說是公正、透明與獨立的。	

Meeting Notes (Form 2937/F1 Issue 1) Continued

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事項	內容	承辦者
	vi) 現行的圖則審批制度允許採用新的技術與特別的設計。 建築委員會與建築事務監督委員會的功能就是審議那些 對《建築物條例》的相關規定作出修改或免除的申請。 例如,屋宇署內設有一個由各界利益相關人仕,包括由 康復專員指定的肢體傷殘,視覺受損與聽覺受損人仕的 代表以及私營業界認可人仕組成的"無阻通道咨詢委員 會",其主要職能是審議有關建築物內爲殘疾人士闢設 通道事宜的。還有"屋宇創新小組"專門審議創新設計 事宜的。	
	vii) 對設計圖則的審核與對建築工程的監管是同樣重要的, 是缺一不可的。一個好的設計是一個好的建築發展工程 的先決條件之一。	
	viii) 對於一些非營利的工程項目,如學校改善計劃,對其圖則的審批程序就會快一些,其原因是政府已為該項目投入了額外的資源。	
	ix) 屋宇署還爲私營業界提供有關的咨詢服務(可參考作業備考 PNAP30)。	
3.	余先生與霍先生明確表示不支持實施私人審批。因為他們認 爲私人審批可能會產生以下的問題:	
	i) 建築物的安全問題是需要首先考慮的因素。任何可能會 損害與影響建築物安全的錯誤,如短椿事件以及逃生出 口不足的問題,要糾正起來都會是一件費時與費錢的工 作。	
	ii) 私人審批會帶來利益衝突的問題。私營審批者在面對商業壓力時是否能保持其作爲建築監管者角色所需的獨立性是值得懷疑的。	
	iii) 公眾對實施私人審批後是否會出現"官商勾結"的擔憂 也是需考慮的一個問題。	
	iv) 有關專業責任保險的問題,一些私營小公司未必能負擔 得起圖則審批者所需的具有足夠保額的專業責任保險的 保費。	

Meeting Notes (Form 2937/F1 Issue 1) Continued

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事項	內名	· · · · · · · · · · · · · · · · · · ·	承辦者
	V)	私營審批者的責任範圍必須予以明確的界定,問題是私 營審批者在建築物圖則的審批程序中究竟應被授予多大 的權力。據了解,在澳洲,雖然也實行私營審批制度, 但如果建築物圖則涉及到建築標準的修改就必須交由政 府有關部門審批,這樣反而會延長圖則審批的時間。	
	vi)	當有許多私營審批者時,勢必會產生審核標準不一致的問題。審核的水平也可能會參差不齊,而且商業因素也可能會影響其審核工作的質素。屋宇署作爲政府的一個獨立的不以營利爲目的中央處理部門,就可以提供優質的、嚴格控制的、以及審核標準一致的圖則審批服務。而私營審批者則不可能像屋宇署這樣採用三級審核體系,更不用說由屋宇署的高級首長對一些複雜的或政策性的事務提出指導性的意見。	
	vii)	對於私營審批者來說,要做到與有關各方,尤其是與發展商在商業方面做到完全獨立是很困難的。發展商與私營專業從業人員之間的關係是很複雜的,其之間也難免會涉及商業利益。	
		如私營審批者太多勢必會出現在審圖收費方面的競爭, 從而導致審核質素的下降。而競爭不夠又會影響私營審 批者的獨立性。	
	viii)	如實施私人審批,則需要建立一個上訴制度。然而,當發展商不同意私營審批者的審批結果並與其對薄公堂時,就可能會出現私營審批者由於其資源不夠而不能與發展商進行抗衡的情況。但對屋宇署來說就不會出現這種情況。私營審批者也可能會由於擔心其無足夠的人力物力來處理這類官司而對其獨立性產生不利影響。	
	ix)	實施私人審批還會對屋宇署現有的公務員產生影響。這一憂慮已在香港高級公務員協會 2006 年 4 月 20 日致特首的信中表達了。	
	x)	實施私人審批對有關建造業專業協會的就業、培訓及教育前景也會產生影響,但影響的程度如何則需要小心。	

Meeting Notes (Form 2937/F1 Issue 1) Continued

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事項	內容	承辦者
	xi) 屋宇署在建築圖則審核方面具有豐富的經驗與知識,從 而可以保證建築監管的質素與一致性。其數據庫保存着 各個分區及以往的大量資料可供審核人員參考,而且該 數據庫中的資料還在不斷地更新與補充。而私營審批者 則不可能有這個優勢與條件。	
	xii) 如果實施私人審批,還會影響屋宇署現有的見習屋宇測 量師與其他技術人員的培訓計劃。	
	xiii) 在審批樓字一般設計及規劃圖則時有可能會涉及公眾利益(例如:額外地積地率及豁免實用樓面空間)。私營審批者在這方面就無權作出判斷。	
	xiv) 屋宇署本地屋宇測量師協會對私人審批的其他意見已在 其於 2006 年 5 月 8 日致百泰的電子郵件中表達了。該電 子郵件的複印件已收在附錄 A 中。	
	xv) 其他國家與地區的經驗表明,私人審批的有關專業責任 保險制度未必能夠維持也是一個問題。	

Yang, Desmond

From:

Sent:

Monday, May 08, 2006 11:36 AM

To:

Yang, Desmond

Cc:

Subject: Study on Private Certification of Building Submission - Interview with BDLBSA

Dear Mr. Desmond Yang,

Private sector involvements in approving plan submissions under different STATUTORY building control systems depend on the local statutory framework and practice, community needs and expectation, specific social culture and background, and characteristics/nature of building stock/developments. The private sector involvements under various "Private Certification" Systems being practiced in a few overseas countries/places are different in extent and nature. Systems that are viable in other places may not be applicable to situations in Hong Kong.

To our understanding, the following issues/problems have been encountered:

- In Singapore, the private certification system is applicable to structural design only.
- In Singapore, a number of offences by accredited checkers and building professionals were noted, (ii) including the collapse of the roof of a multi-purpose hall under construction.
- In New York, the audit results indicate that the rate of non-compliance is rather high (about 13% in (iii) average from 2002 to 2004).
- In England, due to insurance consideration, most approved inspectors cannot deal with projects involving construction of new houses, or flats for sale or private renting.
- In Japan, false certification on earthquake proof design was recently discovered.

There were many practical difficulties (e.g. interpretation of Building Regulations, limitation on granting exemptions and modification under the Buildings Ordinance, independence and impartiality of private certifiers/checkers, commercial viability, public confidence, liability, insurance, etc.) yet to be resolved. Without knowing the details of your proposals, our Association has GREAT RESERVATION on the practicability of "Private Certification" in Hong Kong.

Furthermore, we wish to point out that a "Building Submission" comprises building plans (mainly demonstrating compliance with Building (Planning) Regulations), structural plans for foundation and superstructures, drainage plans, site formation plans and demolition plans; and each of them should be checked separately by different building professionals with input from concerned government departments. I presume you will consider them separately in your study.

If you wish to have an interview with our Association, please make an appointment with our Vice-Chairman, Mr. Dick TC Yu

Davy YUEN, Chairman of BDLBSA

04/05/2006 18:04

Subject: Study on Private Certification of Building Submission - Interview with BDLBSA

01/06/2006

To CC: Dear Mr Davy Yuen,

We are sorry that the previous scheduled interview on 24 April 2006 is not convenient to you and your members, and we will be most pleased to re-arranged an interview with your organization.

Due to the tight programme of our study, we can only conduct the interview latest by the end of May, or views and comments from your organization will be unable to be included in our study.

We would therefore appreciate if you could propose date(s) convenient to you for the interview within May for our further arrangement. On the other hand, your views and comments conveyed in the form of writing will also be welcomed.

Please be noted that in any case if your response is not received on or before 29 May 2006, we will assume that your organization has declined to offer us an interview and to convey your views and comments on the captioned subject.

For further queries, please fell free to contact the undersigned.

Best Regards,

Desmond Yang

JACOBS BABTIE

Babtie Asia Ltd, 15/F Cornwall House, Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong Tel: +852.2880.9788 Fax: +852.2565.5561 Email: jacobsbabtie.hk@jacobs.com

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01/06/2006

百泰工程顧問有限公司 香港鰂魚涌英皇道 979 號太古坊康和大廈 電話 +852.2880.9788 傳真 +852.2565.5561

會議記錄

(Form 2937/F1 Issue 1)

項目名稱	私人審批建築申請的研究	項目編號	G2937
地點	屋宇署,始創中心 1816 室	客戶	財政司司長辦公室 經濟分析及方便營商 處
日期	2006年5月29日 下午5時至6時30分	本公司參考 編號	G2937
文件名稱	與有關公務員協會的會議 記錄	貴公司參考 編號	
與會人員	盧張鄧郭黃陳區潘龍葉張蕭楊郭陳梁吳楊幹金忠鵬日國澤鎭翠漢鍾創 慶永兆元輝寫明鴻榮輝富廷冰麟雄基暉維全強祺邦國之強越	屋宇署結構技屋宇署結構技屋宇署測量主屋宇署測量主屋宇署測量主土木工程拓展土木工程拓展土木工程拓展土木工程拓展土木工程拓展	程師協會 程師協會 程師協會 程前結構在 在主任權益小組 程師主任權益小人工工程 權益小人工工工程 權益小工工程 程 五 五 五 五 五 五 五 五 五 五 五 五 五 五 五 五 五
抄送		文件編號	G2937/103
發出日期	2006年6月6日	記錄人	楊元邦

事項	內容	承辦者
1.	梁先生首先簡單介紹了百泰工程顧問公司(百泰)受香港政府委託,進行有關私人審批這一課題的研究內容及範圍:— i) 百泰不會就是否應在香港實施私人審批提出建議。	

Meeting Notes (Form 2937/F1 Issue 1) Continued

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事項	内容	承辦者
	ii) 百泰將會報告香港現行的建築圖則審批制度的問題,以 及找出如實施私人審批後可能改進的地方。	
	iii) 通過參考其他國家與地區的私人審批制度以及考慮香港 建築業的現狀與特點後,百泰會對實施私人審批制度可 能會帶來的問題與弊病進行分析研究。	
	iv) 百泰會根據研究的結果提出一套有關私人審批的試行方 案與實施方案。	
2.	有關公務員協會對私人審批研究的研究範圍與研究目的提出了意見:	
	i) 香港政府在關於這一研究課題的綱要中對私人審批是有傾向性的,而且研究的目的也不明確及混亂。在該研究的範圍中已經假設圖則審批私人審批是解決問題的僅有方法。百泰作爲一間專業工程顧問公司應該在其提交給香港政府的研究報告中說明該研究課題的綱要中存在的偏見及不足處。百泰亦應在報告中說明由於研究綱要存在的這些先天缺陷會影響其研究結果的合理性。	
	ii) 在考慮進行私人審批的研究之前應該首先找出現行建築 圖則審批制度存在的問題。公務員協會認爲,如果這些 問題確實存在,則應在研究綱要中明確指出。	
	iii) 公務員協會還想知道誰人會憂慮現有的建築圖則審批制度。因爲據屋宇署結構工程師協會所知,公衆及工程界專業從業人員大多贊成保持現行的屋宇署建築圖則審批制度。對專業從業人員來說,對現行的屋宇署建築圖則審批制度提出改進意見或建議的渠道也是暢通的。	
	iv) 如果現行的建築圖則審批制度確實存在問題,則應對整 套建築工程的報審流程進行檢討。而不僅是針對屋宇署 建築圖則審批制度。在該研究的範圍中並沒有包括認可 人仕與註冊結構工程師準備報審圖則與解答屋宇署對建 築圖則所提出的意見所需的時間,也沒有包括政府其他 部門審議建築審圖則所需的時間。其實這些時間對整個 建築流程報審程式來說是非常關鍵的。	

Meeting Notes (Form 2937/F1 Issue 1) Continued

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 事項	内容	承辦者
	v) 私人審批並不是改善現行制度的一個適切的解決方法。 現在所進行的這項研究是非常膚淺的。	
	vi) 公務員協會還質疑由百泰來進行這個課題研究可能會有 利益衝突之嫌。	
	vii) 公務員協會對香港政府在這一課題研究的摘要中要求研究者提出實施私人審批的試行方案是有疑問的,因為在現階段就提出試行方案爲時過早。雖然百泰不會就是否應實施私人審批提出建議,但在制定試行方案時,百泰不可避免地會將各個利益相關者所提出的問題與意見反映在試行方案中,因爲這些意見與問題難免有相互矛盾與衝突之處,因而百泰勢必會根據自己的判斷與建議來平衡這些相互矛盾與衝突的意見與問題。	
	viii)因爲進行這項研究所需的經費都是來自香港納稅人的錢, 因此這項研究必須對香港市民來說是值得進行的。	
	ix) 在引用其他已實施私人審批的國家或地區爲例時,對實施私人審批所帶來的效益進行比較是必須的,但比較必須在同樣的水平與基礎上進行。而這些國家或地區管制的水平可能是不相同的。	
3.	公務員協會稱其對私人審批研究的基本意見已在 2006 年 4 月 26 日致特首曾蔭權先生的信函中以及有關的新聞稿中表達了。該信函及新聞稿的複印本已收在附錄 A 中。	
4.	土木工程拓展署土力工程師協會與屋宇署結構工程師協會在會上還提供了對這一項研究的補充意見,希望能將其包括在百泰的研究報告中。這些意見的複印本已分別收在附錄 B 中與附錄 C 中。	
5.	公務員協會對私人審批可能帶來的問題、風險與弊病還提出了以下意見: i) 應該承認的是在目前房地產市場的激烈競爭下,顧問公司已無足夠的時間來完成高質素的報審建築圖則。如果再縮短屋宇署建築圖則審批所需的時間,勢必會對顧問公司造成更大的壓力,從而會進一步影響其報審建築圖則的質素。	

Meeting Notes (Form 2937/F1 Issue 1) Continued

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事項	內名	<u> </u>	承辦者
	ii)	顧問公司總是會面對來自其客户的壓力。所以政府現有的監管制度對保障建築物的安全性至關重要。	
	iii)	屋宇署必須維持建築圖則的最低設計標準,同時必須負 責監管建築質素。這種監管對業主,對公衆,和對顧問公 司來說都是有益的。而建築發展商只是利益相關者之 一。	
	iv)	如果實施私人審批,設計者與私營審批者都會面臨具大 的商業壓力,從而會影響其工作的質素。	
	v)	屋宇署現在實行的"三級式" 建築圖則審批機制可以保證審批工作的質素,是對公眾負責的。然而,如實施私人審批的建築圖則審批制度,就很難控制與保證審批制度與審批工作的質素。	
	vi)	不同的私人建築圖則審批者會採用不同的審核標準,尤 其是當面臨商業壓力時。因而不能保持一個統一的標 準。	
	vii)	一旦實施了私人審批後,就很難再恢復原先的政府審批制度。新加坡就是一個例子。如果私人審批出了問題,屆時政府就必須去面對與應付這些問題。而在這個時期建成的建築物的業主們會因物業的質素而蒙受巨大的經濟損失。	
	viii)	香港的情況與其他國家與地區的情況不盡相同。香港的 土地價格非常昂貴,承建商的競爭力也非常強。而且香 港有許多高層建築物,一般來說每個建築物都有很多個 業主。而在其他國家與地區,高層建築物的數量一般沒 有香港多,而且一個建築物通常也只有一個業主。其他 國家與地區實施的私人審批建築圖則審批制度並不一定 適用於香港。	

Meeting Notes (Form 2937/F1 Issue 1) Continued

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事項	內容	\$ \$	承辦者
	ix)	在有些國家與地區,公營與私營建築圖則審批制度是並存的,發展商可以自行選擇公營或私營審批者。在這些國家或地區,由私營審批者審批的建築物一般很難再轉售,而且建築物的保費也會較高。如在英國,發展商可以自行選擇公營或私營建築圖則審批者,但有九成的建築物都是由公營審批者審批的。總之,其他國家或地區實施私人審批的建築圖則審批制度並不能成爲香港實施私人審批建築圖則審批制度並不能成爲香港實施私人審批建築圖則審批制度的因由。公務員協會還指出應對已實施私人審批的國家或地區實施私人審批的細節,原因,及實施實際情況進行認真的研究,而不是僅僅引述哪些國家或地區已經實施了私人審批。	
	x)	香港的地勢及地質情況與其他國家大不相同。香港山多平地少,許多建築物是依山而建,因此建築上比較困難。一旦在設計上的監管不足,便會釀成災難性後果。 土力工程處和屋宇署是政府的主要建築物監管部門,掌握了整體的工程數據與資料。因此可以爲個別地區的整體發展或個別地盤之間的相互影響提供全面與準確的意見。	
	xi)	實施私人審批後是否能縮短審批工作所需的時間仍是一個疑問,還需要進一步予以證明。公務員協會認爲私人審批所能節省的時間常常是通過縮短設計工程師的時間來達成,其後果是以降低設計工作的質素爲代價,是不能接受的。	
	xii)	公眾作爲建築物使用者或擁有者,也應受徵詢其對建築 圖則審批制度改革的意見。	
	xiii)	舉個例來說明,對一位用 25 年的銀行按揭購買一棟建築物中某一單位的業主來說,由於實施私人審批建築圖則審批制度後審批時間縮短了幾個月,相對地對其影響是微乎其微的。	

新聞稿

香港高級公務員協會聯同十個政府部門內的十三個專業人員協會就政府撥款與臨時 建造業統籌委員會聘請顧問公司研究及推行「私人審批建築圖則」一事,提出強烈 反對,理由如下:

- 現時審批私人物業發展建築圖則由屋宇署聯同土力工程處執行,對樓宇設計、物料使用、建築安全及施工方案等,均由政府監管,務使所有私人建築物符合法定的基本安全標準。而「私人審批建築圖則」建議等同把現行的政府監管工作「外判」予私人市場,導致屋宇署只能根據私人執業的建築專業人仕的建議來審批建築圖則,毋疑變成橡皮圖章,難以履行維護公眾安全和保障樓宇質素的重大法定責任。
- 2. 監管私人物業發展實有賴政府執法人員的獨立性。由於私人執業的建築專業人 住是受僱於地產發展商,將現有的政府監管工作「外判」予他們,容易造成在 物業發展上的角色混淆不清,引致利益衝突,或甚至有私相授受的情况,導致 他們難以獨立判斷,嚴重影響建築物質素和安全,以及公眾對樓宇安全的信心。 在缺乏公眾諮詢及未有深入探討上述問題的情況下,臨時建造業統籌委員會有 意把「私人審批建築圖則」變成既定事實,並以公帑聘請及要求顧問公司制定 落實方案的具體計劃,實為草率。
- 3. 政府一直致力提升效率,,改善現行監管制度及將過往不必要的規例廢除,確保 建築物的設計及建造上安全,並得到業界的認同及支持。在缺乏研究其他可行 方案下,臨時建造業統籌委員會指出「私人審批建築圖則」是唯一加快建造速 度及節省建築成本的說法極爲不妥,亦間接否定公務員過往在建築物安全監管 上的努力和貢獻,不但影響公務員就業,更大大影響公務員的士氣。
- 4. 類似「私人審批建築圖則」的方法已在一些國家試行,但效果成疑。其中更有發現多宗建築物設計或施工方面欠妥而出現嚴重的安全問題,實與採用的私人審批制度有關。事實上,樓字是市民的主要資產,監管制度若出現問題,受害的必爲購買物業的市民。「私人審批建築圖則」方式一旦出現問題,輕則會引致進行繁複的樓字加固工程,重則會導致樓字倒塌,影響公眾安全。
- 5. 在香港這國際大都,高樓大厦聳立的稠密地方,審批建築圖則不容有失。推行「私人審批建築圖則」制度定會對市民、政府和公務員造成「三輸」局面。

聯絡人:潘偉明醫生

香港下亞厘畢道政府合署東座地下G13室 Rm. G13, Central Government Offices, East Wing, G/F, Lower Albert Road, H.K. Tel: 2522 4267 Fax: 2523 3319

By Fax 2509 0577 26 April 2006

Mr. Donald Tsang Chief Executive Hong Kong SAR Government Government House Hong Kong

Dear The Honourable Mr. Tsang,

Private Certification of Building Submissions

It comes to our attention that the Provisional Construction Industry Co-ordination Board (PCICB) had commissioned a consultancy study on private certification (PC) of building submissions despite reservations expressed by the industry at large and strong objections from LegCo members. After examining the issue and its background in detail, we share their concerns and strongly object to PCICB's proposed consultancy study for the following reasons:

(a) At present, the Building Authority with the executive arms provided by Buildings Department and Geotechnical Engineering Office of Civil Engineering and Development Department is charged with the statutory duty to ensure safety of private building developments by scrutinizing building submissions before granting approval and consent for commencement of works. PCICB's proposal of checking of building submissions by private professionals amounts to outsourcing the government's control for building safety, including structural safety, slope safety and fire safety, and built quality to the private sector. Should approval be based on private professionals' recommendations, the Building Authority will then become a rubber stamp and thus

effectively renounced its statutory duty to safeguard public safety. This is contrary to the Administration's pledge that the Government's statutory and regulatory functions would not be outsourced to the private sector, under the fundamental principle that the Government's public duty cannot be relinquished.

- (b) The proposed implementation of the PC and outsourcing of government's statutory building control authority would have far reaching implications and seriously affect the job opportunity of our members. The Administration is duty bound to consult its staff before consenting to PCICB's commissioning of the consultancy study.
- (c) A number of fundamental issues such as independency of certifiers, consistency of standards, built quality as well as the public receptiveness and confidence should first be thoroughly examined and resolved before embarking on the study. In the absence of proper address to these fundamental issues, PCICB has however included in the scope of study to formulate the implementation details and propose trial schemes for PC. Obviously, they have already considered PC a fait accompli and intend to work out the details as soon as possible.
- With support from the building industry, the Buildings (d) continuously the lead to has taken Department streamline/eliminate outdated, excessive and unnecessary government regulations. As on today, the extant building control system has had excellent track records in ensuring safety and built quality of private buildings. It is totally unconvincing that PC is the only viable way to speed up construction cycle and reduce development cost. We regret to know that other options have never been considered by PCICB. The actual intention of the study is suspicious. PCICB's action has done a serious blow to our colleagues' morale.

- We understand that the Buildings Department has already (e) conducted a comprehensive study on the feasibility of adopting PC in Hong Kong. The study findings indicate that PC is not suitable due to various inherent deficiencies of the The findings of the study had been made known to the PCICB. As most of the PCICB's board members are construction professionals in the private sector and property developers who could have such vested interests and benefits from the proposed PC, their impartiality in forcing through the issue and leading the consultancy study is in doubt. Meanwhile, the Consultancy was commissioned to an engineering consulting firm and the project team consists of Obviously, there are conflicts of practicing engineers. interests. It is strange to note that whilst the consultancy study commissioned by PCICB is for the interests of private developers without considering the general public at large, the Government still commits \$1.3 millions to finance the study. As pointed out rightly by LegCo members, it is a waste of public money to launch the consultancy study before gauging the public's receptiveness of the proposal as public interests are at stake.
 - retaining system of the Nicoll Highway in Singapore which occurred in April 2004, a delegate of the Building and Construction Authority (BCA), Singapore, visited Hong Kong in November 2004 to get more information and understanding of our building control system. We note that BCA considers its private certification system is insufficient and has great deficiencies.
 - (g) The proposed PC has far-reaching implications on safety and built quality of private buildings. Apparently, the implementation of PC is totally acting against the public's will and expectation for safety and quality of buildings. Moreover, in a small market like Hong Kong, the private independent certifiers could easily be influenced by developers, and their independence and impartiality is

certainly in great doubt. The recent fallout in Japan of an engineer who, under the pressure of developer, fabricated documents on building design resulting in more than 80 substandard buildings in Tokyo is a vivid failure example of the PC.

(h) The proposed drastic change to the building control had also stimulated reverberations from the industry. The Structural Division and the AP/RSE Committee of HKIE had met the PCICB on 21 March 2005 to express their grave concerns and on the inapplicability of the PC system to Hong Kong.

We are disappointed to know that despite efforts of the professional staff associations of Buildings Department and Civil Engineering and Development Department to bring the issue to the personal attention of the Secretary for Housing, Planning and Land in January 2006, the Administration still financed and commissioned the Consultancy Study in February 2006.

As PC has such unfathomable impacts to the community and the building industry, we have no choice but to escalate the issue to your kind attention. We sincerely request your urgent personal intervention into this matter with a view to safeguarding the public interests and relief our grave concern by halting the Study. Full consultation with the public and affected staff associations should be conducted before pursuing the matter further.

Yours faithfully,

Dr. POON Wai-ming

Chairman,

Hong Kong Senior Government Officers Association

Ir CHEUNG Kin-keung

Chairman,

HKSAR Government Civil Engineers' Association

Mr. Patrick HAU

Chairman,

Architectural Service Department Architects' Association

Ir WONG Tak-yu

Chairman,

Architectural Service Department Structural Engineers' Association

Buildings Department Structural Engineers' Association

C. H. Chang
Ir CHANG Chung-hung, David
Chairman,

Civil Engineering and Development Department Geotechnical Engineers' Association

Ir YEUNG Kok-Mi, Michael

Chairman,

Association of Professional Engineers of Electrical and Mechanical Services Department

Mr. TAM Kai-kwong, Jimmie

Chairman,

Hong Kong Housing Department Architects Association

Ir SZETO Ic-chung

Chairman,

Hong Kong Housing Department Building Service Engineers Association

K.K. Make

Ir MAK Kam-kui, Peter

Chairman,

Hong Kong Housing Department Civil Engineers Association

Ir SUEN Pak-chiu

Chairman,

Hong Kong Housing Department Geotechnical Engineers

Association

Ir CHU Wai-chiu

Chairman,

Hong Kong Housing Department Structural Engineers Association

Mr KWAN Kan-fat

Chairman,

Hong Kong Marine Department Local Professional Officers' Association

Ir LAU Siu-key

Chairman,

Government Waterworks Professionals Association

c.c. All members of Legislative Council c.c Ms. Denise Yue Chung-yee, GBS, JP

Private Certification (PC) of Building Submissions Additional Views and Comments in addition to our joint letter to CE

- The current submission procedure would not incur any additional cost on building development if AP/RSE/RGE have properly designed and programmed realistically. For any development, the design should always go before the works. The Building Authority's approval of a plan is to ensure the submission has satisfied the required statutory requirements under the Buildings Ordinance and Regulations regarding concerns of public safety. The designer and owner thus have the means to go ahead with the actual construction. This avoids costly rectification should there be mistakes or misjudgments (e.g. interpretation of code, adopting a wrong design figures, etc). The procedure actually proactively helps the designer/developer in the developing of idea. It would be inconceivable if the government does not provide any control until the faulty buildings are completed and need to be demolished for public safety. It is also inconceivable that the government only steps in to prosecute when something goes seriously wrong. Thus the submission system is an effective and efficient means to enable the Building Authority to put all private developments under the basic control. The argument to push for PC is unfounded.
- As far as structural design is concerned, the Buildings Department has compiled and published codes and practice notes for practicing engineers to follow. These codes and guidelines are not mandatory but help to ascertain that the required performance is achieved or deemed to be achieved. While codes used today are written in *Performance Based* approach of design, the various guidelines only help to bridge up areas where it is otherwise difficult to prove performance. Engineers in the Buildings Department are well experienced and have a wide exposure to various standards/quality and complexity of design. They are well ready to apply their knowledge to make engineering judgment in ensuring consistent acceptable standards for the compliance of Performance Based codes. They are also experienced law enforcement agents to ensure public safety in building control.
- It should be noted that in private development, the developer is usually not the end-user. The consumer (i.e. homeowner) has no representative in the process of the planning and design of the building. PC will put the benefit of the consumer in jeopardy. Without the basic control by the Building Authority, the public has to accept a greater variance of building quality, both in design and construction. This does not encourage exchange of property nor promote the construction industry. Without the Building Authority's positive control on the system, any irregularity exposed would have far greater impact (of unlimited scale) to the industry. PC is a dangerous move. Apart from safety for everyone, the Building Authority is protecting the benefit of every homebuyer.

- The engineering profession is in general against the proposal of PC. Apart from serving the client, the engineer is obliged to serve the public also. Engineering design cannot afford to fail. The consequence of a collapse is disastrous and should never be allowed to happen. Poorly constructed building also causes losses to the homeowners and tarnishes the image of the industry. The homeowners that are victims of the loss will also need to bear the liability of the problematic building. Thus the problem is a lot more than just considering indemnity insurance for the PC engineer.
- We notice that provision of insurance to cover the designer and the PC checker is proposed. We are appalled by the notion that public benefit is ignored when the PC engineer is considering his way out by means of insurance. For each building with hundreds of individual homeowners, any serious fault would cost astronomical compensation for lives and repairs. The serious financial cost will eventually be borne by the end-users. It should be noted that once there is a quality problem, the insurance premium would be out of anyone's control. If PC will be adopted, the general public will have to pay a lot more but with less protection.
- Higher standard of building safety will certainly involve a cost for everyone. But it is the lack of control and relaxed standard that will cost more to everyone. Insurance premium for all kinds of cover in connection with buildings will be very high if we cannot maintain a good basic standard on quality and safety of procedures. When the public loses confidence, exchange of property will become more risky and this will be reflected by the market value. The current submission system not only provides an effective risk control, it also provides the confidence that enhances exchange of property.
- From the above points of view, the current system is highly cost-effective in the best public interest. Nevertheless the Buildings Department always welcomes realistic suggestions with good intentions. We deeply regret that the consultancy study of PC is carried out in such a hasty manner. The study has not only hurt the morale of our staff whose contributions to ensuring public safety are well recognized, it also affects the image of both the industry and the civil service. We object to the whole idea of PC. Finally we would like to propose that the public should be consulted first if PCICB would consider going any further from here.

Buildings Department Structural Engineers' Association (BDSEA) 29 May 2006



Civil Engineering and Development Department Geotechnical Engineers' Association 土木工程拓展署土力工程師協會

Babtie Asia Ltd, 15/F Cornwall House, Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong 29 May 2006

Attn: Mr. Desmond Yang

Dear Desmond,

Private Certification of Building Submissions

We will like to provide the following additional comments:

- (i) As a central body in geotechnical control, the GEO has amassed a good wealth of specialized geotechnical experience/knowledge over all these years, which are relevant to Hong Kong, as well as other countries, and which are made available to local industries. This experience/knowledge will be lost/discontinued if the duties of auditing are left to individual private practitioners, which because of individual commercial interest, will keep the experience/ knowledge gained only to themselves.
- (ii) The GEO has a holistic view of the geotechnical problems that we are facing. For example, the effects of the proposed construction activities in the Mid-levels area, and that are the reasons why special control has to be exercised such that regional stability can be maintained. Impartiality is the key to ensure compliance of performance criteria and the interpretation of the performance data, and such duties cannot and should not be left to the individual private practitioners.
- (iii) The auditing process performed by GEO/BD consists of a package of design checking, compliance with material specifications and

site monitoring. Any separation of the above items would be undesirable and unsatisfactory, and would certainly compromise the effectiveness of the present system which is working well.

(iv) Whilst other countries have long implemented systems similar to Private Certification, the situation Hong Kong facing is unique. Hong Kong has a hilly terrain and building developments are constructed along the hillside. Any slope failure or building collapse would likely induce a "domino effect" causing chain failures. The Kotewall Road failure in 1972 which resulted in chain collapse of three buildings is a typical example. Since the set up of a centralized organization (GEO) to exercise overall control of the geotechnical aspects of private development, no major failure of this type has ever occurred. Private certification would only put public safety back at risk and retrograde to the situation we had 30 years ago.

Yours faithfully,

C. J. Chang David C H CHANG

Chairman, CEDD GEA

Tel: 2716 8686 Fax: 2714 0193