

**Extract from the minutes of meeting
of the Panel on Planning, Lands and Works on 13 July 2005**

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V Certification of building plans by private professionals

(LC Paper No. CB(1)1996/04-05(07) -- Information paper provided by the Administration

LC Paper No. CB(1)1981/04-05(01) -- Letter dated 30 June 2005 from the Administration concerning the Administration's plan to outsource certification of building plans to private professionals)

33. DS/HPL(P&L)2 briefed members on the suggestion of processing and certification of building plans by independent checkers in the private sector.

34. Messrs Albert CHAN and LEE Wing-tat considered that checking of building plans was a statutory power of the Building Authority which should not be outsourced to the private sector lightly because the move would effect a major change to the statutory framework for building plan approval, which involved public safety and significant commercial interests. In particular, private certification of building plans would involve major issues such as independence of third party checkers, public confidence in third party checking and quality of work by third party checkers. Noting that the suggestion to outsource certification was made by the Task Force to Review the Construction Stage of the Development Process (the Task Force), Mr CHAN also expressed concern about conflicts of interests having regard that certain members of the Task Force were construction professionals or property developers who would benefit from the suggestion.

35. In response, DS/HPL(P&L)2 reported that whilst acknowledging the Task Force's role in facilitating the construction progress, BD's representatives on the Task Force had expressed a number of concerns at the relevant meetings, in particular those related to public safety and interests, and urged that they be fully addressed and resolved before the matter could be taken forward. In the light of the implementation issues raised, the majority view of the Task Force was that it was desirable to conduct a consultancy study to further examine the suggestion. The Assistant Director of Buildings/New Buildings (1) supplemented that the suggestion had been made by the Task Force as a cost-reducing measure in line

with practices in some overseas regimes. In consideration that implementation of the suggestion in the local context would involve a major change to the statutory framework for building plan approval, and might involve a number of implementation issues as highlighted in paragraph 5 of the Administration's paper, the Task Force agreed that a consultancy study should be commissioned to examine the suggestion holistically to decide whether it was viable in Hong Kong. He undertook to convey members' views to the Task Force for its consideration.

36. Messrs Albert CHAN and LEE Wing-tat stressed that the Administration should first deal with the fundamental issue of whether it was appropriate to outsource a statutory power. Without wide consultation and in the absence of a consensus on the subject, the Administration should not hastily go ahead with the consultancy study as if the suggestion had already been endorsed. Mr CHAN further pointed out that the move was both disquieting to BD staff and unsettling to the public, especially as the decision to commission the study had been made with little transparency and no consultation with LegCo. He therefore urged the Administration to consult the public on the relevant principles first. Mr LEE further opined that the Task Force, which raised the suggestion, should be made aware of the above concerns and the controversy likely to arise.

37. The Acting Deputy Secretary for the Environment, Transport and Works (Works)2 (DS/ETW(W)2(Atg.) clarified that he was attending the Panel in his capacity as the PCICB Secretariat instead of the representative of the Environment, Transport and Works Bureau to explain the position of the Task Force. He explained that the Task Force proposed to conduct the consultancy because private certification would have far-reaching implications on the regulatory regime and would involve a number of key issues which would have to be carefully addressed and resolved. The study would identify the pros and cons of private certification which would help the Task Force in making recommendations on the initiative.

38. Pointing out that property developers had to pay for the processing of their building plans and hence would indirectly pay the independent checkers, Mr James TO Kun-sun expressed concern about conflicts of interests that might arise from private certification. He also believed that the public would not accept the suggestion in consideration of the uncertainties that might arise as regards the impartiality of the certifiers, consistency of standards, the commercial viability of third party checking and availability of insurance to third party checkers, etc. Noting that the study would cost \$1.3 million, he called upon the Administration to cancel the study so as to avoid wasting resources, or to gauge public receptiveness of the suggestion first before studying further details. In response, DS/HPL(P&L)2 assured members that representatives of BD and the PCICB Secretariat on the Task Force would relay members' views to the Task Force.

39. Mr Albert CHAN opined that the Administration should stand firm to safeguard public interests instead of submitting to the request from the private sector for private certification, especially as there were already many building

problems. He considered it a waste of public money to conduct the study before discussion of the relevant principles and a consensus on its implementation. Noting that the study would be funded by the Office of the Financial Secretary (FS), members agreed that the Chairman should write to FS relaying to him their concerns about the study and calling for its cancellation.

(Post-meeting note: The draft letter to FS was circulated for members' comments vide LC Paper Nos. CB(1)2067/04-05 and CB(1)2068/04-05 on 14 July 2005. The letter was issued to FS on 18 July 2005.)

