

Chapter 3 – Association of DTZ with the Entry Concerned and Mr LEUNG Chun-ying's awareness or unawareness of it before the adjudication of entries

3.1 As mentioned in paragraph 2.1 in Chapter 2, following the announcement of the Competition on 6 April 2001, the registration for the Competition began on 7 April 2001. On 8 June 2001, which was the deadline for registration, the Organiser received the Registration Form dated 5 June 2001 from Dr Kenneth YEANG of Hamzah & Yeang. Before the deadline for submission of entries for the Competition on 29 September 2001, Dr YEANG submitted to the Organiser a list of Project Team members dated 27 September 2001 on which Hamzah & Yeang was named as Lead Architect and Masterplanner, LWK as Local Architect and Masterplanner, DLS as Quantity Surveyor and DTZ as "*Property Advisors*". As described in paragraph 2.13 and Appendix 2(d) in Chapter 2, all submission materials were to be kept anonymous to the Jury and full information on all of the persons participating in the Competition had to be provided in a sealed envelope attached to the inner wrapper of the entry. The sealed envelope had to be kept intact and could not be opened by the Organiser until after the finalisation of the provisional list of winning entries. After completion of the voting process on 27 February 2002, Mr Eric JOHNSON opened the sealed envelope and discovered that DTZ was listed as one of the Project Team members of the Entry Concerned. On 28 February 2002, the Jury disqualified the Entry Concerned.

3.2 This Chapter comprises three parts. Part I gives an account of how DTZ was associated with the Entry Concerned, including the

formation of the Project Team and DTZ's contacts with DLS, LWK & Hamzah & Yeang in relation to the Competition. Part II examines whether and how far Mr LEUNG Chun-ying was aware of DTZ's association with the Entry Concerned before the adjudication of the entries. Part III sets out the observations of the Select Committee on the relevant evidence obtained.

Part I - Association of DTZ with the Entry Concerned

Formation of the Project Team

3.3 The Select Committee notes that in May 2001, DTZ was not included in the initial list of Project Team. The process of the formation of the list of Project Team is set out below.

Participation of Davis Langdon & Seah Malaysia ("DLS Malaysia") and DLS

3.4 According to Dr Kenneth YEANG's letter dated 5 March 2012 to the Home Affairs Bureau in **Appendix 3(a)**, at the outset of the Competition, Hamzah & Yeang was approached by LWK, which enquired whether Hamzah & Yeang could team up with LWK for the Competition. Hamzah & Yeang agreed to be the "*Concept Designer*". On 22 May 2001, Dr YEANG faxed a letter in **Appendix 3(b)** to DLS Malaysia informing it of his effort to assemble a project team to register for the Competition and asking if DLS Malaysia would be interested in being part of the project team as the Quantity Surveyor. Dr YEANG stated in the letter that

Hamzah & Yeang "*did not have budget for fees*" payable to DLS Malaysia. However, he undertook that should the Entry Concerned become the winning scheme, Hamzah & Yeang would "*apportion a sum from the prize money*" to DLS Malaysia and recommend DLS Malaysia as "*part of the project team to be appointed by the Client*". On 23 May 2001, DLS Malaysia confirmed in writing its interest in being exclusively part of the project team of Hamzah & Yeang for the Competition. A copy of DLS Malaysia's written acceptance is in **Appendix 3(c)**.

3.5 According to Mr Kenneth POON, who was then a director of DLS, following the acceptance of Dr Kenneth YEANG's invitation for being part of the project team for the Competition, DLS Malaysia referred the project for the Competition ("the project") to DLS and Mr POON became the director-in-charge responsible for DLS's involvement in the project.

Submission of the Registration Form by Hamzah & Yeang

3.6 On 8 June 2001, the Organiser received the Registration Form dated 5 June 2001 from Dr Kenneth YEANG. According to the Registration Form, Dr YEANG was the registrant and made the application to participate in the Competition as a representative for and on behalf of a project team comprising different companies/corporations, but information on members of the project team was not provided at the time. The Select Committee notes Dr YEANG's consent to the following provision, among others, stated in the Registration Form :

"I, being an authorized representative to act on behalf of my firm/company/members of my project team[#], hereby:

(a) undertake that I/we[#] shall abide by all the rules, requirements and conditions as set out in the Competition Document. I/We[#] fully understand that a failure to abide by any of the said rules, requirements or conditions may result in the disqualification of the relevant proposal from the Competition;..."

Participation of other Project Team members

3.7 According to the documents produced by Mr Kenneth POON and Mr Ronald LIANG of LWK who was then its director-in-charge, the project at the early stage was conducted by Hamzah & Yeang and LWK. On 6 July 2001, Dr Kenneth YEANG met with Mr LIANG in Hong Kong. During mid-to-late July 2001, LWK delivered materials and documents relating to the preparation of the Entry Concerned to Hamzah & Yeang. From 6 to 8 August and on 14 August 2001, Hamzah and Yeang discussed the project with Benoy Limited ("Benoy") and Mr LIANG in Malaysia respectively.

3.8 On 21 August 2001, Dr Kenneth YEANG faxed a letter in **Appendix 3(d)** to LWK, DLS, Benoy and Battle McCarthy calling them "Team" and inviting their comments on Hamzah & Yeang's latest drawings relating to the Team's project for the Competition. In his letter, Dr YEANG sought comments from each Team member on certain

particular items. DLS was asked to "*provide an indicative cost for the project*" and "*review the development mix and comment on project feasibility*". As the second item was outside DLS's expertise, Mr Kenneth POON contacted DTZ to discuss whether it could provide the relevant information. Details on DTZ's association with the Entry Concerned are set out in paragraphs 3.15 to 3.29.

3.9 On 7 September 2001, Dr Kenneth YEANG faxed another letter in **Appendix 3(e)** to LWK, DLS, Benoy and Battle McCarthy calling them "Project Team". The Select Committee notes from the letter that the project reference was "*Kowloon Waterfront Competition*" and the subject was "*Updated Project Team Information*". In the letter, Dr YEANG asked the Project Team to provide Hamzah & Yeang, by email, with information on their respective companies by Tuesday, 25 September 2001, with a view to facilitating Hamzah & Yeang's preparation for the final submission documents for the Competition. Enclosed in Dr YEANG's letter were a copy of page nine of the Competition Document with paragraph 27(ii) and (iii) therein concerning the requirements for information on participants in the case of project team circled and asterisked, and a copy of page two of Hamzah & Yeang's Registration Form concerning the requirements for the provision of similar information circled and asterisked likewise. The items of information requested by Dr YEANG in his letter are reproduced below :

- " (a) *Company name*
- (b) *Company type (e.g. partnership firm, limited company, etc.)*
- (c) *Full address and contact details*

- (d) *Names and citizenship of your director-in-charge and key personnel who worked on this project*
- (e) *A brief company CV write-up of no more than 100 words*
- (f) *Copy of your firm's registration with your respective professional bodies"*

In the letter, Dr Yeang also asked the Project Team to provide information on any sub-consultants used by individual Team members for the project.

3.10 On 24 September 2001, LWK sent an email in **Appendix 3(f)** to Dr Kenneth YEANG and Mr Andy CHONG of Hamzah & Yeang regarding "*Updated Project Team Information*", which included the name, type, address and description of LWK and the particulars of the director-in-charge (i.e. Mr Ronald LIANG) and other key personnel. Similarly, on 25 September 2001, Mr Kenneth POON faxed a letter in **Appendix 3(g)** to Dr YEANG and Mr Andy CHONG enclosing DLS's write-up, which contained the name, discipline, type, contact, director-in-charge, project surveyor and description of DLS; the CVs of major personnel including Mr POON; and a copy of DLS's Business Registration Certificate and Mr POON's Diploma certifying that he was a Fellow of the Hong Kong Institute of Surveyors.

Inclusion of DTZ in the list of Project Team members of and by Hamzah & Yeang

3.11 The Organiser received Dr Kenneth YEANG's Registration Form with a list of project team members dated 27 September 2001 in

Appendix 3(h). In addition to Hamzah & Yeang and the four companies, i.e. LWK, Benoy, Battle McCarthy and DLS which were collectively called by Dr YEANG as "Project Team" in Dr YEANG's letter of 7 September 2001, DTZ was on the list. According to the list, Hamzah & Yeang was named as Lead Architect and Masterplanner, LWK as Local Architect and Masterplanner, DLS as Quantity Surveyor and DTZ as "*Property Advisors*". The list contained the respective company information of Project Team members, including the names and titles of their key personnel involved and CVs of team members. Hamzah & Yeang provided the names of six personnel including Dr YEANG; LWK provided the names of four personnel including Mr Ronald LIANG; DLS provided the names of two personnel including Mr Kenneth POON; and DTZ provided the names of four personnel comprising Mr K K CHIU (confirmed as Mr CHIU Kam-ken) as Executive Director, Mr K B WONG (confirmed as Mr WONG Kim-bon) as Director, Mr Wilfred CHAN as Manager and Mr Henry H Y CHENG (confirmed as Mr CHENG Hung-yan) as Manager. Mr CHIU stated that from the beginning to the end of the Competition, DTZ had not been formally asked for consent for its inclusion in the Project Team, and he had never seen Dr YEANG's Registration Form. Details on DTZ's role and involvement in the Entry Concerned are set out in paragraphs 3.30 to 3.35.

Responsibility for lining up Project Team members

3.12 The Select Committee notes that Dr Kenneth YEANG and Mr Ronald LIANG had different understanding of their respective roles and responsibilities in the Project Team.

3.13 According to Dr Kenneth YEANG's letter dated 5 March 2012 to the Home Affairs Bureau in Appendix 3(a), as Hamzah & Yeang had no office in Hong Kong and had not been familiar with the local practice and local consultants who could provide the required support to the preparation of the Entry Concerned, LWK should lead the project to establish the Project Team. Except for Benoy which was recommended by Hamzah and Yeang as a Project Team member, *"the rest of the Project Team members, including DTZ, were put together by LWK"*. Hamzah & Yeang *"had no role whatsoever in the selection of these Project Team members"*. Dr YEANG further stated in the letter that *"the original intention was that as LWK was leading the project, LWK shall be the Lead Architect"*. However, should LWK sign the Registration Form as the Lead Architect, the design concept done by Hamzah & Yeang would belong to LWK. Dr YEANG found this arrangement unacceptable. To protect Hamzah & Yeang's copyright of its design concept, it was finally decided that Hamzah & Yeang would sign the Registration Form as the Lead Architect, although in reality LWK was responsible for leading the project, including filling in the Registration Form. According to Dr YEANG, he put his signature to the Registration Form in good faith. Dr YEANG also stated in the letter that he *"had no reason to doubt that in putting together the Project Team, LWK would duly and fully undertake all necessary checks to ensure that the rules, terms and conditions of the Competition were fully complied with, including the need to ensure that there was no conflict of interest"*.

3.14 However, Mr Ronald LIANG told the Select Committee that his role had been to complement Dr Kenneth YEANG and Dr YEANG should be the Lead Architect. As Dr YEANG had not had information

about Hong Kong, LWK had provided such information to him and the Registration Form had been filled in by Dr YEANG. Mr LIANG advised that according to his recollection and his understanding, LWK was not the Lead Architect in the Project Team. On the list of project team members dated 27 September 2001 submitted by Dr YEANG to the Organiser, Hamzah & Yeang was listed as the Lead Architect and LWK the Local Architect. LWK had sent information and staff to Hamzah & Yeang to assist its preparation of the Entry Concerned, and the preparatory work had been mainly conducted in Malaysia instead of Hong Kong. According to Mr LIANG, Hamzah & Yeang was responsible for assembling the list of Project Team members. He was not familiar with other Project Team members, except DLS. He only recalled that DLS was a local Project Team member and DTZ was not a team member at the outset. However, he did not remember when DTZ was included in the Project Team and whether he had been consulted by Dr YEANG prior to the inclusion of DTZ in the Project Team. Mr LIANG also told the Select Committee that he did not remember whether he had read the Competition Document including its ineligibility provision and the membership list of the Jury.

Association of DTZ with the Entry Concerned

3.15 The Select Committee notes DTZ's association with the Entry Concerned after the issuance of Dr Kenneth YEANG's letter of 21 August 2001 in Appendix 3(d) to DLS and LWK.

Invitation for DTZ to provide land valuation

3.16 As mentioned in paragraph 3.8 above, in his letter of 21 August 2001, Dr Kenneth YEANG asked DLS to "*provide an indicative cost for the project*" and "*review the development mix and comment on project feasibility*". According to Mr Kenneth POON, he realized that the project team's submission would require an estimate of the land value for the retail, residential, hotel and office facilities outlined in Hamzah & Yeang's project design and this was outside DLS's expertise. Mr POON therefore contacted Mr Edmund HO Hin-kwan, then Chief Operation Officer of DTZ whom he was familiar with, to invite DTZ to join the project team to carry out the assessments on a no-fee basis. According to Mr POON, Mr HO accepted his invitation and referred the project to Mr CHIU Kam-kuen and Mr WONG Kim-bon. In his written response² to the Select Committee, Mr Edmund HO indicated that Mr Kenneth POON was a good friend of him and they used to call each other to exchange market information, but he could not recollect the events happened 10 years ago in relation to the Competition. According to Mr HO, if Mr POON did ask for information concerning land value, there was no doubt that he would refer Mr POON to DTZ's Valuation Department headed by Mr CHIU Kam-kuen, as valuation was not his scope of duties. Mr HO also indicated that he had no recollection that Mr POON had invited DTZ to join the Project Team, and consideration of the invitation, if any, would

² The written response is not information produced under oath or declaration by Mr Edmund HO, nor is it a document ordered to be produced under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382).

only be made by the head of the Valuation Department, which provided the relevant services.

DLS-DTZ meeting

3.17 The Select Committee notes that between 21 August 2001 and 11 September 2001, Mr Kenneth POON had a meeting with Mr CHIU Kam-kuen and Mr WONG Kim-bon ("DLS-DTZ meeting") and had handed them a copy of the Accommodation Schedule and the draft concept drawings for their study and initial advice on the accommodation values of the various types of buildings planned for the West Kowloon waterfront. According to Mr CHIU, in addition to Mr WONG, he attended the DLS-DTZ meeting because his main duty was to deal with clients, while the actual work was undertaken by Mr WONG. He occasionally met with clients with whom he was acquainted. As he knew Mr POON personally through participation in the relevant professional institute, he wished to know whether he could render any assistance to Mr POON at the time.

3.18 On 11 September 2001, Mr Kenneth POON sent a letter in **Appendix 3(i)** to Mr Ronald LIANG informing him of the following under the caption "*West Kowloon Waterfront Design Competition*" :

"As discussed, we have contacted Debenham Tie Leung (DTZ) who have kindly consented to assist in the land valuation for the captioned project.

Please be advised that DTZ's chairman, Mr C Y Leung, is a member of the panel of judges. This has been discussed with DTZ who advised that Mr Leung will make the necessary appropriate declarations and there should be no problem on this matter.

We have had a meeting with Mr K K Chiu, Executive Director, and Mr K B Wong, Director of Valuation, of DTZ and have handed them a copy of the Accommodation Schedule and the draft concept drawings for their study and initial advice on the accommodation values of the various types of buildings planned for the area.

With the joining of DTZ, we now have a full team for the study, which would be able to address the project on all appropriate topics."

3.19 The Select Committee notes that Mr Kenneth POON's aforesaid letter was copied to Mr CHIU Kam-kuen and Dr Kenneth YEANG. The fax number shown against the name of Mr CHIU Kam-kuen in the letter was 2530 1502. Mr CHIU confirmed to the Select Committee that the aforesaid number was DTZ's fax number. According to Miss Teresa NG, the then secretary of Mr CHIU, the aforesaid number was the only fax number used by Mr CHIU to receive faxes, including those of a confidential nature. At the hearing on 31 March 2012, a member of the Select Committee asked Mr Kenneth POON the following question in relation to the aforesaid letter (English translation) :

"...in paragraph 2, you wrote down clearly that Mr LEUNG Chun-ying was a member of the Jury and you had discussed this point with someone from DTZ who said that Mr LEUNG would declare interests in the future. Which person from DTZ had you discussed with? "

Mr POON's response was as follows (English translation) :

"Because it happened 10 years ago, to be honest, I really do not remember the details of the conversation. However, after receiving the summons from LegCo, we have read all the letters concerned. Since it had been stated in the letter that I did talk about the aforesaid point, I refreshed my memory and felt that I should have talked about it, and that was it."

Mr POON also told the Select Committee that he could not recall with which person from DTZ he had talked about this issue and how the conversation had taken place. Nevertheless, when asked by a member whether he had told DTZ that Mr LEUNG Chun-ying was a member of the Jury, Mr POON indicated that he *"must have said so"* and he *"has mentioned that to them under certain circumstances"*.

3.20 Mr CHIU Kam-kuen told the Select Committee that according to his recollection, he had not received Mr Kenneth POON's letter of 11 September 2001; nor was there any record indicating DTZ's receipt of the letter. The letter was also not on DTZ's file delivered to Mr LEUNG Chun-ying as mentioned in paragraph 2.77 in Chapter 2. Mr CHIU told the

Select Committee that he and Mr WONG Kim-bon only received from Mr POON a copy of the Accommodation Schedule and draft concept drawings at the DLS-DTZ meeting, and his impression was that Mr POON had not talked to him about Mr LEUNG Chun-ying being a member of the Jury. He also did not know at the time that Mr LEUNG Chun-ying was a member of the Jury. He pointed out that should he know that Mr LEUNG Chun-ying was a member of the Jury, DTZ would not have provided any advice to DLS in relation to land valuation on WKR.

3.21 According to Mr Kenneth POON, apart from what was said in his letter of 11 September 2001, he could not remember the contents of the DLS-DTZ meeting. He recalled that the meeting was not formal and they just met and exchanged information. According to the letter of 11 September 2001, he should have mentioned how to handle the matter relating to Mr LEUNG Chun-ying being a member of the Jury. However, he did not remember whether this was mentioned during the meeting or over the phone after the meeting. According to Mr POON, he felt that Mr LEUNG Chun-ying joined the Jury in his personal capacity. As Mr LEUNG Chun-ying's company had engaged in many businesses, the Government should have a mechanism for Mr LEUNG Chun-ying to declare his interests and determining whether he might attend or withdraw from a Jury meeting. Mr POON felt that normally there should be no problem if Mr LEUNG Chun-ying had declared his interests but Mr POON had no idea what constituted a declaration or a non-declaration.

3.22 Mr Ronald LIANG told the Select Committee that he did not know Mr LEUNG Chun-ying personally. He had seen Mr Kenneth

POON's letter of 11 September 2001 and noted Mr LEUNG Chun-ying being a member of the Jury and the Chairman of DTZ mentioned therein at the time. Nevertheless, he had not raised any objection to the inclusion of DTZ into the Project Team because he had assumed that every Team member as a professional firm should understand its position. In his view, should the recipient of the letter of 11 September 2001 not express any concern about conflict of interests, it would be assumed that there should be no problem.

DTZ's provision of land value information to DLS and LWK

3.23 On 18 September 2001, Mr WONG Kim-bon sent a letter in **Appendix 3(j)** to Mr Ronald LIANG and copied it to Mr Kenneth POON. In his letter with a caption "*West Kowloon Waterfront Design Competition*", Mr WONG referred Mr LIANG to a recent meeting between DTZ and Mr POON at which DTZ had been provided with a proposal on the development of the West Kowloon Waterfront Reclamation. Mr WONG enclosed in his letter DTZ's opinion on land premium for retail, residential, hotel and office uses and a copy of an Area Schedule summarizing the proposed development. According to Mr CHIU Kam-kuen, the information provided by DTZ in the letter was not complicated and mainly came from the area schedule provided by DLS. The Select Committee notes that a fax number of DTZ (i.e. 2530 1502) was printed on Mr WONG's letter.

3.24 On 20 September 2001, Mr Kenneth POON sent a letter in **Appendix 3(k)** to LWK proposing the approach to the financial feasibility

study on their project for the Competition following DLS's discussion with DTZ. The letter was copied to Dr Kenneth YEANG and Mr CHIU Kam-kuen by fax at (603) 4256 1005 and 2530 1502 respectively.

3.25 On 24 September 2001, Mr Kenneth POON sent a written enquiry in **Appendix 3(i)** to Mr WONG Kim-bon by fax at 2530 1502 regarding DTZ's accommodation value calculation provided in Mr WONG's letter of 18 September 2001. On 25 September 2001, Mr WONG sent a fax reply in **Appendix 3(m)** to Mr POON. The Select Committee notes that the correspondences of 24 and 25 September 2001 between Mr POON and Mr WONG were copied to Dr Kenneth YEANG and Mr Moses LEUNG of LWK.

3.26 On 26 September 2001, Mr Kenneth POON issued a letter in **Appendix 3(n)** to Mr Ronald LIANG enclosing DLS's "*write-up on the financial section for the captioned*" (i.e. West Kowloon Waterfront Design Competition/Preliminary construction cost and development land value estimates). The letter was also copied to Dr Kenneth YEANG and Mr WONG Kim-bon by fax at (603) 4256 1005 and 2530 1502 respectively.

Provision of company information by DTZ, LWK and DLS to Hamzah & Yeang

3.27 On 19 September 2001, Mr Kenneth POON sent a letter in **Appendix 3(o)** to Mr CHIU Kam-kuen by fax at 2530 1502 and copied it to Mr Ronald LIANG and Dr Kenneth YEANG. According to the letter, it enclosed a copy of a fax from Hamzah & Yeang. However, the Select

Committee notes that such an attachment was not submitted by Mr POON to the Select Committee. At the hearing on 31 March 2012, Mr POON explained that the attachment was a copy of Dr YEANG's letter dated 7 September 2001 (Appendix 3(e)). In his letter of 19 September 2001 with the caption "*Kowloon Waterfront Competition*", Mr POON only stated the following :

"I attach herewith copy of a fax from TR Hamzah & Yeang which is self explanatory.

Please provide the necessary information directly to Dr. Ken Yeang/Mr Andy Chong."

3.28 According to Miss Teresa NG, on 25 September 2001, she sent an email in **Appendix 3(p)** to Hamzah & Yeang pursuant to the instruction of Mr CHIU Kam-kuen or Mr WONG Kim-bon. According to the email, its subject was "*Kowloon Waterfront Competition*" and the heading of the attached files was "*Team Information.doc; Curriculum Vitae.doc; Relevant Strength.doc; Covering.doc*". The email contained a cover letter to Dr Kenneth YEANG and Mr Andy CHONG, which was copied to Mr Kenneth POON. The cover letter only stated that "*pursuant to instruction of Davis Langdon & Seah China Limited, we attach herewith copy of the information about our company*". The information attached to the letter comprised :

- (a) one sheet on "*Project Team Information*" under the heading of "*Kowloon Waterfront Competition*" providing the name, type,

registered address and contact details of DTZ, and the names, titles, phone numbers and email addresses of the two key personnel (i.e. Mr CHIU Kam-kuen and Mr WONG Kim-bon) who worked on the project;

- (b) one sheet on the relevant strength and experience of DTZ as Land Consultant;
- (c) one sheet on team structure; and
- (d) one sheet on the CVs of the team members, i.e. Mr CHIU Kam-kuen, Mr WONG Kim-bon, Mr Wilfred CHAN and Mr Henry CHENG.

3.29 Mr CHIU Kam-kuen told the Select Committee that the CVs of DTZ personnel were open documents. Sending them out at someone's request had been a usual practice, regardless of whether to win business. The Select Committee notes that the email dated 25 September 2001 from Miss Teresa NG to Hamzah & Yeang was addressed to "trhy@tm.net.my" (Appendix 3(p)). This email address was the same as that of Hamzah & Yeang provided in Dr YEANG's letter dated 7 September 2001 (Appendix 3(e)). Miss NG emailed DTZ's company and personnel information to Hamzah & Yeang on 25 September 2001, which was the deadline set by Dr YEANG in his letter dated 7 September 2001 for the provision of company information by Project Team members. The Select Committee also notes that, as mentioned in paragraph 3.10 above, LWK

and DLS also sent information on their companies and key personnel to Hamzah & Yeang on 24 and 25 September 2001 respectively.

DTZ's role and involvement in the Entry Concerned

3.30 According to Mr Kenneth POON, he did not have any formal discussion or document with DTZ on its participation as a member in the Project Team. Given DTZ's consent to provide assistance to the Project Team concerning land valuation on WKR, he naturally felt that DTZ was part of the Project Team. Hence his copying of the letter of 11 September 2001 (Appendix 3(i)) to Mr CHIU Kam-kuen and making reference therein to the joining of DTZ to the Project Team. He expected that should a recipient of his letter not agree to its contents, the recipient should raise it with him. In this connection, he did not receive any indication from DTZ of its disagreement with the contents of the letter of 11 September 2001; nor did DTZ clarify to him that it was not a member of the Project Team after receiving his letter of 19 September 2001 (Appendix 3(o)). In this letter, DTZ was asked to provide its company information and the CVs of its high-level personnel to Hamzah & Yeang.

3.31 Mr Kenneth POON also told the Select Committee that he had relayed all the information received from DTZ to Dr Kenneth YEANG and expected him to include such information in the Entry Concerned. However, he did not know at the time whether Dr YEANG had done so, as he was not provided with a copy of the Entry Concerned and did not have any opportunity to see it. In his view, should the information provided by

DTZ be cited in the Entry Concerned, due acknowledgement should be made to DTZ, even if DTZ was not a Project Team member.

3.32 On the other hand, Mr CHIU Kam-kuen told the Select Committee that from the beginning to the end of the Competition, DTZ had not been formally asked for consent for its inclusion in the Project Team, and he had never seen Dr Kenneth YEANG's Registration Form. After faxing a copy of its company information and the CVs of some personnel to Dr YEANG on 25 September 2001 pursuant to Mr Kenneth POON's letter of 19 September 2001, DTZ had not received any response from Dr YEANG. In his understanding, had DTZ been invited to join the Project Team for the Competition, it would have been asked to confirm whether it would provide service to the team exclusively as had been the case of DLS Malaysia. DTZ neither had any direct contact with Dr YEANG nor met with any staff members of Hamzah & Yeang or LWK in relation to the Competition; nor did DTZ have any business link or working relationship with Dr YEANG, Hamzah & Yeang or LWK at the time of the Competition. In addition, DTZ had not participated in any Project Team meeting(s). As far as the Competition was concerned, DTZ had only had contact with DLS to provide opinion on land valuation on a no-fee basis.

3.33 The Select Committee notes from Mr CHIU Kam-kuen that in the file record of DTZ, there was a copy of Mr Kenneth POON's cover letter of 19 September 2001 without the attachment of a fax dated 7 September 2001 from Dr Kenneth YEANG mentioned in paragraphs 3.9 and 3.27 above. Miss Teresa NG, who faxed DTZ's company information and the CVs of its high-level personnel to Hamzah & Yeang on

25 September 2001, told the Select Committee that she did not remember whether she had seen Mr POON's letter of 19 September 2001. She also told the Select Committee that some pages might occasionally go missing during transmission via the fax machine. According to Miss NG, she would make a follow-up phone call to the sender to ascertain if there was any page missing should the number of pages received differ from the number indicated on the cover letter.

3.34 According to Mr CHIU Kam-kuen, DTZ only did Mr Kenneth POON a favour by providing its land value information for his reference in September 2001. Apart from providing such information to Mr POON, he did not know whether Mr POON had participated in the Competition. After receiving a copy of Mr POON's letter of 26 September 2001 to LWK regarding the preliminary construction cost and development land value estimates for WKR, DTZ had not received any further correspondence regarding land value information on WKR. DTZ did not know whether DTZ's information was included in the Entry Concerned as DTZ never received a copy of the submission documents of the Entry Concerned at the time. Nor had DTZ been asked by Dr YEANG to confirm whether DTZ's information was correctly cited in the Entry Concerned.

3.35 According to Mr CHIU Kam-kuen, the land value information used in DLS's write-up, which was attached to Mr Kenneth POON's letter of 26 September 2001 to Mr Ronald LIANG (Appendix 3(n)), was not identical to that provided in Mr WONG Kim-bon's letter of 18 September 2001 to Mr LIANG, which was copied to Mr POON. Mr POON told the Select Committee that he had relayed all the land value information

provided by DTZ to Dr Kenneth YEANG. He could not explain the discrepancies between them, as he had not received a copy of the submission documents of the Entry Concerned. Nevertheless, Mr CHIU confirmed to the Select Committee that about 90% of the land value information provided by Mr WONG Kim-bon in his letter of 18 September 2001 to Mr LIANG and copied to Mr POON had been included in the Entry Concerned but some typing and obvious basic information errors could be spotted. For instance, the estimated "*capital value of the hotel (average)*" provided in Mr WONG's letter was HK\$5 million per room but it was HK\$5,000 per room in the Entry Concerned. Mr CHIU "*felt very regretful*" over the inclusion of DTZ's land value information in the Entry Concerned without prior notice to DTZ, and found such obvious basic errors "*unacceptable*" as DTZ's consent to the use of its information had never been sought.

Part II - Mr LEUNG Chun-ying's awareness or unawareness of DTZ's association with Entry Concerned before the adjudication of entries

3.36 As mentioned in paragraphs 2.77 and 2.78 in Chapter 2, according to Mr Eric JOHNSON, before the start of the Jury meeting in the morning of 28 February 2002, Mr LEUNG Chun-ying was told that DTZ was named as property advisors in an entry, and this relationship was not reflected in Mr LEUNG Chun-ying's declaration form submitted to Mr Eric JOHNSON on 25 February 2002. Mr LEUNG Chun-ying told Mr John TSANG and the Jury then that he was unaware of the association of DTZ

with the Entry Concerned. This part examines whether and how far Mr LEUNG Chun-ying was aware of the association of DTZ with the Entry Concerned before the adjudication of entries.

Immediate actions taken by Mr LEUNG Chun-ying upon discovery of DTZ's association with the Entry Concerned

3.37 According to Mr LEUNG Chun-ying, he was not aware of DTZ's association with an entry before the Jury had completed its voting process. He "*was informed of this well after 10:00 am on 28 February 2002*". He then telephoned Mr CHIU Kam-kuen. He asked Mr CHIU if DTZ had done any job relating to WKR. Mr CHIU recalled that Mr LEUNG Chun-ying sounded "*agitated*" ("勞氣") in their telephone conversation. Mr CHIU told Mr LEUNG Chun-ying that Mr WONG Kim-bon had prepared a letter to Mr Kenneth POON of DLS providing land value indications relating to WKR. As DTZ had only provided certain information to DLS and had not received any response from anyone afterwards, the matter had been considered concluded. Mr LEUNG Chun-ying told the Select Committee that his tone was "*hasty*" ("急促") when he spoke to Mr CHIU over the phone in the morning of 28 February 2002. At that time, he was just told that DTZ had been listed as a property advisor in an entry and he was very surprised at the matter and therefore anxious to understand the nature of DTZ's involvement before explaining it to the Chairman of the Jury. Mr LEUNG Chun-ying's response at the hearing on 21 April 2012 was as follows (English translation) :

"In comparison with my usual manner towards my colleagues, my tone on that day was relatively hasty. At that time, the Jury was holding a meeting and to my great surprise, I was suddenly informed that DTZ had been listed as a property advisor in an entry. I was asked to make a phone call to Mr TSANG who told me that my colleagues had been involved. This was the first time that I came to know about the case. I made a phone call to that colleague in order to find out the nature of the matter very quickly because I had to report the matter to the Chairman of the Jury. At that time, I was anxious to understand the nature of the matter."

3.38 After a brief telephone conversation with Mr CHIU Kam-kuen, Mr LEUNG Chun-ying talked with Mr WONG Kim-bon over the phone who gave similar information to Mr LEUNG Chun-ying. Mr LEUNG Chun-ying asked Mr WONG to deliver the file containing all the correspondence and reference documents relating to WKR to his office at Jardine House in Central for his review. The Select Committee notes that the file delivered to Mr LEUNG Chun-ying comprised eight documents, viz. the seven letters mentioned in paragraphs 3.23 to 3.28 above (Appendix 3(j) which enclosed a copy of the Area Schedule for the West Kowloon Waterfront Reclamation, and Appendices 3(k), 3(l), 3(m), 3(n), 3(o) and 3(p)) and a copy of draft concept drawings in **Appendix 3(q)**. Mr Ronald LIANG confirmed to the Select Committee that the aforesaid draft concept drawings were similar to that of the Entry Concerned. The Select Committee further notes that the aforesaid file did not contain a copy of Mr Kenneth POON's letter dated 11 September 2001 to LWK, which

was copied to Mr CHIU Kam-kuen and stated that Mr LEUNG Chun-ying was a member of the Jury (Appendix 3 (i)); nor did it contain a copy of the attachment (i.e. Dr Kenneth YEANG's letter of 7 September 2001) to Mr POON's cover letter of 19 September 2001.

3.39 According to Mr CHIU Kam-kuen and Mr WONG Kim-bon, prior to their telephone conversation with Mr LEUNG Chun-ying in the morning of 28 February 2002, they did not know that Mr LEUNG Chun-ying was a member of the Jury. They had not informed Mr LEUNG Chun-ying of DLS's request for DTZ's land value indications. According to Mr WONG, Mr LEUNG Chun-ying seldom came to the office of the Valuation Department. The directors and associate directors of the Valuation Department took charge of all valuation jobs and they reported to Mr CHIU. Mr WONG had not copied his correspondences with Mr Kenneth POON in September 2001 concerning the land valuation to Mr LEUNG Chun-ying. Both Mr CHIU and Mr WONG advised the Select Committee that they had never read the Competition rules or the submission documents of the Entry Concerned.

3.40 Mr LEUNG Chun-ying told the Select Committee that he did not remember whether he had informed, either formally or informally, Mr CHIU Kam-kuen or colleagues at DTZ of his appointment as a member of the Jury, given that the Jury was not a standing committee and its adjudication work lasted for three days only. Mr LEUNG Chun-ying's response at the hearing on 21 April 2012 was as follows (English translation) :

"The issue is two-fold. First of all, had I ever informed, either formally or informally, my colleagues that I had been appointed a member of the Jury for the Competition? ... The Jury took three days to complete its work and it was not a standing committee. For me, it was not a particularly important appointment, nor was it a long-term appointment. I therefore cannot remember whether I had mentioned to my colleagues my appointment by the Government as a member of the Jury. As to whether my colleagues had ever asked me when they read the newspapers, or whether we had ever talked about it in casual chats or during meal breaks or when we took a ride together, I really had no recollection about it."

Practice of checking conflict of interests by Mr LEUNG Chun-ying

3.41 According to Mr LEUNG Chun-ying, the checking of conflict of interests or potential conflict of interests had all along been conducted through a checking of the Book located in the Quarry Bay DTZ office. At the hearing on 21 April 2012, he told the Select Committee that *"it had all along been our practice to check the Book to verify whether there were conflicts of interests or potential conflicts of interests"*.

3.42 The Select Committee notes that pursuant to the Organiser's request for completing the declaration form and in accordance with his practice for checking against potential conflict of interests at the time, Mr LEUNG Chun-ying telephoned a staff member of the Quarry Bay DTZ office ("the Staff Member Concerned") between 21 and 23 February 2002

to check whether DTZ had recently done or had been doing any jobs in relation to WKR. The Staff Member Concerned had called back later to confirm that there was no such record in the Book indicating that DTZ had been retained and/or in the process of carrying out work for retained clients in relation to WKR.

3.43 According to Mr LEUNG Chun-ying, there was no designated staff member in the Quarry Bay DTZ office to conduct conflict searches for him at the time. At the hearing on 20 March 2012, in response to a member's question about whether the Staff Member Concerned was above a certain rank, Mr LEUNG Chun-ying confirmed and advised that (English translation) :

"this colleague, apart from being quite senior in rank and having served in the company for a long time, should be someone I knew and I would make a phone call to him/her directly. As for other junior or new colleagues, I might not even remember their names and would not ask them to do the conflict search for me over the phone."

3.44 When asked at the hearing on 20 March 2012 about the number of the aforesaid staff members who might conduct conflict searches for him at the time, Mr LEUNG Chun-ying advised as follows (English translation) :

"There were more than 10 such senior staff members."

3.45 However, at the hearing on 21 April 2012, when asked again whether the Staff Member Concerned was senior or junior in rank, Mr LEUNG Chun-ying responded as follows (English translation) :

"As far as I can remember, I have read the verbatim transcripts of the LegCo hearing. It seems that I had said that he/she should be a staff member with long years of service. Why was it that he/she should be a staff member with long years of service? As I said at the previous hearing, if a staff member had worked in our company for a long time, I would know him/her and would call him/her for assistance. What I have said just now did not mean that the staff member whom I called was not a staff member with long years of service or of a high rank but a junior one. What I have said was that I was looking for a staff member to do the job, instead of ... Even if you got a junior staff member (e.g. a search clerk who was mainly responsible for carrying out land searches at the Land Registry) to do the job, it could not be regarded as an imprudent act. I am not trying to repudiate what I said at the previous hearing, and I am not saying that I called a junior staff member to do the job. I remember that the Hon Andrew CHENG had asked me at the previous hearing about the number of such staff members in that department. I said that there were over ten such staff members."

"Miss Tanya CHAN read out my answer just now. Let me read it out once again because she was relatively fast in reading it

out. When I answered Mr Andrew CHENG's question ... Mr Andrew CHENG asked: 'What was the rank of this person? He/She must be quite senior in rank so that he/she could do the checking for you. Was that the case?' I said, 'Yes.'

This colleague, apart from being quite senior in rank and having served in the company for a long time, should be someone I knew and I would make a phone call to him/her directly. As for other junior or new colleagues, I might not even remember their names and would not ask them to do the conflict search for me over the phone.

The last part of my answer aims to illustrate that ... the key point was whether I knew this person. I knew him/her, and I knew his/her name and his/her intercom number. I therefore made a phone call to this person who could help me to do the conflict search. Such a colleague should be someone I knew. We should have been working together for quite some time, and this person might have been promoted to a higher position gradually. Since this person should have worked in the company for a long time, I therefore knew him/her, and asked him/her to do the conflict search. That is what I meant.

In fact, if you really want to have this task done, as I said just now, a search clerk in a law firm or surveying company who is responsible for doing land searches at the Land Registry or District Offices will be able to do so."

3.46 Mr LEUNG Chun-ying told the Select Committee that owing to the passage of time, he could not recall who the Staff Member Concerned was but could only recall that he had been informed of the result of the search before 25 February 2002. Mr CHIU Kam-kuen, Mr WONG Kim-bon, Mr Henry CHENG (who was also named in the Entry Concerned) and Miss Teresa NG told the Select Committee that they were not the Staff Member Concerned, and they did not know who the Staff Member Concerned was.

3.47 The Select Committee had requested Mr CHIU Kam-kuen and Mr LEUNG Chun-ying to make every effort to identify the Staff Member Concerned. Mr CHIU told the Select Committee that some staff members could not be located as they had left DTZ, while those still serving in DTZ could not recall who the Staff Member Concerned was. According to Mr LEUNG Chun-ying's written reply dated 17 April 2012 and formally submitted to the Select Committee at its open hearing on 21 April 2012, he had requested DTZ to provide a list of possible staff who might have conducted the conflict search for him between 21 and 23 February 2002 but as at 17 April 2012, he did not know whether these staff members (including former staff) had given consent to DTZ to provide their personal information to him; nor could he obtain their information through other channels. At the hearing on 21 April 2012, Mr LEUNG Chun-ying told the Select Committee that he could not locate the Staff Member Concerned.

3.48 Mr LEUNG Chun-ying also told the Select Committee that as the Staff Member Concerned had confirmed to him that there was no record in the Book indicating that DTZ had been retained and/or in the

process of carrying out work for retained clients in relation to WKR, he had therefore chosen items (a) and (c) in the declaration form (Appendix 2(q)) as mentioned in paragraphs 2.48 to 2.49 in Chapter 2, i.e.

"(a) to the best of my knowledge, none of my immediate family members or employees and no-one who has an employment-type contract or close professional association or partnership with me, has entered the competition"; and

"(c) I am not a director or major shareholder of any company."

In response to a question on the reasons for choosing items (a) and (c) above, Mr LEUNG Chun-ying advised the Select Committee that he considered that by choosing items (a) and (c), he was making a declaration of conflict of interests and not a general declaration of interest. Mr LEUNG Chun-ying's response at the hearing on 20 March 2012 was as follows (English translation) :

"It was stated clearly in the form that it was about conflict of interests, rather than interests."

"These two concepts have all along been there. My understanding was that the declaration on this occasion was not a general declaration of interests, but a declaration of conflict of interests."

3.49 According to Mr LEUNG Chun-ying, there was no omission in his declaration, and his directorship and chairmanship of DTZ were publicly known. He had nothing to hide. Nor was there any non-declaration. At the hearings on 20 March and 21 April 2012, Mr LEUNG Chun-ying told the Select Committee that (English translation):

"[u]p until now, I do not want to say that there was omission in my declaration because I had actually made my declaration according to my understanding of the requirements in the form."

"I did not think that there was omission in my declaration. I had made my declaration according to my understanding of the requirements in the form."

"It was a well known fact that I was a director and shareholder of DTZ... and therefore there was no question of a cover-up or omission".

3.50 In the view of Mr LEUNG Chun-ying, if there was a pre-meditated plan to cover up the involvement of DTZ in the Entry Concerned, the Entry Concerned would not have stated in its submission that DTZ was their property advisors. When asked whether the public would have a higher expectation on him as not only a member of the Jury but also the then Convenor of ExCo in making a declaration of interest as compared to other members of the Jury, Mr LEUNG Chun-ying considered that every

member of the Jury had an equal duty and the public had a common expectation on the 10 Jury members.

3.51 According to Mr CHIU Kam-kuen, it was the practice for DTZ staff to conduct conflict searches by checking the Book. Since DTZ's provision of land value information concerning WKR to DLS was merely an exchange of professional advice without fee, it was not recorded in the Book which only recorded fee-charging jobs undertaken by DTZ each of which was given a Valuation Job number. As far as WKR was concerned, DTZ did not receive any formal instruction from any party entrusting or appointing DTZ to provide land valuation information, and DTZ had not entered into any formal and contractual relationship with any parties. The Book did not record no-fee work, irrespective of the estimated values involved and the extent of the work done. At the time, DTZ did not have a formal record on no-fee enquiries.

3.52 Mr LEUNG Chun-ying told the Select Committee that he had been aware that the Book only recorded fee-paying transactions. This practice remained unchanged, even though the Book had been computerized. At the hearing on 21 April 2012, Mr LEUNG Chun-ying pointed out that (English translation) :

"Some time prior to my departure, "the Book" had already been computerized, but its nature remained unchanged, meaning that only fee-paying jobs were recorded in the relevant computer files. These fee-paying jobs were the targets of our conflict search."

3.53 In the view of Mr LEUNG Chun-ying, it was proper for Mr CHIU Kam-kuen not to have recorded DTZ's provision of land value information concerning WKR to DLS in the Book. It was a general practice followed by estate surveying companies of various sizes in Hong Kong and other places, including Insignia Brooke to which Mr Nicholas BROOKE was a consultant at the time, that conflict searches had all along been conducted with reference to the records of fee-charging work only and no-fee work was outside the scope of checking. The relevant views expressed by Mr LEUNG Chun-ying at the hearing on 21 April 2012 are set out below (English translation) :

"As everyone can see from Mr Nicholas BROOKE's statement, he had likewise conducted his conflict search through the Accounts Department of Insignia Brooke, an estate surveying company to which Mr Nicholas BROOKE was a consultant. Insignia Brooke was in the same discipline as DTZ. Why was it that the conflict search had to be conducted with the aid of the Accounts Department? That is because the conflict search had to be done upon fee-paying jobs. In other words, all fee-paying jobs invariably fell within the scope of conflict search whereas jobs (to be) undertaken free of charge would not warrant our checking. I do not believe that DTZ was alone in following such a practice. Insignia Brooke, a company to which Mr Nicholas BROOKE (also a Jury member) was a consultant, as well as other estate surveying companies of various sizes, likewise adopted this practice."

"He (Mr CHIU) was correct in doing so and this was in line with the practice adopted by DTZ as well as the entire industry at the time."

3.54 Mr LEUNG Chun-ying also told the Select Committee that should conflict checks cover each and every no-fee enquiry or job and those which had yet to be undertaken, many surveying companies would not be able to operate. His response at the hearing on 21 April 2012 was as follows (English translation) :

"Some clients will just make telephone enquiries over the phone in respect of certain properties and they may eventually decide to commission another surveying company to undertake the job. No fees will be charged for such telephone enquiries. If a company, after answering these telephone enquiries free-of-charge, cannot undertake any jobs in relation to the properties in question from other clients, for the sake of precluding the possibility of a conflict of interests, then, in my view, many surveying companies probably would be unable to operate."

No follow-up action taken in relation to the inclusion of DTZ in the Project Team

3.55 The Select Committee asked Mr LEUNG Chun-ying whether he or DTZ had taken any action in relation to the inclusion of DTZ as a member of the Project Team of the Entry Concerned without DTZ's consent. According to Mr LEUNG Chun-ying, no follow-up action was

considered necessary at the time because there was a confidentiality requirement imposed on the Jury regarding the adjudication of the entries and the Entry Concerned had been disqualified. It was inappropriate for him to follow up the matter with DLS, LWK or Hamzah & Yeang. Follow-up action, if any, should be taken by the Organiser. Mr LEUNG Chun-ying's response at the hearing on 21 April 2012 was as follows (English translation) :

"First of all, confidentiality requirements were in place for us and the Jury. Secondly, the entry concerned had already been disqualified. I did not see any need for me to take any follow-up action. All along, I had no direct contact with DLS over the matter. Neither had I been in any contact with the two architecture firms concerned in relation to any other matters. I also considered it inappropriate for me to initiate any such contact."

"Mr Chairman, for two reasons. The first reason is that follow-up actions, if any, should be taken by the Organiser. The Organiser did not follow up on the case. Secondly, there was no cover-up whatsoever, and therefore there was nothing to be uncovered. As for Dr Kenneth YEANG, he had put the name of DTZ into the list of project team members without giving DTZ any prior notice and seeking DTZ's prior consent. Therefore, on this particular issue, no one ever attempted to cover up anything. Because of the above reasons, I could see nothing that required further follow-up actions. If further

understanding of the case was needed, it should be the job of the Jury."

3.56 According to Mr LEUNG Chun-ying, the Jury, individual members of the Jury or the Organiser did not consider that he had completed his declaration form incorrectly or had covered up anything. At the hearing on 21 April 2012, he told the Select Committee that (English translation) :

"The Jury, individual members of the Jury and the Secretariat that was responsible for co-ordinating the adjudication work did not say that I had completed my declaration form incorrectly or had covered up anything. They did not give any negative comments, nothing of the kind."

3.57 The Select Committee notes that Mr LEUNG Chun-ying did not consider it necessary to take any follow-up action, including legal action against Hamzah & Yeang; nor did he consult Mr CHIU Kam-kuen on whether to take follow-up action. Mr CHIU told the Select Committee that DTZ did not take any action at the time because there had not been any loss on the part of DTZ. DTZ did not know whether the lead consultant was Dr Kenneth YEANG or Mr Ronald LIANG; nor was DTZ aware of the extent to which the information provided by DTZ to DLS had been used in the Entry Concerned. The whole matter was merely related to a competition, which was of no special importance to DTZ. On the other hand, Mr Nicholas BROOKE, a member of the Jury whose company was engaged in estate surveying, informed the Select Committee that if

somebody else used the name of his company without authorisation, *"I would obviously write to them and say that they have no right to do it and ask them to withdraw our name immediately. I would also, if necessary, go public and make it known that we have no association with this particular company or this particular project"*.

Part III – Observations

Whether the Project Team members were aware of Mr LEUNG Chun-ying's appointment as a juror

3.58 Given the ineligibility provision in the General Conditions of the Competition Document, whether the Project Team members were aware of the appointment of Mr LEUNG Chun-ying as a juror for the Competition was the focus of the Select Committee's study. The Select Committee notes that in his letter of 11 September 2001 to Mr Ronald LIANG of LWK, Mr Kenneth POON of DLS drew his attention to the situation that Mr LEUNG Chun-ying was a juror. It was stated in the aforesaid letter of Mr POON that *"[t]his had been discussed with DTZ who advised that Mr LEUNG will make the necessary appropriate declarations and there should be no problem on this matter"*. The Select Committee notes that Mr POON also confirmed at the hearings of the Select Committee that he was aware of Mr LEUNG Chun-ying being a juror and his association with DTZ, though he was unable to say how he came to know about it. Mr LIANG of LWK was also aware of this as he confirmed to the Select Committee his knowledge of the contents of the letter.

3.59 Mr Kenneth POON told the Select Committee that according to his letter of 11 September 2001 to Mr Ronald LIANG, he should have talked to DTZ about Mr LEUNG Chun-ying being a juror, although he could not recall with which person from DTZ he had talked and whether this was mentioned during the meeting with DTZ or over the phone after the meeting. Nevertheless, concerning whether he had told DTZ that Mr LEUNG Chun-ying was a member of the Jury, Mr POON advised that he "*must have said so*" and he "*has mentioned that to them under certain circumstances*". Mr POON also told the Select Committee that he felt at the time that Mr LEUNG Chun-ying joined the Jury in his personal capacity and there should be no problem if he had declared his interests.

3.60 Similarly, Mr Ronald LIANG told the Select Committee that despite his knowledge of Mr LEUNG Chun-ying being a juror and the Chairman of DTZ, he had raised no objection to the inclusion of DTZ into the Project Team because he had assumed that as a professional, every Project Team member should understand its position. He did not remember whether he had been aware of the ineligibility provision at the time. He told the Select Committee that had he known the ineligibility provision, he would question the inclusion of DTZ in the Project Team as a member.

3.61 Notwithstanding their awareness of Mr LEUNG Chun-ying being a juror, it appears to the Select Committee that both Mr Kenneth POON and Mr Ronald LIANG did not notice or pay sufficient attention to the ineligibility provision in the General Conditions of the Competition Document.

3.62 The Select Committee notes that Mr Kenneth POON's letter of 11 September 2001 was copied to Dr Kenneth YEANG of Hamzah & Yeang and Mr CHIU Kam-kuen of DTZ. Since the Select Committee has not obtained evidence from Dr YEANG because of his refusal to accept the Select Committee's invitation to attend its hearings, it has no evidence to indicate whether Hamzah & Yeang received the letter and was aware that DTZ's chairman was Mr LEUNG Chun-ying, who was a juror for the Competition.

3.63 As regards DTZ's knowledge of Mr LEUNG Chun-ying's appointment as a juror, the Select Committee notes inconsistent evidence. According to Mr Kenneth POON, he should have discussed with someone in DTZ about the matter; otherwise he would not have so stated in his letter of 11 September 2001. However, according to Mr CHIU Kam-kuen and Mr WONG Kim-bon, DTZ did not receive Mr POON's letter of 11 September 2001 and they had no knowledge of the letter at all. Prior to their telephone conversation with Mr LEUNG Chun-ying in the morning of 28 February 2002, they did not know that Mr LEUNG Chun-ying was a juror. According to Mr CHIU, his impression was that Mr POON had not talked to him about Mr LEUNG Chun-ying being a juror. Mr CHIU told the Select Committee that should he have known Mr LEUNG Chun-ying being a juror, DTZ would not have provided any advice to DLS in relation to land valuation on WKR.

3.64 The Select Committee observes that Mr CHIU Kam-kuen's fax number, i.e. 2530 1502, was shown in Mr Kenneth POON's letter of 11 September 2001. According to Miss Teresa NG, the aforesaid number

was the only fax number used by Mr CHIU to receive faxes, including those of a confidential nature. Mr CHIU Kam-kuen/Mr WONG Kim-bon had received a total of five letters (excluding Mr POON's letter of 11 September 2001) concerning the Competition from the Project Team members through this fax number between 19 and 26 September 2001. The Select Committee also notes that upon Mr LEUNG Chun-ying's request, Mr WONG Kim-bon delivered the file containing all the correspondence and reference documents relating to WKR from the office of DTZ Valuation Department at Quarry Bay to Mr LEUNG Chun-ying's office in Central in the afternoon of 28 February 2002, but the aforesaid letter of 11 September 2011 was not in the file.

Whether DTZ was aware of its being included in the Project Team as a member

3.65 The Select Committees notes that Dr Kenneth YEANG, in his letter of 7 September 2001, asked the Project Team members to provide him by email, by 25 September 2001, with information on their respective companies and key personnel who worked on the project to facilitate his preparation for the final submission documents for the Competition. Enclosed in Dr YEANG's letter were a copy of page nine of the Competition Document with paragraph 27(ii) and (iii) therein concerning the requirements for information on participants in the case of project team circled and asterisked, and a copy of page two of Hamzah & Yeang's Registration Form concerning the requirements for the provision of similar information circled and asterisked likewise. DTZ's name was not included on the list of recipients of Dr YEANG's letter. However, in Mr Kenneth

POON's letter of 11 September 2001, he told Mr Ronald LIANG that "*with the joining of DTZ, we now have a full team for the study*". On 19 September 2001, Mr POON sent a letter to Mr CHIU Kam-kuen with the aforesaid Dr YEANG's letter of 7 September 2001 attached. In his letter of 19 September 2001, Mr POON asked Mr CHIU to provide "*the necessary information*" to Hamzah & Yeang, without elaborating on what such information referred to.

3.66 While Mr CHIU Kam-kuen claimed that he had only received Mr Kenneth POON's letter of 19 September 2001 without the attachment (i.e. Dr Kenneth YEANG's letter of 7 September 2001 to Project Team members), the Select Committee observes that on the instruction of Mr CHIU or Mr WONG Kim-bon, Miss Teresa NG provided Hamzah & Yeang, by email on 25 September 2001, with the information as requested by Dr YEANG in his letter of 7 September 2001. The information included the name, type, registered address and contact details of DTZ; the relevant strength and experience of DTZ as Land Consultant; the names, titles, phone numbers and email addresses of the two key personnel (i.e. Mr CHIU Kam-kuen and Mr WONG Kim-bon) who worked on the project; and the CVs of Mr CHIU Kam-kuen, Mr WONG Kim-bon, Mr Wilfred CHAN and Mr Henry CHENG, as mentioned in paragraph 3.9. The Select Committee also observes that the relevant information was sent to the email address as requested in Dr YEANG's letter of 7 September 2001. The documents obtained by the Select Committee show that this was the only time that DTZ issued documents to the Project Team members by email. DTZ had all along exchanged correspondence with them by fax.

3.67 The Select Committees notes Mr CHIU Kam-kuen's evidence at the hearing on 14 April 2012 that "*DTZ had all along no direct contacts with Dr YEANG and no business relationship with him*". It appears to the Select Committee that unless Dr Kenneth YEANG's letter of 7 September 2001 had been seen, it seems highly unlikely that the types of information sent by Miss Teresa NG on 25 September 2001 (the deadline set by Dr YEANG) could be the same as the information requested in Dr YEANG's letter of 7 September 2001. It is also highly unlikely that the email address to which Miss NG sent the information could be the same as that stated in the aforesaid letter of Dr YEANG. Besides, in his letter of 19 September 2001, Mr Kenneth POON stated that "*I attach herewith copy of a fax from TR Hamzah & Yeang which is self explanatory*". The Select Committee found it perplexing that no one in DTZ followed up on the missing attachment to the letter. The Select Committee also notes that in Miss Teresa NG's email dated 25 September 2001 to Dr YEANG (Appendix 3(p)), the heading of one of the documents is "*Project Team information*".

3.68 The Select Committee notes that in response to Dr Kenneth YEANG's letter of 7 September 2001, DLS and LWK which were listed as Project Team members of the Entry Concerned sent the same type of information to Hamzah & Yeang on 24 and 25 September 2001 respectively as did DTZ. While Mr CHIU Kam-kuen told the Select Committee that DTZ's prior consent had not been sought for its inclusion into the Entry Concerned, the Select Committee observes that DTZ did not take any action against Hamzah & Yeang after being told on 28 February 2002 that it had been listed as "Property Advisors" by the entrant of the Entry Concerned. The Select Committee notes that according to Mr

Nicholas BROOKE, immediate action would have been contemplated should the name of his company, which was engaged in business of similar nature as DTZ, was used by other persons or companies without his consent. Mr BROOKE told the Select Committee that "*clearly I would take action. I would obviously write to them and say that they have no right to do it and ask them to withdraw our name immediately. I would also, if necessary, go public and make it known that we have no association with this particular company or this particular project.*". Although Mr CHIU Kam-kuen found it unacceptable that certain information supplied by DTZ had been incorrectly used in the Entry Concerned, the Select Committee observes that no follow-up action was taken on the part of DTZ, which was a sizable company with reputation in the industry.

Whether Mr LEUNG Chun-ying was aware of DTZ's association with the Entry Concerned

3.69 According to Mr LEUNG Chun-ying, he was unaware of DTZ being listed as a Project Team member until after he was informed of it in the morning of 28 February 2002. The Select Committee observes that all the correspondence and documents exchanged between Mr CHIU Kam-kuen/Mr WONG Kim-bon and the Project Team members at the time were not copied to Mr LEUNG Chun-ying. The Select Committee notes that Mr LEUNG Chun-ying was not involved in the daily operation of the Valuation Department of DTZ at the time of the Competition. Being the Executive Director of DTZ, Mr CHIU Kam-kuen could decide whether DTZ should provide land valuation information to DLS, the nature of which was similar to the kind of non-fee paying service DTZ provided to

other companies in the same field. Since there was no need for Mr CHIU to seek Mr LEUNG Chun-ying's agreement for the company to undertake this kind of service, the Select Committee notes that there was no evidence indicating that Mr LEUNG Chun-ying had knowledge of DTZ's provision of land value information on WKR to DLS at the time.

3.70 The Select Committee also notes that before completing the declaration form, Mr LEUNG Chun-ying had allegedly made a phone call to the Quarry Bay DTZ office and had asked the staff member ("the Staff Member Concerned") who received his call to conduct a conflict of interest search by checking the Book. Mr LEUNG Chun-ying could not recall who this person was. The four witnesses from DTZ, i.e. Mr CHIU Kam-kuen, Mr WONG Kim-bon, Mr Henry CHENG and Miss Teresa NG, told the Select Committee that they were not the Staff Member Concerned and were not able to identify this person either.

3.71 The Select Committee observes that Mr LEUNG Chun-ying's evidence on the ranking of the Staff member Concerned seems to be inconsistent. At the hearing on 20 March 2012, Mr LEUNG Chun-ying told the Select Committee that the Staff Member Concerned should not be a junior or new staff member as he usually called someone he knew to conduct conflict of interest searches, and therefore they were usually staff members who had served in DTZ for a long time and were relatively senior, and there were over 10 such staff members at the Quarry Bay DTZ office. However, when he explained why he could not recall the identity of the Staff Member Concerned at the hearing on 21 April 2012, Mr LEUNG Chun-ying told the Select Committee that a junior staff member could

conduct conflict of interest searches, as such searches were very similar to land searches undertaken by search clerks in law firms or surveying companies, who were usually junior staff members.

3.72 The Select Committee notes that Mr LEUNG Chun-ying was told by Mr Eric JOHNSON that DTZ was listed as part of the Project Team by the entrant of one of the winning entries in the morning of 28 February 2002. Mr CHIU Kam-kuen recalled that Mr LEUNG Chun-ying sounded "agitated (勞氣)" when making a telephone enquiry with him at that time. The Select Committee observes that the conflict of interest check, i.e. the telephone call to the Staff Member Concerned, was made a few days ago between 21 and 23 February 2002. The Select Committee observes that in the Book, there were no records of WKR. As such, whether the Staff Member Concerned did exist or not would not alter the result of the conflict of interest search.

3.73 The Select Committee observes that Mr LEUNG Chun-ying mentioned generally in his letter of 11 March 2002 to Mr Eric JOHNSON that "*[l]ike other professional firms, DTZ has a practice of checking against potential conflict of interest, to avoid subsequent and conflicting instructions on the same matter. As the indication of site value to Davis Langdon & Seah and LWK & Partners was not a formal instruction and was not fee paying, it does not feature amongst our assignments and was not given a Valuation Job number.*". The Select Committee notes that there is no evidence indicating that before 11 March 2002, Mr LEUNG Chun-

ying had mentioned any conflict of interest search undertaken by him or his DTZ staff in relation to WKR before he completed the declaration form³.

3.74 The Select Committee further observes that it was Mr LEUNG Chun-ying's practice to conduct conflict of interest searches by checking the Book. The Select Committee notes that the Book only recorded fee-paying jobs undertaken or confirmed to be undertaken by the Valuation Department of DTZ. As long as a job had yet to be confirmed and was not fee-paying, it was not recorded in the Book, irrespective of the amount of money involved and the extent of professional service rendered by DTZ. In other words, irrespective of whether Mr LEUNG Chun-ying had asked the Staff Member Concerned to conduct the conflict of interest search, and whether the Staff Member Concerned had actually conducted the conflict of interest search as requested by Mr LEUNG Chun-ying, the provision of land valuation information by DTZ to DLS concerning WKR would not have been revealed then by merely checking the Book because it was not fee-paying. Mr CHIU Kam-kuen informed the Select Committee that DTZ then did not have any formal record on no-fee paying jobs/enquiries or yet-to-be-confirmed fee-paying jobs for conflict of interest search purposes. The Select Committee notes that Mr Nicholas BROOKE's company, which was similar in nature to DTZ, also had a central file registry recording all fee-paying instructions.

³ Members voted on the proposal to retain the last sentence of this paragraph. Mr Andrew CHENG, Mr LEE Wing-tat, Ms Cyd HO, Mr Paul TSE, Miss Tanya CHAN and Mr WONG Yuk-man voted in favour of the proposal. Dr Philip WONG, Mr Abraham SHEK, Mr Paul CHAN and Dr Priscilla LEUNG voted against the proposal. The proposal was carried (please refer to paragraphs 12 to 14 of the Minutes of Proceedings of the meeting on 20 June 2012 in this Report).

3.75 The Select Committee is aware that it was common practice in the surveying industry at the material time to ascertain information on conflicts of interests by checking a central file registry like the Book. However, given the importance of the WKR project and the embarrassment which might have caused to Mr LEUNG Chun-ying in face of the revelation of a conflict of interests in front of an international jury, some members of the Select Committee believes that Mr LEUNG Chun-ying should have made a more in-depth enquiry into the matter rather than just reviewing the file.

Whether there was any omission in Mr LEUNG Chun-ying's declaration

3.76 The Select Committee observes that there was disagreement between Mr LEUNG Chun-ying and Mr John TSANG over the completeness of Mr LEUNG Chun-ying's declaration made in his declaration form dated 25 February 2002. Mr John TSANG considered it a fact that there was an omission in Mr LEUNG Chun-ying's declaration as Mr LEUNG Chun-ying did not declare his involvement in DTZ. However, according to Mr LEUNG Chun-ying, there was no omission in his declaration as the purpose of completing the form was to declare any "conflict of interests" rather than just "interests". He also stressed that he had nothing to hide. In this connection, the Select Committee observes that this was inconsistent with what Mr LEUNG Chun-ying stated in his letter dated 11 March 2002 that "*to complete my declaration*", he attached a full list of companies in the DTZ Group, in which DTZ was the main operating company and he was a shareholder and Managing Director of DTZ. The Select Committee observes that had Mr LEUNG Chun-ying drawn such a

distinction between "declaration of interest" and "declaration of conflict of interests" as he claimed at the time of completing the declaration form and had he believed that he was required to make a declaration of conflict of interests instead of a declaration of interest, he should have, after conducting the conflict of interest search, selected item (d) (i.e. "*no company of which I am a director or major shareholder has entered the competition*") instead of item (c) (i.e. "*I am not a director or major shareholder of any company*") in the declaration form.

3.77 The Select Committee notes that there was no linkage between the Competition and the eventual development right of the Scheme Area, but the winners would be automatically pre-qualified for inclusion into the list of consultants to be invited for bidding for the masterplanning work and informed of subsequent architectural design competitions for individual buildings or facilities in the Scheme area. The Select Committee also notes Mr LEUNG Chun-ying's view that DTZ had not participated or had any knowledge in planning design competitions, and its nature of business, i.e. estate surveying, as opposed to architecture, building surveying or quantity surveying, was related to planning design competitions "very remotely". The Select Committee observes that the relationship between DTZ and the planning design competitions was not as "remote" as Mr LEUNG Chun-ying understood, as DTZ's land valuation information provided in Mr WONG Kim-bon's letter of 18 September 2001 had been included largely in the Entry Concerned and DTZ had been included by Dr Kenneth YEANG in the Project Team as a member.