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LegCo Panel on Housing

**Minutes of special meeting
held on Thursday, 25 May 2000, at 4:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon LEE Wing-tat (Chairman)
Hon Gary CHENG Kai-nam, JP (Deputy Chairman)
Hon HO Sai-chu, SBS, JP
Hon Albert HO Chun-yan
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han
Hon LEUNG Yiu-chung
Dr Hon YEUNG Sum
Hon SZETO Wah
- Members attending** : Hon LAU Kong-wah
Hon Andrew CHENG Kar-foo
- Members absent** : Hon David CHU Yu-lin
Hon Edward HO Sing-tin, SBS, JP
Hon LEE Cheuk-yan
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHAN Kam-lam
Hon Andrew WONG Wang-fat, JP
- Attendance by invitation** : Housing Authority
Dr The Honourable Rosanna WONG Yick-ming, JP, Chairman
- Independent Investigation Panel
- Mr John E STRICKLAND, GBS, JP, Chairman

Professor LEE Chack-fan, Member

Housing Bureau

Mr Andrew R WELLS, JP, Deputy Secretary (2)

Housing Department

Mr Marco WU, JP, Director of Housing (Acting)

Mr Simon LEE, Assistant Director/Legal Advice

Clerk in attendance : Mrs Mary TANG, Chief Assistant Secretary (1)6

Staff in attendance : Mr Arthur CHEUNG, Assistant Legal Adviser 5
Miss Becky YU, Senior Assistant Secretary (1)3

I Report of the Investigation Panel on Accountability (Piling Contract 166/1997 Shatin 14B Phase 2)

Mr John E STRICKLAND, Chairman of the Investigation Panel, advised that the findings of the investigation had confirmed that the case of defective foundation works in Shatin Area 14B Phase 2 (Yuen Chau Kok (YCK)) was not a conspiracy to defraud the Housing Authority (HA) since both the piling contractor and its main subcontractor concerned had suffered substantial financial losses. He also clarified that the Investigation Panel had no intention to criticize either on subcontracting or the morality of the contracting industry since subcontracting was a necessary mechanism to match supply of resources with demand. Besides, there was no evidence indicating that Hong Kong was materially inferior to or different from other countries in respect of subcontracting. He supplemented that while the problems that HA was experiencing over the past few years comprised only a small fraction of its total workload, these should not be taken as an excuse for the non-performance of staff of the Housing Department (HD) nor as evidence against other HA projects in progress. The objective of the Report was to provide a balanced view in this regard.

Findings of the Investigation Panel

2. Mr LAU Kong-wah noted with concern that the HD site inspection staff assigned to YCK had little or no experience of supervising large diameter bored pile work. Expressing similar concern, Mr Albert HO noticed that despite the Project Engineer was required under the HD Site Inspection Manual to conduct some 20 different inspections, he was allowed to delegate these tests and inspections to those inexperienced site inspection staff. The Chairman also pointed out that the Project Engineer had failed to

inspect the work of the site inspection staff. By way of illustration, the Clerk of Works had signed 29 site memos regarding the contractor having worked persistently after 7 pm when all HD site inspection staff had left, but the Project Engineer did not take any action to stop the practice or to arrange inspection. They asked if the management of HA/HD was aware of the problem of improper delegation of work and whether action had been taken to prevent recurrence of similar incident in other HA projects.

3. Professor LEE Chack-fan, member of the Investigation Panel, remarked that in large-scale construction projects, different types of works were supervised by different site inspection staff with different technical experience. In the case of YCK, inspection staff with a higher level of technical experience were required due to the adoption of a rather difficult foundation method using large diameter bored piles. It was however regretted that the site inspection staff assigned to YCK did not have the requisite experience as revealed in the Report. Mr STRICKLAND added that while the Investigation Panel focused only on matters relating to YCK, it gained the impression that inappropriate delegation of supervision was prevalent in other HA sites. As regards contracting works after 7 pm, Mr STRICKLAND advised that authority had been given for overtime for supervision. The problem with YCK was that the authority was not exercised by the relevant parties. It was therefore recommended that disciplinary actions should be taken against the defaulting HD staff. Mr LAU Kong-wah asked if criminal proceedings in addition to disciplinary actions would be considered. Mr STRICKLAND advised that as the Report was intended for public inspection, the Investigation Panel had to be very cautious in the use of words to ensure that these were legally accurate and not provocative. Given that the case was still under investigation by the Independent Commission Against Corruption (ICAC), Mr STRICKLAND did not rule out the possibility of prosecution by ICAC in the event of corruption.

4. As to when disciplinary hearing for the HD staff concerned would be completed, the Deputy Secretary for Housing (2) (DS for H (2)) advised that on the instruction of the Chief Executive, a separate investigation panel had been set up to look into the case and recommend to the Secretary for Civil Service the necessary actions to be taken. While acknowledging members' concern on the need to expedite the process, DS for H (2) emphasized that the investigation panel would need time to consider all evidence before reaching a final decision.

5. Members were concerned about the culture of HD as revealed in the Report. Mr CHENG Kai-nam asked if the problems in YCK were partly attributed to the cultural and systemic problems of HD. In reply, the Chairman of HA (CHA) agreed that the Report had shed light on the deficiencies of HA relating to flat production. These included problems arising from the confusing roles and responsibilities of HA and its tendering system. To this end, HA had recently endorsed the implementation of the 50 recommendations to improve building quality formulated in the light of the outcome of the public consultation exercise on the consultative document entitled "Quality Housing: Partnering for Change". Meanwhile, the Chief Executive (CE) had commissioned a review of the operation of the entire construction industry. A review of the production process of HD was also underway. Members would be informed of the outcome of these reviews in due course.

6. As the 50 recommendations were more on the technical side, Mr CHENG expressed concern that these might not be able to address the cultural problems of HD. Mr Andrew CHENG Kar-foo echoed that the 50 recommendations might not be useful as these were formulated using the existing standards. He opined that a more proactive approach should be adopted in the reform to improve building quality, particularly on the part of HD. Defaulting HD staff should be penalized regardless of their ranks. While acknowledging members' concern, CHA pointed out that HA had to be very cautious in taking forward the reform in order not to interfere with the ongoing flat production programme which would reach its peak in the coming two years. As regards the cultural problems referred to by members, CHA remarked that these had been raised repeatedly during interviews with HD staff. She assured members that HA would take into account the outcome of the reviews referred to in the preceding paragraph, together with the recommendations in the Investigation Reports on YCK and Tin Chung Court with a view to streamlining the structure and production process of HD. Nevertheless, changes would take time. Mr SEZTO Wah opined that apart from the review of the production process, a review of the culture of HD should also be carried out. Moreover, a mechanism should be in place to regularly review the performance of HD staff to ensure that promotion was made on the basis of performance rather than years of service. CHA took note of Mr SEZTO's views.

Improvements in responsibilities, contract conditions and procedures

7. Dr YEUNG Sum noted that the Investigation Panel had suggested that the Housing Ordinance (HO) be amended to include criminal sanctions on defaulting parties as in the case of section 40 in the Buildings Ordinance (BO). He asked why criminal sanctions were not provided under HO in the first instance and whether HA would consider amending HO as proposed by the Investigation Panel. CHA advised that as the Building Committee of HA had yet to study the Report, it would not be appropriate for her to comment on the recommendations therein at the present stage. As regards the proposed imposition of criminal sanctions under HO, CHA advised that this had formed part of the 50 recommendations to improve building quality under which HA had agreed in principle to put all its buildings under the control of BO. However, a final decision had yet to be made pending discussion with the relevant authorities. Dr YEUNG opined that the proposal should be implemented without delay having regard to the increased public concern over the building quality in public housing.

8. Mr James TO agreed with the Investigation Panel that HD site inspection staff should refrain from developing unhealthy relationship with contractors as this would undermine their effectiveness in controlling the quality of contractors' work. He asked if HD would consider issuing internal guidelines to delineate the working relationship between its site inspection staff and contractors as in the case of the Custom and Excise Department. Mr STRICKLAND advised that the proposed internal guidelines might not be desirable since they would add to the already large volume of rules and might be applied without common sense. He considered it more useful to organize discussion fora for HD supervisory staff so that they could exchange experience and discuss among themselves the changes required to improve their works. The Director of Housing (Acting) (D of H (Ag)) added that there were express provisions, such as those on acceptance of gifts, under the Civil Service Regulations (CSR) and departmental circulars

governing the conduct of HD staff. Besides, ICAC had completed a number of corruption prevention studies on HD. He assured members that prompt actions would be taken to follow-up the recommendations in these studies.

9. Mr TO was not convinced of the Administration's response. He opined that HD should take a more proactive role to eradicate corruption and malpractice at root. CHA noted Mr TO's concern. She agreed that while there were express provisions under CSR, additional guidelines and instructions would be necessary, particularly for those who were responsible for monitoring the construction industry. Efforts would be made to strengthen the control in this respect. She also noted that CE had asked ICAC to look into the site inspection procedures of HD with a view to identifying means to minimize the opportunities for corruption. To facilitate a better understanding, the Administration undertook to provide the relevant guidelines under CSR for members' reference.

The way forward

10. As the Administration would need time to study the Investigation Report in detail, members agreed to follow-up the subject again at a special meeting to be held in mid-June 2000. Meanwhile, members were requested to list out their concerns on the Report to the Clerk for onward transmission to the Administration.

(Post-meeting note: The special meeting had been scheduled for Monday, 19 June 2000, at 4:30 pm. On the instruction of the Chairman, three additional items on "Cottage Area Clearance", "Review of the House Ownership Scheme policy and its impact on the private property market", and "Suspected use of rejected substandard reinforcement in the Home Ownership Scheme development at Tung Chung Area 30 Phase 3" were subsequently included in the agenda for the meeting.)

II Any other business

11. There being no other business, the meeting ended at 5:35 pm.

Legislative Council Secretariat

21 August 2000