

立法會

公營房屋建築問題專責委員會

第六十七次研訊的逐字紀錄本

日期： 2002年5月18日(星期六)

時間： 上午8時35分

地點： 立法會會議室A

出席委員

劉健儀議員, JP (主席)

何俊仁議員(副主席)

何鍾泰議員, JP

李卓人議員

呂明華議員, JP

陳婉嫻議員, JP

陳鑑林議員

黃宜弘議員

楊孝華議員, JP

石禮謙議員, JP

麥國風議員

劉炳章議員

余若薇議員, SC, JP

缺席委員

涂謹申議員

鄧兆棠議員, JP

證人

公開研訊

第一部分

建築師事務所商會有限公司秘書長
畢艾文先生

建築師事務所商會有限公司執行委員
何顯毅先生

建築師事務所商會有限公司執行委員
林光祺先生

第二部分

香港建築師學會原會長
韋栢利先生

香港建築師學會秘書長
黃華生先生

第三部分

Mr Peter BERRY

Legislative Council

Select Committee on Building Problems of Public Housing Units

Verbatim Transcript of the Sixty-seventh Hearing
Held on Saturday, 18 May 2002, at 8:35 am
in Conference Room A of the Legislative Council Building

Members present

Hon Miriam LAU Kin yee, JP (Chairman)
Hon Albert HO Chun-yan (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Dr Hon LUI Ming-wah, JP
Hon CHAN Yuen-han, JP
Hon CHAN Kam-lam
Dr Hon Philip WONG Yu-hong
Hon Howard YOUNG, JP
Hon Abraham SHEK Lai-him, JP
Hon Michael MAK Kwok-fung
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent

Hon James TO Kun-sun
Dr Hon TANG Siu-tong, JP

Witnesses

Public Hearing

Part I

Mr Ian BUTLER
Hon Secretary
The Association of Architectural Practices Limited

Mr Bosco HO Hin-ngai
Executive Committee Member
The Association of Architectural Practices Limited

Mr Dominic LAM Kwong-ki
Executive Committee Member
The Association of Architectural Practices Limited

Part II

Mr Barry WILL
Immediate Past President
The Hong Kong Institute of Architects

Mr WONG Wah-sang
Hon Secretary
The Hong Kong Institute of Architects

Part III

Mr Peter BERRY

主席：

歡迎各位出席立法會公營房屋建築問題專責委員會今天的公開研訊。我希望提醒各位委員，整個研訊的過程，必須有足夠的法定人數，即連主席在內共5名委員；在研訊過程以外的場合，披露研訊上提供或將會在研訊上提供的證據，是不會受到《立法會權力及特權條例》的保障，因此傳媒與公眾人士應就自己的法律責任，如有需要的話，徵詢法律意見。

今天委員會主要是向建築專業團體人士，就如何改善公營房屋建築質素索取意見。研訊分三個部分，委員會將會分別聽取建築師事務所商會有限公司、香港建築師學會及Mr Peter BERRY的意見。首先出席研訊的證人是建築師事務所商會有限公司的代表，包括秘書長畢艾文先生(Mr Ian BUTLER)、兩位執行委員何顯毅先生和林光祺先生。

現在邀請證人Mr Ian BUTLER、何顯毅先生及林光祺先生出席。

(Mr Ian BUTLER、何顯毅先生及林光祺先生進入會議室A)

主席：

畢艾文先生、何先生和林先生，多謝你們出席今天的公開研訊。

首先我想指出，專責委員會的目的，是依照立法會透過決議案所委派的任務，傳召證人作供，委員會不會就任何人，包括所傳召人士的法律權利或責任作出裁決。如果在委員的提問或證人的答覆當中，提述到法院尚待判決的案件，並且可能妨害這些案件的話，我作為委員會的主席，有權禁止這類提述。

本委員會決定所有證人都需要宣誓作供，我將以專責委員會主席的身份為證人監誓。畢艾文先生、何先生及林先生，你們可以選擇用手按聖經以宗教式宣誓，或者以非宗教式宣誓，請依照放在你面前的誓詞宣誓，首先請Mr Ian BUTLER宣誓。

Mr Ian BUTLER, Hon Secretary of The Association of Architectural Practices Limited:

I, Ian BUTLER, swear by the Almighty God that the evidence I shall give shall be the truth, the whole truth and nothing but the truth.

主席：

多謝你 Mr BUTLER。現在請何顯毅先生宣誓。

建築師事務所商會有限公司執行委員何顯毅先生：

本人何顯毅，謹以至誠，據實聲明及確認本人所作之證供，均屬真實及為事實之全部，並無虛言。

主席：

多謝你何先生。現在請林光祺先生宣誓。

建築師事務所商會有限公司執行委員林光祺先生：

本人林光祺，謹對全能天主宣誓，我所作之證供，均屬真實及為事實之全部，並無虛言。

主席：

多謝你林先生。畢艾文先生、何先生、林先生，為使即時傳譯及逐字記錄員能清楚知道發言者的身份，我希望當委員向你們提問後，你們示意是由哪位作答，然後由我稱呼示意作答者的姓氏後，你們才開始作答，否則逐字紀錄方面會很難掌握究竟作答者是誰。你們明白這一點的，對嗎？

我首先提問，建築師事務所商會有限公司是何時成立？其宗旨與目的是甚麼？貴會現有多少會員？何先生。

何顯毅先生：

以我記憶所及，建築師事務所商會有限公司大概是3年前成立，是以公司為會員，會員大概有60多至70間公司，包括了香港大部分的建築師樓。成立的宗旨已在我們的憲章內提及，有關詳情我不太記得清楚，稍後我可以將憲章的詳細內容呈交委員會。

主席：

好。我希望再提問，會員須具備甚麼專業資格？有否包括在公營機構工作的建築師？私營與公營之間會員的百分比是如何？

何顯毅先生：

據我瞭解，組織內全部都是私營的建築師事務所，並沒有包括公營機構的設計單位。

主席：

多謝何顯毅先生。楊孝華議員。

楊孝華議員：

你剛才提及是以公司會員制，那麼代表公司參與活動的人士，是否要有一定的專業資格(建築師資格)? 是否一定是建築師才可以?

何顯毅先生：

是的。

楊孝華議員：

你們3位本身都是專業人士。你們的經驗是否全部都是私營公司的工作經驗? 在公營房屋方面，是否亦有工作經驗?

主席：

何先生。

何顯毅先生：

就此問題我希望我們3位輪流作答。

主席：

好的。請何先生先行作答。

何顯毅先生：

我本人絕大部分的時間都是在私營的建築師事務所工作，不過，我曾有一段短時期在英國及香港一些公營單位工作。

主席：

Mr BUTLER.

Mr Ian BUTLER:

Yes. I'm a professional architect. The company that I work for does do projects for the public sector, including Housing Authority; and has done so for – I think the first one was maybe 15 years ago – and is currently doing a project at the moment for Housing Authority. We work for the public bodies also, such as the Government's Architect – ArchSD, and for quasi-government corporations such as the KCR and MTR. We are a private sector company, and all our staff are professional, locally-qualified people.

主席：

林先生。

林光祺先生：

本人是專業建築師，一直在私營公司內工作，未曾在政府部門工作；但本人承擔的工程當中，曾為香港政府的建築署承擔過設計工作，亦曾為房屋署承擔過工作；我承擔建築署工程大概有20多年的工作經驗，而在房屋署大概有10年左右的經驗，屬於他們的顧問公司。

楊孝華議員：

我希望集中提問你們對房委會及房署角色的意見，在你們呈交的證人陳述書中，你們認為委員會的架構及規模應該縮減，不應該“assume the role of services and product provider”，不應同時提供設計及專業服務，同時又提供房屋，而應該集中為一個資助者和監察者。是否可以簡單地說出你們背後的理據和意見？你們的想法是怎樣的呢？

主席：

何先生。

何顯毅先生：

首先我想說這是一個大趨勢，政府部門不應該提供一些服務或產品。舉例來說，政府部門不應該負責物業管理、提供設計服務及建築商等諸如此類的提供產品及服務的工作，而應由私營機構去做，自己應該集中力量在資助及監察的工作上。這樣，在政府功能與私營機構功能上，大家便可扮演一個更加有利的角色。

楊孝華議員：

這是分工不同的角色，你們認為這兩個角色本質上是互相衝突，還是認為由於這樣做，會影響公營服務的質量呢？你們是從哪一方面去考慮？

何顯毅先生：

我們覺得現時房屋署本身擔當了許多不同的角色，包括發展商、services provider、project management(物業管理)，有時候這些角色可能會有衝突。因為本身既是監管人角色又是提供服務人角色，我們覺得，在某些情況下這是會有衝突的，因此，把提供服務(或提供產品)的角色全部私營化，而自己則集中監管工作，我覺得這樣對將來的building quality、時間及成本控制方面會更加理想。

楊孝華議員：

你們在意見書內亦提及，屋委會應分割為幾個較小型的機構。可否說應該如何劃分？按地區還是功能來分呢？

主席：

何先生。

何顯毅先生：

這只是一個粗略的構思，若真的要分，便應該深入研究。如果要一個龐大公營機構更有效率地運作，是應該vertically還是horizontally分，我們亦不是很清楚，但是我們認為一個現時如此龐大、而且負責許多services或product provider的機構，以接近monopoly的形式運作，肯定是有問題的。我們覺得，如果大家覺得有需要，應該對如何分拆或縮小房委會的規模，進行研究。

楊孝華議員：

總的來說，你們尚未就割分有任何構思，只是認為是過於龐大而需要分割？

何顯毅先生：

是的，很inefficient。

楊孝華議員：

另外，在文件編號SCI-R(Mis)0018中，你們認為公營房屋的設計應該公開競投，而房署亦可以獨立參與投標。

主席：

楊議員，我希望先看證人是否取得有關文件。

何顯毅先生：

我們已取得有關文件。

主席：

好。楊議員請繼續提問。

楊孝華議員：

如果公營房屋的設計是公開競投(即房署亦參與)，因為很多時候房署受的監管，較私營機構少，據我們的理解，它不需要經同等程度的監察，那麼如果它也和私營機構一起參與競投的話，是否亦應同等地受到各種法例上的監管？

主席：

何先生。

何顯毅先生：

主席。這個問題我希望由畢先生作答。

主席：

Mr BUTLER.

Mr Ian BUTLER:

I think in this submission you refer to, the suggestion that is made assumes that the Housing Authority's Design Department should be corporatised and should compete fairly on a level playing field basis with the private sector. It derives from the way in which the Singapore government privatised or corporatised its in-house design service. At the moment, we believe that the Housing Authority's architectural service is expensive to the taxpayer, and we

don't think that the quality of their design or the quality of their project management is particularly efficient or good. So we think that in order to change the culture of the Housing Authority's design architects, they should be asked to compete fairly with the private sector.

Hon Howard YOUNG:

OK. In competing fairly, the way I read it, you mean under the pre-condition that they are corporatised?

Mr Ian BUTLER:

Yes.

Hon Howard YOUNG:

Not under the current structure?

Mr Ian BUTLER:

No.

Hon Howard YOUNG:

Which means if they were corporatised, that means they would come under the same mode of supervision and rules as in the private sector, as I suppose currently, it is believed that they are exempted from many things?

Mr Ian BUTLER:

Yes. They're exempted from building codes and from the financial constraints that we operate under.

Hon Howard YOUNG:

If I reverse this question, if they were not corporatised, would that mean that therefore you would not pursue this line under the condition of not being corporatised, they should also participate in all sorts of design competitions so on and so forth?

Mr Ian BUTLER:

As an intermediate position, they could compete whilst they're still working for the Housing Authority as civil servants. Yes. That could be arranged as an intermediate position.

Hon Howard YOUNG:

OK. You don't think that would result in unfair competition with the private sector?

Mr Ian BUTLER:

It would, but not necessarily on the design standards. One of our suggestions is that the Housing Authority buildings should comply with the Buildings Ordinance like most buildings do in Hong Kong. So if that were introduced, then the existing design company within the Housing Authority competed against the rest of the private sector, that would be a more level playing field.

楊孝華議員：

OK. Thank you. 我還希望提問關於房委會工程設計方面的問題。你們對房署的 design-and-build 及 engineer's design 的兩個模式，有甚麼意見和評價？

主席：

林先生。

林光祺先生：

我相信你的問題是關於樁基方面。以我理解，房署在建築方面的 design-and-build 是非常少。主要是樁基方面，是可以由工程師或 contractor 設計。這種做法並非特別出現在房署，而是這行業內通常會有的兩種做法。如果是 contractor 設計，造價會較低，在設計方面會更“盡”；如果工程師設計，則時間會較快，即是有許多工作可以提前完成，不須透過投標才得到設計；兩者都是在行業內普遍出現的情況。

楊孝華議員：

即私營機構亦用這種方式，但局限在樁基方面，剛才提到 design-and-build 的價格會好一點？

林光祺先生：

通常出現的情況也是這樣。

楊孝華議員：

你們作為監管者，關於哪種方式更能保障樁的質素，建築師有甚麼看法？

主席：

林先生。

林光禛先生：

我本人的意見是，如果是contractor的design-and-build，也不表示他的質素差，利弊只在於時間和造價上的考慮。

主席：

兩者之間，哪一個有較好的質量保證？

林光禛先生：

工程師的設計有時會出現較保守的情形。在結構上，較為保守的設計，應該更有保證，但絕對不表示建築商的設計沒有保證，因為這些都是由專業的工程師設計，再經過顧問工程師或其他部門覆核後才批准實施。

楊孝華議員：

為何你們會認為engineer's design的時間會較快？

林光禛先生：

通常有大樓的設計，工程師就可以立刻做樁基的設計，甚至可以在設計進行中，爭取時間做一個較為保守的樁基設計，已經可以馬上進行招標開工。

楊孝華議員：

OK。即建築時間會較快？

林光禛先生：

即動工時間會較早。

楊孝華議員：

這些都是前期的設計，man-hour input的時間亦可能一樣？

林光禛先生：

實質上，設計所需時間，是視乎設計本身的複雜性，並不在於採取哪一種方法。

楊孝華議員：

OK。在你們的意見書內也提到一點，是令我們感到驚訝的。你們認為房委會用標準設計的房屋項目，它的成本比採用非標準設計的成本似乎更高。一般常理，不懂這行業的人，以為用標準設計，一定便宜很多，但為何你會認為採用標準設計的成本會更高？

主席：

何先生。

何顯毅先生：

謝謝你的提問。大約兩年前，香港大學的Buildings Department對HOS和PSPS做了一個全面的比較，HOS一般是用房委會的標準設計，PSPS是由私人建築事務所設計的。經多方面比較後，得出的結論是私人設計的房屋或出售的公屋，比標準的設計便宜得多。如果主席對香港大學的研究報告有興趣，我們可以在會後再呈交文件。

主席：

請何先生(貴會)提供這份研究報告給我們參考。

何顯毅先生：

好的。

主席：

謝謝。

楊孝華議員：

香港大學所作的報告，貴會有否參與？

何顯毅先生：

我們部分會員有提供資料給香港大學，但報告是independently做的。

楊孝華議員：

報告是independent的。亦有充分的資料和資料？

何顯毅先生：

報告亦有搜集Housing Authority本身提供的資料，然後得出這個結論。

楊孝華議員：

我們歡迎你們提供報告讓我們參考。你們既然對報告瞭解，能否癥結地、特別提出一、兩點，是甚麼原因導致這情況？一般認為標準設計會較便宜的，為何價格反而會更昂貴呢？

何顯毅先生：

這有幾方面原因，其一是因為它們是一個較僵化的設計，相當rigid，例如用門鎖、鐵閘，是會指定那幾個product providers才可以提供，不是一個完全百分百從open market competition得回的產品價格，這是原因之一。

對於平面圖的設計，我們覺得floor efficiency ratio(實用比率)，它與私人設計的實用比率相差甚遠，這是第二個原因。如果以實用面積計算，用標準圖紙的造價，所需費用遠遠超出經市場測試並較有靈活性的私人設計。

楊孝華議員：

即可能主要由於以實用作為尺度？

何顯毅先生：

不是，是那些產品較rigid。

楊孝華議員：

另外，我希望提問投標問題。房委會現在會將地盤勘測資料提供給有意投標的公司，但我們理解，給投標者參考的，並不包括地基意見報告(Foundation Advisory Report)，你們的理解是否這樣的情況？如果是的話，又有何看法？

主席：

何先生。

何顯毅先生：

主席。這是屬於engineering的問題，可能工程師事務協會對此問題更能解答這問題。

主席：

在這方面你們有否理解私營機構的安排？或你們根本未曾瞭解？

何顯毅先生：

As I mentioned, 它是一個structural engineering的aspect。

主席：

所以你們沒有去瞭解？

何顯毅先生：

我們是architectural，所以在這方面，可能他們能夠提供一個更專業的答案。

主席：

好的。

楊孝華議員：

那麼我提問另外一個問題，在投標程序方面，“出標”及“回標”時間是否足夠讓投標人士瞭解？是否又只是工程師才瞭解，或你們亦有所瞭解？

主席：

林先生。

林光祺先生：

目前來說，房屋署或房委會的招標時間，應該屬於標準時間，通常都有一個月的時間落標，這與私人要求的落標時間相當接近。

楊孝華議員：

落標時間相當接近。另外，你們對房委會價低者得的投標模式，是否有一定的看法？這種做法與私人的發展，又是否一致？

主席：

林先生。

林光祺先生：

在這方面，我想我能提供資料。在政府部門內，是相對較僵化的。那是有一個程序去訂定可以投標的公司，也有一定的機制進行各方面計算，但最後卻變成由這個機制控制所有結果。

在私人機構往往會出現很多專業判斷，投標時如果有相當不合理的造價，或某些地方有誤差，私人機構有一個靈活性，是可以協商或做一個專業判斷，然後才採取一個最後選擇。公營機構內，不管是房署或建築署，受機制的影響相當大，我是指不管聘請顧問或承建商，如果知道有問題時，房署或建築署由於機制所限，只能按機制辦事，所得的結果，不一定是專業上可以參與決定的。

楊孝華議員：

你所謂的“誤差”，是當標書交回來時，非常之高或非常之低？還是兩種情況也有？

主席：

林先生。

林光祺先生：

我可以說，其一是造價，其二是選擇承造商方面，假設某些承造商可以專門做到某項工程，但在機制內要請所有承造商或某批承造商落價，但中標的承造商未必在這種工程最有經驗的。同樣，在顧問設計方面，可能不是一個最好的選擇，但在目前的政府機制，無法有最好的決定。在私人機構，如果有幾家人也可以做，不管是顧問或建造商，一定會找最可靠、最適合、最有經驗的顧問或承造商作為選擇，價格只是最後的考慮因素，不會用它作為機制去決定選擇，而是考慮各方面的情況下，才作出選擇。

楊孝華議員：

剛才林先生提到公營房屋的“出標”及“回標”時間，是與私人機構大致相若，但你們是否覺得房委會的地基工程及上蓋工程施工期，是否與私人發展大致相若？

主席：

林先生。

林光祺先生：

就我本人意見，我覺得公營機構的時間並不比私人機構短，甚至更長。在整個周期內，從一個項目的設計決定之後，或由工程開工開始，直到完工為止，所須時間不會比私人機構短。

楊孝華議員：

不會比私人機構的時間短。是否施工期越短，風險便越高呢？

主席：

林先生。

林光祺先生：

我同意施工期越短、風險越高的說法。

楊孝華議員：

你的意思是指不會比私人機構短？施工期比私人機構較長的情況，是否普遍或相若的呢？

主席：

林先生。

林光祺先生：

在私人工程內，在完全受技術或屋宇署監管的情況下，都是盡量爭取最快時間完成工程。在公營房屋的施工周期，某個程度上是受房屋署的行政procedure規管，本來可以較快的，但公營房屋在工程上，由於有不少其他程序要進行，所以……

主席：

你是否指屋宇署？

林光祺先生：

我回答的問題，是指房署的工程周期長與短的問題，以我的意見……

主席：

……是他們不受屋宇署的《建築物條例》規限？

林光祺先生：

對。理論上應較短，但我的意思是，不會較短，反而會較長。

楊孝華議員：

理論上，在不受屋宇署監管的情況下，施工期會較短，但你卻看到他反而較長，可能風險沒有這麼大。因為施工期延誤，在制度上，liquidated damages的款額，是否與私人機構相若？措施是否一致？

主席：

林先生是否有這方面的資料？

林光祺先生：

這個問題由專業測量師作答是最好的。當然，我可以簡單地作答。原則上應該相同，過去曾發現一個情況(現在應有所改變)，

就是樁基的施工單位，所承擔的LD計算，在過去是以整個工程計算，即以最後工程完成後對房屋署的實質損失來計算，但在近期，這方面已作出調整。

主席：

如何調整？

林光禛先生：

是減低了LD。

主席：

即局限在地基部分？

林光禛先生：

即過往的樁基工程可能是數千萬元的工程，每天的LD所佔工程的比例非常大。工程延誤一天，對房屋署來計算，實質上的損失很大，但與工程額卻是不成比例的。

主席：

這種做法，在私營機構是否不存在？

林光禛先生：

我相信這個問題由測量師做專業答覆會更詳盡。

楊孝華議員：

主席。我還有最後一個問題，房屋署經常會在外面甄選一些顧問，協助管治合約，相信你們的會員亦有嘗試如此做。那是Two Envelope System(即講求質量和講求價格的投標方式)。在比重上，我的理解為技術佔八成、價格佔兩成。貴會對這種運作模式和比例，是否有任何特別意見？

主席：

哪一位回答呢？何先生。

何顯毅先生：

近年來，不少公營機構(包括房委會在內)，都將technical rating分數提高到七至八成，問題是technical的內容，也分為很多種，如人手安排、design quality等各方面。在這方面，我覺得房委會近兩年正在走向一個較正確的direction。以前的emphasis，在價格方面較多，但現在少了價格的emphasis。

楊孝華議員：

但你剛才所說的technical方面，提到人數，即有些可以量化、有些不可以量化的事項。對於可量化及不可量化的比重，你們是否有特別意見？

何顯毅先生：

我想每一個project是不同的，即是site-specific的，很難一概而論，即是量化元素與非量化元素之間，哪項應佔大比例，應該按project basis來考慮。

楊孝華議員：

在投標時，在技術方面，你們認為該公司過往是否有此類project的經驗，應否佔一個比例？

何顯毅先生：

有的，這亦是part of the assessment。或許林先生可作補充。

主席：

林先生是否有補充？

林光禛先生：

我希望補充這方面。在目前的機制，即用technical和fee來assess，我的意見是，政府(特別是房屋署)是非常龐大的架構，如果所有事情是用量化的機制處理，而非用專業的判斷處理，那麼在選擇顧問公司及技術的選擇上，只可以用相當量化的情形。

量化的意思是：舉例而言，若我選擇一個人，他做了5年，便給多少分，7年，便給多少分，在我們來說，做5年或7年(我絕對

不是說應該選擇做5年的)，並不表示一切，只表示這人做了5年或7年而已。在政府內只可用這些數字去評核、選擇，往往引伸出來的，在某個程序上，如果真要選擇某個人，單憑分數來決定，並非做時間長的人，就最能恰當地做這項工程。在政府的選擇機制，會用一個機制或公式去計算，這個方程式，我個人認為是缺乏了專業的判斷，即是說即使覺得用這種機制，判斷並不正確，但你亦只可以這樣來作出選擇。

主席：

陳婉嫻議員。

陳婉嫻議員：

主席。剛才林先生提到“兩個信封”模式，你覺得當某些工作是無法量化時，這種模式是不夠專業的，是機械化地做判斷。我想問：實際上在評審標書時，房委會亦有這類工程師負責進行的，為何會令你出現這個感覺呢？

主席：

林先生。

林光祺先生：

主席。我所着重的，是與私人機構比較，例如一個私人機構希望建造一座住宅，也許是建造在山頂或在不同地方，或他希望建造某一種形式的建築，他所找的顧問，必定是他認為在這方面有經驗，或能夠提供好的服務及設計。在這個問題上，很難用單純量化的方法計算。但在房屋署或政府部門，往往用量化方式，譬如只會問這5條問題，而你只要回答這5條問題便足夠。

第一個問題是，你提供的人，有多少年工作經驗？他曾否做過兩幢幾層高的住宅，如果有，他就得滿分了；若是沒有，則是甚麼分數；或是3幢就是滿分、2幢就是一半分、1幢或以下就是零分。但做過與否，並不能判斷，不能按此來評分。在政府的架構內，只能用這種形式計算，我認為是一種遺憾。在選擇時，往往把能夠採用的專業判斷擱在一旁，而用這個機械化、量化的公程式去計算，計算得來的結果則用來作出決定。

陳婉嫻議員：

以林先生的說法，就算有專業人士在Board，亦是按照A、B、C去評分，而不會加入其他因素。例如雖然我建一幢樓房，你建了兩幢樓房，但我建的那一幢是有口碑的。是否類似情況？是否抹殺了這些原因？我的意思是在Board之中，應同樣也有專業人士，也知道這行業的情況，為何出現剛才林先生所指很僵化的情形？

林光祺先生：

我理解的情況，是接近你剛才所說的。儘管一個機構(房署)內應有非常多專業人士，但往往作這類決定時，只能用一套機制作出決定。談到有經驗與否的問題，譬如某人已建了幾十座樓房，幾十個工程，才算有豐富經驗。而不是建了三座樓房的人，便算是很有經驗，但在計算上，如果已建了三層，便代表已夠資格而給予滿分。以我個人意見，我認為那是用機制去決定或衡量，而不是一個專業判斷。

陳婉嫻議員：

謝謝。我希望再提問關於管理顧問的問題。我參考貴會文件編號SCI-R(Mis)0018第二段，提到房委會對顧問處分過嚴。我們亦注意到，房委會工程不受《建築物條例》監管，有關條例下對認可人士的制裁，不適用於負責房委會工程的顧問公司。為了確保顧問有效地履行職責，房委會存在的問題，是有一套守則監管顧問。我想問：你認為整套守則的懲罰，是否合理呢？

主席：

這個問題是文件編號SCI-R(Mis)0018第二段的内容。

陳婉嫻議員：

對。文件編號SCI-R(Mis)0018第二段提到的。

主席：

哪一位？何先生。

何顯毅先生：

關於這個問題，牽涉到房委會是一個公營機構。因此，在該機構工作的專業人士，可能擔心會承擔責任，或被逼用較僵化和

機械式的做法。至於很多時我們聽到(甚至收到文件),如果當某一個項目出現問題,不管短樁也好,上蓋工程也好,房委會在一般情況下,會認為這是施工單位的問題,contractor或consultant監管不力的問題。但我們須記得,房委會本身是個發展商,亦是個employer,所有consultant、contractor、短樁、piling contractor都是它聘請得來的。但在不同情況下,我們只聽到,當房委會認為某些工程做得不好,便會discipline那個contractor或consultant,並不像它在兩年前文件中所說,用一個partnering的approach。如果是私營發展商,當出現問題時,developer(發展商)會承擔一切責任;因為所有短樁公司、其他顧問公司,亦是它employ、挑選出來的。不可能每當出現問題時,都將責任推卸給聘請的顧問或打樁公司身上。或者在這方面,我希望邀請畢先生再補充一下關於採取紀律處分的問題,以及有關房委會提出partnering的口號,可以做到提供工程的質素。在這兩方面,希望畢先生作補充。

主席 :

Mr BUTLER.

Mr Ian BUTLER:

Yes. We tend to find in practice that the approach adopted by the HA to the consultants is not one of partnering. That's why we refer to it as just a slogan. We tend to find that the contract they use is unchanged. It is still a contract which is very unfair. It protects the HA more than the consultant, and we can give you details of that if you require. We find that the culture is one to always ensure that the employees of HA are never held responsible. It always is the consultant or the contractor.

We had a letter this week from the HA distributed to our members where some of our suggestions that we put down here were replied to by the HA. One sentence stood out to us very clearly, which was in the HA's view, the problems they had with construction and the short piles were all due to the construction industry at that time. They didn't accept that they, as the developer, the financier, the project manager of their own projects, had any responsibility at all; and they had actually put that down in writing. It's sort of summarising the kind of contract and attitude that they have.

主席 :

陳議員。

陳婉嫻議員：

我認為在研訊過程中，房委會對partner是很信任的。當然，從你們的角度來說，將其責任由顧問承擔，自己並不承擔。但房委會向我們表示，它認為既然已找顧問公司作為承辦單位，理論上應由顧問完成，不應由它去干預，這方面我們亦一直在觀察中。我認為假如房委會在用人方面，是用信任方式，與可能用另一渠道管理，在管理上也會出現困難。由於我並不是這個行業人士，當然亦明白畢先生剛才解釋：你既然做一個承建商，你就應負此責任。但為何全由顧問承擔責任？出現問題時又全由我承擔？作為房委會卻不是這樣想，因為我已完全信任你，所以才由你去負責。這樣又有何不妥呢？

主席：

林先生。

林光祺先生：

主席。就這方面，我希望再回應剛才提到整個文化或整個工作關係一點。我認為顧問或承建商必須負起非常大的責任，甚至全部責任，一出現問題時，導致專業上的失當及因工程誤差而須負起責任。房署、顧問及施工單位之間情況，以我觀察的意見，我認為可能基於剛才提到機構非常龐大，全部由行政措施處理，有數十份的守則或manual，即按章辦事。特別是早幾年，房署出現了非常強的文化，必須按章辦事。任何一個小的變動，都可能須較高層的特別批准，才可以不按規定辦事。在近兩年來，更開始要求前線工作，必須按實際需要做事。

在這個文化下，讓我舉一個例子作解釋，是發生於我們的顧問公司。有一個工程遇到居民提出意見，認為重建工程用了他們的地方，要求房署停工，要求更改設計，從而符合居民的要求；就此項工程，當時房署亦作出了讓步及調整設計，來滿足居民的要求。在這情況下，由於工程已開始，因而時間較緊迫，於是將所有程序加快進行，不按既定的多少個月內完成甚麼工作；即將所有時間加速，希望爭取減少工地丟空的情形。程序完成後，工程便繼續復工；而顧問亦得到房署高層表示對它非常滿意。及後，顧問公司收到一封warning letter，是因為顧問沒有按照章程，即按既定時間來完成。為甚麼在進行時必須如此做？因為如果負責管理這項目的員工不向顧問發出警告，將來在audit時，他可能遭其

他人指責他沒有監察顧問的工作。這是其中一個可能出現的情況。因此可以見到，在執行程序中，大家必須各按程序工作，而不是按照大家認為專業或合理的態度來處理事情。

陳婉嫻議員：

我想提問的是，理論上當訂合約時必說明，假如工程中途發生意外，例如林先生剛才提及的情況。我認為合約會有寫明，用來保障你們自己的，因為任何工程都可能會遇到工程的延遲。

主席：

林先生。

林光祺先生：

主席。剛才的問題，並不在於工程延遲或顧問有否失職的問題。

主席：

是房署處理的手法而已。

林光祺先生：

純粹是有否按照既定的工程，譬如提交立法會，在一個月前須將paper呈交某人、三個星期前又須呈交給誰、兩個星期前又須呈交給誰等，在一個特殊的情況下，如果時間不足夠，但最後事情解決相當圓滿，結果卻是未按章程辦事。我希望表達的是，當時房署的文化要相當嚴格，必須按照章程，全部必須audit(全部須覆核)，並以章程作為管理的準則，並不以工程，因為在工程方面，往往需要有一定專業人士的判斷，譬如事情需如何處理、怎樣才是正確、能否接受？在某程度上，房署是以章程作為管理的準則。

主席：

陳議員。

陳婉嫻議員：

另外，我還希望提問，房委會如果將工程委託顧問管理，關於房署職員在技術審查方面，在你們的文件中提及某些看法。當委託顧問管理，你們認為房署職員應否有技術審核顧問的工作？

主席：

何先生。

就這問題，Mr BUTLER剛才也有提到，聘請顧問之後，房署應做回發展商的職務，不要插手顧問方面工作。

請何先生回應陳議員的問題，即是否需要參與技術的審核？

何顯毅先生：

也許我先回答吧。陳議員剛才問及：如果交給一間顧問公司完成，房署絕對會繼續以PM角色監管顧問，在技術、時間、質量上去抽查和監管。剛才林先生亦解釋過，這種監管或審查，是以機械式或僵化式，按章做監管，並不是以靈活式或專業式去監管。舉例來說，剛才陳議員提到房委會認為，既然交給顧問，便應完全信任他，由他完成。但其實，房委會提出partnering的思想：是在發生問題的初期，應該採取一般發展商的態度，即大家同坐一條船，一起商量，在問題未擴大之前，如何去解決問題。但礙於現時僵化的機制，它很難與建築商及顧問，在問題未惡化之前便一起作出解決；只能根據一本書，指出你的顧問或你的contractor，漏缺了任何一項，就立即發出warning letter，要求填表。因此，顧問用來監管地盤的時間，只用來應付僵化的、按章的程序，為求滿足這些機械式的程序，而不是實事求是、實際解決未惡化或剛呈現的問題。我認為這亦是房委會的culture和attitude的癥結所在。但房委會的解釋，卻表示由於是用納稅人的金錢，因此每樣事情，不分大小、都須按章去做，否則，就認為愧對納稅人。

主席：

何先生，有關批評我們已聽到了，陳議員的提問並不是在這方面。或許，我再重複陳議員的問題，亦即是角色的問題。你們有建議，房署應做回自己身為發展商的職務，而顧問就擔當其他工作。陳議員的問題是：如果房委會委託顧問公司去管理一個地盤，那麼房委會(或應是房屋署)是否需要作出一個技術審核的顧問工作？即房委會已委託顧問公司去做，是否還須另一層技術審核？還是只在時間上控制，作為發展商，只控制時間，確保已有進行工作，不是深入地進行技術審核？就這方面，貴會的立場如何？

何顯毅先生：

請林先生再作回應。

主席：

林先生。

林光祺先生：

過去10年，為房署承擔不同工作，我已留意到有個轉變。在10年前，房署的工程，處於人手不足或不能應付的工程時，就會聘請顧問做一部分工作，它的角色是分擔房署本身已承擔一部分的設計顧問工作。在分擔時，關於調配工作方面，總建築師及負責人會把房署的需要告知顧問，監管設計及各方面是否符合房署的標準及一般要求。當時，這是屬於一個partnering角色的做法。但逐漸發展後，由於數量或各方面的演變，我亦曾有這方面的經歷，房署表示：我們已有機制和manual，當你受聘於我們時，就必須瞭解我們所有運作。因此，我的角色純粹是為顧問管理。我的工作只通知你所有事情，就不會再管理你的設計，你的設計圖、技術上的情況，我不會再做覆核，因為你有責任按照我們的機制，達到我們的要求。對於這個演變，我個人認為相當危險。

顧問有時(特別是首次承擔房署工作)並不可能對內部所有機制及有關要求，與一個在內部已工作10年、20年的人有相同的經驗，因此導致會在某些地方出現誤差。當時曾有一段時間，房署的態度是，我們不會再監管你的工作，因為你應有正確的做法。以今日來說，這個演變就是，房署的工作或房署聘請的顧問工作，如果在技術上沒有另一層監管，便有別於現在的私人工作，(即由屋宇署作出一個相當多的監管)，可能會在某些地方出現潛在的問題。

以我個人意見，首先，龐大的規模應該將角色分擔，作為發展、作為策劃、作為工程管理，逐步逐步分清楚。至於設計，不管是房署或是政府政策繼續自己做設計，將私人機構顧問作為一個分擔，當工作量的增減不平均時，便由私人機構負擔工程。這不是最關鍵的問題，最關鍵的是房署本身內部必須有一個機制去覆核自己的工作。目前有一個機制已成立，那是類似屋宇署的。以我的看法，當然以不同部門監管，較用同一部門的不同組別去監管會更加有效、時間上亦會更有保證。目前，我們看到房署成立了這個小組，但由於工作人手編制上未足夠，因此實際上監管過度緩慢。

至於顧問工作，如果房署的工程有外面機制監管，亦會與其他私人工程一樣。但如果房署工程，不須外面機制監管，所聘請

的顧問，我認為房署本身應有一個機制，作為技術上的監管，從而保證顧問的工作，是依照房署的標準。

陳婉嫻議員：

我明白。

主席：

其實，我們希望有更多的時間能夠跟每一個專業團體更詳盡地去討論問題。我們今早要接見3個團體，現在我們只見了第一個團體，時間大概一半多一點，我們還有很多問題想與貴會交流意見，所以我希望大家把握時間，盡快提問，也請答問題者盡量簡潔。

陳婉嫻議員：

主席。剛才林先生提及的意見很重要，我明白了很多。假如只是表面聽取意見，可能會很詫異，一方面他要扮演他的角色，另一方面他又要滿足有關需要。

接着，我希望提問，在你們的意見書，即文件編號SCI-R(Mis)0018第五段，你們提到房委會較重視文書工作，花去了顧問公司不少人力、物力。而在證人陳述書文件編號SCI-R(Mis)0020第一段亦有指出，房委會的工作守則與指引，應給予簡化及合理化。我希望提問：就貴會所知，有關文書工作是否因為要配合ISO 9000的要求而做？

主席：

哪一位？林先生。

林光祺先生：

ISO 9000是很早由房署在香港提出的一個公共機構。現在提到的大量的文書工作，很大部分是由ISO 9000引伸出來，我想更大部分的是來自房署本身。ISO是一個機制，但真正執行時，還有很多其他manual及工作，是由此引伸出來。我們行業內曾流行所謂要多番填表的說法，房署高層亦向我們透露這機制出現這個問題。

主席：

是否私人機構亦有ISO 9000？私人機構用ISO 9000與房署用ISO 9000是否截然不同，私人機構填一份文件，它則要填10份文件，是否這個意思呢？

林光祺先生：

我認為ISO 9000的最基本精神，是必須覆核每個工作，並不在於覆核程序的多少。房署的覆核或文書程序非常多，會佔用房署本身的工作人員或所聘請的顧問、甚至承造商很多時間，他們需要付出相當多的精力。我個人意見，這些文書大部分沒有實質需要，當然我也不是指這些文書完全不應該做。

陳婉嫻議員：

另外，按照你們的經驗所得，房委會地盤的監察人員的數目和資歷，是否足以發揮監察職能呢？

主席：

我想林先生對這方面比較有經驗。請林先生回應。

林光祺先生：

我是滿意房署目前的編制，即是地盤監察人數。過往出現“短樁”，很明顯是在樁基工程階段，派駐的人手過少，但目前，這方面已有大改變。

主席：

對於審核地盤員工資歷方面，房署又如何？

林光祺先生：

我只可以回答的是，當顧問公司承擔房署工程時，我們會代表房署或我們聘請地盤監督人員派駐房署，在這方面，我們一般的做法是找些經驗符合工程規定的人士來擔任工作。

陳婉嫻議員：

主席。我希望提問我很關心的事——分判制。近幾年出現的長短樁，分判制是否引致建築質素出現問題的主要原因？

主席：

哪位可以作出回應？林先生。

林光禛先生：

主席。我希望作兩方面回答。第一方面，香港的建築行業，基本上是分判制的制度，不只在樁方面，其他工程項目亦出現此類情形；第二方面，剛才特別提到“短樁”方面，以我個人的觀察，有分判制存在之後，造成監察上是較難實行的。意思是你只可監管大判，再由大判監管二判，如此類推，很難監管。對於樁基方面，剛才亦提到一個問題，房署對樁基工程延誤的罰款，相對於工程額是非常龐大，可能是三、五千萬元的工程，如果延誤一天，可能罰款是以百萬元計。對此，延誤的罰款，相對於該工程的金額來說，是非常嚴重的，因此，時間對施工單位來說，是非常緊張。

施工單位在樁基工程上，可能要爭取時間，不是樁的長短的價格問題，而是工程無法完成時，延誤罰款對它的影響會相當嚴重。因此，可能出現這個誘因，以致出現這些問題。這只是我個人的觀察，絕對不可能代表營造商方面如何看這些事情。

陳婉嫻議員：

房委會現時有一個改善措施，限制地基工程只可以有一層分判，你們對這方面有何看法？

主席：

林先生。

林光禛先生：

對於這方面，我無法作答，因為分判實施時，除非工人註冊——現在很多行業已推行——否則該機制規定一層分判，並將如何實行？我個人沒有資料，亦無法作答。

陳婉嫻議員：

純粹從建築經驗，制定一層分判的做法，能否提高施工質素？

林光祺先生：

一個普遍的觀察，無論行業是樁基或其他也好，如果能夠做到有固定工人、固定登記工種，承擔工作時，層次可以減少至3層、4層、甚至兩層，我認為對於監管方面，會有很大好處，但這與香港目前建築業的文化，則相當不同。

陳婉嫻議員：

謝謝。

主席：

李卓人議員。

李卓人議員：

主席。剛才林先生提到整個香港建築界的文化問題。對此，能否以你(貴會)的經驗講解，我們最關注是房屋質素問題，從較濶的層面去考慮，到底整個房屋質素出現問題的主要原因，是出自哪方面？剛才陳婉嫻議員關心的問題，分判是否其中一個原因？或因為太多層分判，造成一個主要原因？剛才林先生提到LD的問題，從整體的角度考慮，尤其貴會橫跨公私兩方面，到底整個建築業的整個文化，哪方面令到質素出現最大問題？

主席：

林先生。

林光祺先生：

我想有兩個答案：建築業及房署工程。第一，香港的建築業。我個人意見，很多施工的辦法相對是落後的。因為過往香港的工程，房地產非常蓬勃，任何一個發展商也需要爭取時間，地價相對非常高，如果在短期內完成工程，不會嘗試用新方法或其他方法營造，而以香港的工人的一套既定方式去營造。

第二，房署的工程。相對較早期來說，房署是一個變得非常龐大的機構，過往10年來，越來越用制度來管理該機構，我個人比較強烈的觀察，如果專業的判斷越來越少，對於建築方面，不管設計質量、施工質量、工程管理上的質量(質量亦包括是否能夠做到最好、較快、節省成本或其他設計上更加適當)，很多這樣的

問題，若全部用一個機制或一個標準化的方式去處理，事實上對廣義的質量來說，並不是好事。

李卓人議員：

多謝主席。林先生剛才提到建築業工程的做法相對較落後，及房署用制度去管理多於專業判斷。對於建築業方面，因為在整個過程，好像看到施工時，有很多方法可以瞞天過海，我不知道你對這方面有哪些評論？因為你剛才提到較大層次的考慮，如果再回到施工層次去考慮，整個建築業在這方面是否有很多陋習？對於這方面，我亦希望聽到你的意見，例如許多“神仙尺”的情況。就這方面，我不知道你們的看法是怎樣？

主席：

是否香港人特別聰明，還是全世界亦有這些陋習？何先生。

何顯毅先生：

主席。讓我稍作補充，剛才林先生提到，香港整個建築業的管理，用mechanized method比較少，甚至以一個地盤來說，香港地盤比其他國家地盤混亂，地盤滿佈垃圾或其他雜物。由於一般承包商或工人的工作文化的原因，地盤不會井井有條。我認為最近有一個可喜的現象，越來越多mechanized method開始進入施工的工序，譬如做批盪，現在很少用人力慢慢來做，因此，我認為這方面是有進步。

剛才李議員提到瞞天過海或“蠱惑”，我個人認為，第一，當越來越多mechanized method進入施工的工序後，人為的瞞天過海會減少；第二，房署最近亦有在地盤安裝video，即tele-eye，我不知道是否屬針孔錄影等裝置。安裝在地盤之後，則有警覺性，工作人員知道有video.....

主席：

是否屬於CCTV之類？

何顯毅先生：

是的。因此他們所謂“出蠱惑”或其他情況會減少。我覺得事實上是有所進步。

主席：

李卓人議員。

李卓人議員：

多謝主席。另一方面，我們研訊時知悉，品質控制工程師很多時由承建商聘請，我不知道貴會對這方面有甚麼意見？我們討論時，你們的意見認為是否應該由獨立人士擔任，而不是由承建商聘請的QCE，應該由獨立人士出任較為理想？我不知道你們對這方面有何看法？

主席：

林先生。

林光祺先生：

主席。我認為質量監管，必然是從多方面監管，因為工程本身是由承建商承包，他本身有工作人員及中層管理人員，那麼，他本身亦一定有質量監管人員監管自己的產品。對於監管工程，目前的做法也是由承建商負擔質量保證監管，此外，顧問公司(設計方)亦需要要有site staff去監管這個工作是否可以達到規格要求。因此，是否會引伸第三方面的、獨立的一個質量監管？對於這點，我想可以探討，譬如中國大陸有監理公司去做質量監管，這個當然要從整個運作方面去研究。

李卓人議員：

貴會的意見書提出，剛才你亦有提出，也許你們可以再詳細說明。整個行政制度是指向挑錯處(fault finding)，未能與顧問或承建商建立一個夥伴關係。這個情況，你們一直的感覺是否這樣呢？對於這方面，最近有哪些改善建議？

主席：

我希望Mr BUTLER亦可以向我們解釋，對於你們的感受，即房署提出與你們做夥伴，但只是口頭上說，口惠而實不至。對此，你們是否真的很坦誠與房署磋商，我們願意與你做夥伴，但你卻無法給我們一個夥伴的感受。你們可否達到一個很坦誠的地步，與房署磋商問題？Mr BUTLER。

Mr Ian BUTLER:

To answer that question, simply "No".

Chairman:

Why not?

Mr Ian BUTLER:

Why not? When we tender for a contract with the HA, they issue the terms and conditions of the tender and the contract. They establish the base rules, and I think that's the very fundamental point here that you've picked up, which is that from the HA's perspective, they believe they are entrusting the whole process to someone else. They are not responsible for the project they are delivering to the customer. They have this concept of abrogation of responsibility, and this is, to me, frightening. No private sector company would delineate a line between itself and the product it was delivering, in such a way. We are agents working in the team with the HA as the financier and project manager, to deliver a product; and they cannot step back and just watch the process. They have to be involved in the process. They set the rules before the project is anywhere near us, by giving us the contract. If you work with an enlightened developer, such as there are in Hong Kong, you do find they understand this, before the tender is issued to the consultant.

So I think there is a fundamental change of what we call "culture" here, required, and it starts right with the contract. Yes, they do have to monitor the consultants, because any interested developer in providing his product must be interested in the quality of the consultants and contractors he is hiring. He must have a continual awareness of how good or bad they are doing, and be interested in keeping it at a high enough level. They cannot abrogate this responsibility, and so often, this phrase of "entrusting" comes up. I think that's completely wrong. If you read the contract, it's just a standard contract. It's an "us and them" contract. It's what we call "a boxing match contract". They're in one corner. The consultants are in the other corner. From day one, that, as a basic fundamental approach, isn't the way you get a good product delivered. No enlightened developer in this town adopts that approach.

主席：

李卓人議員。

李卓人議員：

多謝主席。陳述書第1(f)段指出，房委員的建築項目應該受《建築物條例》規管。可否作出解釋？當然，我們知道現時房委員不受《建築物條例》規管，但其實能否具體講解兩者的分別在哪裏？

主席：

Mr BUTLER.

Mr Ian BUTLER:

Types of supervision? I can answer it in general. The Buildings Ordinance now does have a prescribed amount of supervision to be required, and that has only recently been introduced. I think the general comment we are making is that the public would have more confidence in the Housing Authority if it were seen to have to comply with the same set of building regulations as everybody else in Hong Kong. I think it's partly a matter of public trust.

Chairman:

As far as your Association is concerned, do you think that's a proper move — to bring the Housing Department under the limit of the Buildings Ordinance?

主席：

林先生。

林光祺先生：

我個人意見，在這方面香港應該是有一套標準，即對建築的安全，譬如走火距離或設計上用的計算基礎，對於這些，我相信在香港應該是一套標準，而不應該有兩套標準。

主席：

即全部也適用的？

林光祺先生：

如果有一套標準對私人屋宇是認為應該執行時，我看不到為何政府的屋宇不需要遵守同一套標準。

主席：

好的。

李卓人議員：

主席。我們希望瞭解比較技術性的問題。當然，一個標準是正確的；但問題是現在有兩個標準，現在事實上這兩個標準在哪方面？譬如房署的標準是低些？還是高些呢？如果房署標準低些，是否會犧牲安全呢？有哪些例子或具體技術的分別？譬如，我記憶中聽過，房署的differential settlement是1：300，但好像屋宇署方面不是這樣計算。譬如能否解釋這一方面，有沒有技術上的分別？

主席：

這是地基方面的問題，在座三位可能未必能解答。能否列舉其他例子，可以令我們明白多些，即兩套的制度，何者孰優孰劣？林先生。

林光祺先生：

應該沒有恐慌性的問題出現。現在的標準，譬如私人樓的走火距離，由一點(巷的一端)走出來，24米的距離便可到走火門口，如果做私人樓宇時，超出所定規格(24米)則不可以。但24.5米或25米是否不安全？事實上，24米只是一個標準。但對於房屋署或政府屋宇，或特別房署的屋宇，可能出現有些問題，舉例：26米，因為過往不須受屋宇署監管，該設計一直可以沿用。但到現在覆核時，發覺有些地方與標準不一致，這樣認為這個標準既然應用於其他樓宇，以我的意見，為何不用同一套標準？

李卓人議員：

主席。我提問最後一個問題。我想在座各位可能擔任過建築署及房屋署顧問，請問建築署與房屋署，兩者有哪些分別？

主席：

何先生。

何顯毅先生：

兩個政府部門都是用納稅人的金錢，在過往的10年內，我個人亦曾擔任建築署及房屋署工程顧問。Paper work(文書往來)方面，建築署是比房屋署少。甚至建築署多數是non-standard design，房屋署是standard design。做standard design的project的文書，更多於non-standard design的project。在這方面，我相信Ombudsman Office亦有報告，相信各位亦有看到。

主席：

石禮謙議員。

石禮謙議員：

我盡量短，好嗎？

主席：

好。

石禮謙議員：

我知道時間緊迫。我希望瞭解一點，因為剛才何先生亦有提到，即現在的標準設計和非標準設計，標準設計費用貴些。我希望提問，因為他們在這個行業很有經驗，標準設計和非標準設計，與私人發展商的建築費如何比較？

主席：

何先生。

何顯毅先生：

我個人曾參與房署的非標準設計，及私人的非標準設計。這兩方面的建築成本差不多，是comparable的。當然要apple to apple，私人可能用較多些雲石或其他裝飾品，除此之外，平面圖的實用比率、用料各方面，市場價格方面大致相同。

主席：

石禮謙議員。

石禮謙議員：

我希望再提問，如果是標準設計建造200呎的樓面，建築成本(即建築費用)方面，私人和房屋署的標準設計，哪個貴些？

主席：

何先生。

何顯毅先生：

撇開裝飾品(例如雲石、名貴潔具)之外，亦是私人的非標準設計，比房署的標準設計便宜。這是我們多年經驗和backed up by剛才提到的香港大學的獨立報告。

主席：

你們可否稍後提供該報告？

何顯毅先生：

可以的，會提供一份。

石禮謙議員：

我希望可以提供資料。

主席：

他們會提供資料。

石禮謙議員：

因為香港大學的獨立報告純粹是比較房委會的標準設計和非標準設計。現在，我希望瞭解私人和房委會的不同之處。如果有的話，我希望可以提供。

主席：

如果有相關的資料，希望可以後補。

石禮謙議員：

這一點是很重要的，因為我們每年須撥大量款額做樓宇，如果建築費用比私營更加昂貴，這是一個很大的問題，而且質素相差很多。

第二，我希望提問，剛才你們提到，房署本身有一個設計隊伍，你們表示應該私營化。但你們未建議他們不應該做設計，因為設計和他們的角色有分別，做一個發展商和一個類似BOO的角色，由自己設計是否有衝突？你們的建議是應該將其私營化，但並沒有建議其他方面的事情。我希望可以聽取這方面的意見。

主席：

何先生。

何顯毅先生：

主席。之前大家亦提到私營化問題，甚至建築署亦公開表示逐漸不做設計，只做監管角色，我想這是大勢所趨。但何時可以將房署的設計部門私營化？可能政府內部需要研究。

石禮謙議員：

主席。我希望跟進標準設計與非標準設計的問題。你們提到非標準設計比標準設計便宜，但如果這是市場帶動出來，因為每一個投標是由市場定位，市場所定的標價是低的。如果標準設計亦很低，甚至無法建築，對於這方面的分別，應該如何解釋？

何顯毅先生：

主席。可否再清楚說明？

石禮謙議員：

即是不管PSPS和HOS也好、公屋也好，他們的標價並不是最低標價，這與最低標價有何分別？為何PSPS低於標準設計？

主席：

我想大學研究會提供更多的資料。那正是HOS跟PSPS作一個比較。

石禮謙議員：

主席。引伸第二個問題，關於現在房委會最低標的問題，不只是承建商方面，還有顧問方面。因為顧問雖然有“兩個信封”的做法，但“兩個信封”的做法，並未正式作出解釋。因為這兩個都是表面工夫，如果研究70%和30%。70%是以technical考慮，而30%從price考慮，如果technical全部相同，其餘的30%便很重要了。

何顯毅先生：

當然是。

石禮謙議員：

對於這方面，你們沒有一個建議怎樣審核70%的標準，如果全部是68.9%至69%，而30%的價錢是最低標，就會導致整個運作無效。對於這方面，你們是否有建議？

何顯毅先生：

我希望林先生回應。

主席：

林先生。

林光祺先生：

剛才提到聘請顧問時，篩選的方式是用技術和設計費的投標，對此，我想應該有多方面不幸的存在。一方面是機制本身，正如剛才石議員所說，如果技術接近時，雖然費用佔計算比例少，但影響很大，即最低標的中標機率很高。過往幾年香港的經濟情況，令到競投時，競爭非常激烈，當然，這是我們行業內的一個問題。有部分從業員，為取得工程，便以非常低投標價中標。因此，在很多工作上，比較不容易控制最後的質量或整個工程。

提到聘請顧問設計時，現在全港顧問的專業守則和顧問的professionalism，應該是一個非常健康的情況。但當這個費用低，並不同買一個杯子了，從一個設計或顧問角度看，如果費用越來越低，這就不是房署的問題，而是整個行業面對的問題，將會影響我們的resource。那麼，將來香港一直發展下去，在這個地區服務行業的領導地位，有一個潛伏的隱憂。

石禮謙議員：

主席。剛才林先生提到建築時間短，風險則大，時間長，風險則小，我覺得不可以這麼說。因為私人發展商方面，時間當然要短，但這不代表危險，因為他有BOO的監管。

主席：

我們不是與證人……

石禮謙議員：

我想詢問他們的意見。

主席：

好的。他們已說出他們的意見，而你不同意他們的意見。

石禮謙議員：

我希望他們作出解釋。這個分別在於房委會(房署)自己先做了BOO的角色，最近出現眾多問題，他們有很多成員也有參與事項，是否因為監管的問題，批准、check and balance監管方面，存在問題？

主席：

林先生。

林光祺先生：

剛才有人提問是否時間短代表風險高？我的答案是時間短，風險是高些，但絕對不是說時間短，便會出現問題，或時間短必然出現問題，而是相對性風險較高。如果風險高，但監察各方面的effort足夠時，並知道問題所在，可以容易避開問題的出現。這是我這方面的意見。

石禮謙議員：

主席。我希望提問房署所提及的partnership approach(夥伴式)，是否可以提供一個比例？他們說得很好，那純粹是個PR的層面。除房署之外，你們有否這樣的經驗，譬如私人發展商及MTR、

KCR兩個大項目，他們的夥伴式工作，與房署的夥伴式工作相比，有哪些分別？是否可以發表意見，讓我們可以瞭解？

主席：

Mr BUTLER.

Mr Ian BUTLER:

Well, I think I'm right in saying that the MTR has more experience in the partnering approach for contractors. To my knowledge, the KCR has adopted a more traditional contract arrangement with contractors. I think, from what the MTR tells us, they're very pleased with their approach, with the results they've gained with contractors on the partnering approach. I think you should call them as a witness if you're interested in that.

石禮謙議員：

你是否認為房署夥伴式的提議，未能對建築品質作出貢獻？

主席：

Mr BUTLER.

Mr Ian BUTLER:

Sorry. There is a little bit of delay coming through. Yes. We haven't found that it has made any difference; certainly the difference we've noticed is that there is more site supervision generally, and the technical scoring used to be 50-50 and now it's 70-30. Technical is 70, and fee is 30. But the rest of the partnering: as I say, there is no fundamental change there.

石禮謙議員：

現在夥伴式的建議，是否並非純粹從建築品質方面去考慮，而純粹由誰負擔責任去考慮？正如你剛才提到，令到承建商或建築商負擔責任，從懲罰他們的角度去考慮，並非純粹以夥伴式考慮？這是否與MTR不同？

Mr Ian BUTLER:

Yes. I think so. Yes. It's quite a cynical attempt to try as a PR exercise, to look good in public. In practice, there is no change.

石禮謙議員：

主席。我最後一個問題，我想問就房署40、50的建議，如何改善房署建築……

主席：

我想我們不準備問這個問題，就40、50個項目的建議，我們稍候亦需要討論。因為今早時間的安排問題。如果只問一個答案，我可以讓你提問。

石禮謙議員：

我想問的是，就文件編號 SCI-R(Mis)0020 第二段提到 “The effectiveness of improvement measures launched by the Housing Authority to enhance the building quality of public housing are minimal. The improvement measures launched by HA two years ago as contained in the document “Quality Housing: Partnership for change” dated January 2000, are superficial in general”。我希望他解釋為何有這方面的意見？

主席：

其實Mr BUTLER亦有多次提及，是一個簡短的答案：表面上可以寫得天花龍鳳，但實際上卻沒有夥伴關係。Mr BUTLER今天是很清楚地帶出這個訊息。

石禮謙議員：

主席，我並非和你爭拗，但這paper內有許多建議，現在只提到夥伴式的建議，其中牽涉到報告內有多個項目未做。會後他們可否透過書面形式作出解釋？

主席：

我或者這樣處理，我們希望貴會可以就那50項建議，提供你們意見或看法。你們今天說得很清楚，很具說服力，你們表示未能建立夥伴式關係，即使提出很多事情表示需要改善，但實際上卻未能做到，這點我們亦很清楚，毋需再重複了。但那50項具體建議，你們有何看法？請3位代表於會後後補一份文件。因為時間關係，今天早上未能再討論那40、50項建議了。

石禮謙議員：

主席，我不是希望他們現在說，只是希望他們可以提供書面解釋，因為這會牽涉到我們將來對50項改善建議的看法。

主席：

明白。何先生、畢先生、林先生，是否可以提供資料？最後一位，呂明華議員。

呂明華議員：

多謝主席，還給機會讓我發問。

主席：

不過我要確保你的問題不是重複的，請你先發問，若是重複的，我不會讓你發問。

呂明華議員：

剛才我聽取3位代表解釋後，我對整個公營機構就建築管理方面出現的問題有所瞭解。我們亦清楚公營機構建築過程，會牽涉到多個角色，例如建築師、設計師、土木工程師、承辦商、實施工人等等。

我想知道，從建築師的角度來看，如果讓他們重新設計管理模式，應如何做呢？可否提供書面答覆？我希望他們留意兩件事，第一，私營機構內，也會有短樁事故；第二，在公營機構內，只有這段時間有短樁事故，以前未曾有過。如果在這段時間反映出管理架構的錯誤，以前沒有問題嗎？為何以前不會出現短樁事故或其他事故？我希望他們可以就這方面詳細地回應，從建築師角度來看，如何設計管理架構，令到有最好質量、最節省時間、最便宜？

主席：

這方面，貴會是否可以提供意見？以你們的角度，究竟應該如何做才是最好的，才不會出現這些問題？

如果各位沒有問題的話，我們現在休息10分鐘。多謝各位議員，亦多謝貴會3位出席研訊，協助我們解答很多問題，如果日後有需要，我們會再邀請3位再出席會議，3位現在可以退席。

(研訊第一部分於上午11時10分結束)

(研訊第二部分於上午11時19分開始)

主席：

歡迎各位出席立法會公營房屋建築問題專責委員會第二部分的公開研訊。委員會邀請香港建築師學會的代表，包括原會長韋柏利先生(Mr Barry WILL)和秘書長黃華生先生，現在邀請證人Mr Barry WILL和黃華生先生。

(Mr Barry WILL及黃華生先生進入會議室A)

Mr WILL和黃華生先生，多謝你們出席今天的研訊。

首先我想指出，專責委員會的目的，是依照立法會透過決議案所委派的任務，傳召證人作供，委員會不會就任何人，包括所傳召人士的法律權利或責任作出裁決。如果在委員的提問或證人的答覆中，提述到法院尚待判決的案件，並且可能妨害該等案件的話，我作為委員會的主席，可以禁止這類提述。

本委員會決定所有證人均須宣誓作供，我將以專責委員會主席的身份為證人監誓。

Mr WILL、黃先生，你們可以選擇用手按聖經以宗教式宣誓，或以非宗教式宣誓，請分別按放在你們面前的誓詞宣誓，首先我想請Mr Barry WILL宣誓，Mr WILL, can you please stand up?

Mr Barry WILL, Immediate Past President, The Hong Kong Institute of Architects:

I, Barry WILL, solemnly, sincerely and truly declare and affirm that the evidence I shall give shall be the truth, the whole truth and nothing but the truth.

主席：

Thank you, Mr WILL。現在請黃華生先生宣誓。

香港建築師學會秘書長黃華生先生：

我黃華生，謹以至誠，據實聲明及確認本人所作之證供，均為真實及為事實之全部，並無虛言。

主席：

好。我首先想向兩位提問，據貴學會所知，私人發展商是怎樣選拔這些承建商，是否用投標方式？如果是用投標方式，是否以價低者得的方式？

Mr Barry WILL:

I think the thing is, to answer that question, basically, we have a number of processes to go on. We deal with both the private sector and the public sector offices as architects. In the private sector, we have methodologies which often the tendering is a process with the in-house. For the bigger developers, they all have their own construction companies. So therefore they're looking after their own interests, and they basically have a very clear structure.

For some of the projects which are for private-sector areas, normal contracts would be let with the tendering processes; and in general terms the lowest price normally will win, and this will be the bid accepted. But recommendations are also taken on the performance of the contractor and their ability to perform the work. So the architects would produce a tender report which then would indicate whether they think the contractor has a good track record, whether they have sufficient equipment and materials to complete the work in the time-frame; whether they have enough financial backing; and also then comment or list out the prices in the order of precedence.

I think there are several methodologies which exist, so to answer your question, it's not just one process.

Chairman:

Is there any proportion or ratio being given to the price versus the technical expertise?

Mr Barry WILL:

For most of the private work contracts, that is not the case. It is generally a meeting which is held, and the architect would write a tender report. It's very difficult to quantify some of the things like track record. One could actually do it on the basis the government is doing, which is to produce a systematic process, which is a number of scores that you get through the system.

But for the private sector, that's not a very common methodology. It can be used for certain bodies, but generally it's a summary of the knowledge of the industry, a knowledge of the contractor's work.

Chairman:

Thank you, Mr WILL. 李卓人議員。

Hon LEE Cheuk-yan:

多謝主席。 I would like to ask a question of clarification on your observation note 1e, if you can refer to.

Mr Barry WILL:

Yes.

Hon LEE Cheuk-yan:

In 1e, you mentioned that "there should be a minimizing of the inequitable risk to the contractor; and one of the methods is the exclusion of exceptionally low tenders" — which you refer to. Can you tell us how do you define that "exceptionally low"? Also, does it mean that you should compare the tenders you receive and then exclude the lowest one just technically or mechanically? Or are you trying to say that after receiving a tender you should compare it with the pre-tender estimate of the HA? Can you elaborate on this point?

Chairman:

Mr WILL.

Mr Barry WILL:

Yes, certainly. I think what happens is that what we're talking about are two different things. One is risk, which is a factor that comes about from not knowing what is going ahead. For superstructure works, there is very little risk involved in it, because you can actually see what is there. You know you're building a building. You're building a structure; you're building various components to go into the structure. It's very straightforward. For sub-structure work, the problems come about because we do not know exactly what is under the ground.

The procedures and the old methodologies of tendering in Hong Kong have tended to put all the risks on the contractor. In other words, the contractor has to take the risks and take the losses, if it's not what they expected. The expectation can be improved by bore tests and by various other methodologies, to try and determine the sub-structure strata, but there's no guarantee that you always get it right. Unless you bored every square metre of the site, you will not have an accurate picture, so often some of the bores will go into holes, and there will be other geotechnical problems that we haven't foreseen before.

With the older methodology of contracting, the contractor put in a bid price which was a fixed price; and he was stuck with that price, whether he hit ground at a low level, or he hit ground at a deep level, which was, shall we say, bedrock. So the risk is all on his side. We do not believe this is a good methodology, because we believe that will lead to a large number of problems in the end, because the contractor has a huge risk, has to bid a low price to get the job in the first instance; and therefore there will be a conflict in terms of the end product.

I think when you ask us questions about whether we understand what a low bid would be, yes, we would, because we have rates. We have schedules of rates which we know. We usually use quantity surveyors. We have a track record of the costs over a period of time. We're tracking these all the time in our offices. So we do know how prices are moving up and down, particularly with respect to labour and to materials. We can tell whether a bid is low. Therefore we would say that we should exclude these lower bids, because it's going to lead to trouble. You're just asking for a problem in the future.

So the idea that you should take the lowest bid, that the lowest bid should always win, is a nonsense. It should not happen. It should be a bid which is a technically competent bid, a bid which meets what we believe to be a price that people can work at. I think one of the other processes which is a normal business practice is this: if you think the person is not going to make a profit in a transaction, it's going to be a problematic transaction.

So not only are we looking for a good price; we're also looking that there is some return for the contractor. Otherwise he will not renew his equipment; he will not be able to bid properly because he will lose a lot of tenders when he puts the bids in. His problem is that he probably may score one in six or one in seven. Nowadays maybe one in 20. It's got that bad. So he has to cover those costs as well. He has to make a profit.

Hon LEE Cheuk-yan:

Thank you. You mentioned about the inequitable risk in terms of ground condition. You said that something had to be done. As we understand, the HA has done something, and what they have done is to waive liquidated damages for delay due to an unanticipated complex ground condition. That's one of their improvements. I don't know whether you are aware of that, but can you comment on whether this is good enough to solve the problem of inequitable risk being put on the contractor?

Chairman:

Mr WILL.

Mr Barry WILL:

It's a small step in the right direction. I believe that the main problem is not the liquidated damages. The main problem is actually the cost of doing the foundation work — the drilling, the actual materials which are used to support the structures, and then the concrete work which goes into it; plus all the labour that's associated with it. The thing is that the time factor is but one element of it.

A fair way of doing this would be a measured system which says "We do not know what the ground conditions are. If the ground conditions are better than we expect, then you will pay a certain amount of money based on a rate, and you'll make a certain profit on that". The other way is: "If the ground conditions are worse than they are, then we will pay extra money and you'll still make a profit on that". I think it's not a difficult situation to solve, but where we have his black box idea that you think a contractor can guess what is under the ground and is willing to take the risks, then you're going to have a very big variation in your guessing game that goes on in the pricing of contractual work.

Hon LEE Cheuk-yan:

Thank you. Can you also clarify the point of insufficient lead-time between award of contract and commencement of work? Can you clarify how insufficient it is?

Mr Barry WILL:

I think one of the problems that occurs, particularly with operations like the Housing Authority, has been that often there is a design process; and then the design process will be altered by various groups within the Housing Authority, trying to meet a different criteria. It may be that, for instance, some of the standards have changed, or some of the costing has changed, or even the building may have changed in size — something like this. There's always this problem of re-organisation in the process.

What this does is to squeeze the tendering time, because you're meeting a dead-end time which is your handover time for whatever the part of the contract is. Additionally we have now instigated through the BD a large number of checking systems and submission processes, which are more than before. This means that all these are really wasted time in some ways, in the sense that the time is burning up. So you actually have to do all these processes; you have to fit them within the time scale, so the lead-in time to this is being squeezed all the time.

One of the problems is that this then tends to reduce down the number of bore holes, for instance, that one would do on a site, simply because the time

frame taken to do all the bore holes, the larger bore sampling, is actually excessive. You shorten this one, so you take a guess on a number of bore holes, rather than doing a very comprehensive study. I think this is the point we're making here: if you have a reasonable process, and we've done a reasonable time chart for the thing, that will allow for adequate bore testing and for adequate, other geotechnic methodologies to find the sub-strata.

Hon LEE Cheuk-yan:

In concrete terms, how insufficient is it? How short is it, as you believe in the case now? Say, you should give one more month or 2 weeks? What is your impression?

Chairman:

Mr WILL.

Mr Barry WILL:

I would think, just from experience and from averaging these things, we are probably short of time for approximately — simply because of the extra submissions to BD — one and a half months sometimes on these contracts. This is a difficulty in that sense. I think the time frame is actually shortened, but there are more things to do in it.

Chairman:

Is it one and a half months for the whole project?

Mr Barry WILL:

No. For the sub-structure, we're talking about.

Chairman:

The sub-structure. Just the foundation?

Mr Barry WILL:

Just the foundation. I would not talk about the entire process because I think this one was looking initially at the sub-structure when the conversation started on that.

主席 :

李卓人議員。

Hon LEE Cheuk-yan:

What do you think of the time frame in terms of that allocated by HA, to the sub-structure and the superstructure? Is it reasonable — the time in their design, or the time frame for the building? Also, how do you compare the risk with the private sector? Is it more risky or about the same risk in terms of time? Also, when the construction period is delayed, they have liquidated damages. Can you also comment on the liquidated damages, whether it is excessive or reasonable, compared with the private sector?

Chairman:

Mr WILL.

Mr Barry WILL:

I think the methodologies the Housing Authority employ — try to take into account the new impositions on submission processes — that there has been a change since the time since this thing was written, because this is a long period of time, basically. There have been changes, and I think to be fair to the Housing Authority, they have accepted that there have been increases in these time frames.

To say "in comparison with the private sector", I think the private sector is probably a little more aware of how to manipulate and to make the time work, mainly because the stages we are going through in the Housing Authority are very defined stages. For the private sector, they can catch up in various ways, because they're controlling in most instances their own contractors. Therefore you can spend a little bit more time on the sub-structure whilst still doing other things in the background. So simply because it's the way of letting contracts — because if you look at the contract, the sub-structure contract that's being let here, the superstructure contract that is being let here, there may be a cladding contract on top of this, various other fitting contracts, and so on — for the Housing Authority there are various stages you must go through in a very sequential process. For the private sector, we often overlap these, so we can gain back time as we move on through the project. Therefore it is not as critical for the private sector as it is for the Housing Authority.

Hon LEE Cheuk-yan:

Can you also comment on the question of liquidated damages? Is it reasonable — the level that the Housing Authority imposes?

Mr Barry WILL:

The tendency in the private sector now, say, for comparable sorts of projects — because there are hardly any small developers left in the private

sector doing this sort of work; they are mainly large-scale projects — is that they don't have liquidated damages. They're working with their own contractors, so there's no such thing as liquidated damages. They're just putting the pressure on the contractor to finish earlier.

Hon LEE Cheuk-yan:

Because they don't want to impose liquidated damages on their own company?

Mr Barry WILL:

Exactly. It's a no-win situation. All you do is to try and solve the problem, and you come to a resolution about how to gain back time.

Hon LEE Cheuk-yan:

How about the Housing Authority then, their liquidated damages?

Mr Barry WILL:

I think one of the difficulties there is that we often do not know who the main contractor is when we're doing the sub-contract, because there may be separate contracts. So in fact our recommendation to the Housing Authority recently has been trying to get the same person doing the sub-contracts as doing the main contract, because it's a much easier process. Otherwise you have to hand over the site. You start off with a new set of contractors and all the other processes that go with it. Often that contract is late, so your other contractor is waiting in the wings for you to finish the first stage.

Hon LEE Cheuk-yan:

You mean that the sub-structure and the superstructure should be one main contractor? Is that what you said about sub-structure?

Mr Barry WILL:

There are specialist sub-structure contractors, but there is a methodology where you can actually use the main contractor to employ the specialist sub-structure contractor. So therefore you would have one person responsible for it, and you would start the building that way. It has not always occurred that way. What has happened is that often the sub-structure contract has been let. This has been run, and while that's being run, we're doing the letting for the superstructure contract. It may not be the same contractor.

The real problem is, to make it a little bit more complex, that there are actually three parts to this. One is the actual piling or boring underneath the

ground. The other one is that on top of that, we usually put a pile cap. The pile cap can actually be done by either the sub-structure contractor or by the main contractor, so this one can go either way when you split it up into various components. If you have one main contractor looking after the whole process, then it doesn't matter who is doing it. He will organise the sub-contractors to do it in his order. This is why, in the private sector, we have fewer problems, because it is a more integrated process normally.

Previously the private sector had these problems where they were split up into minor contracts; and of course it did lead to more difficulties and to more liquidated damages. As the developers and the size of the projects has grown, this has, shall we say, moved to one side, and the mainstream is now to do it all together in one process.

主席：

李卓人議員。

Hon LEE Cheuk-yan:

Chairman, I would also like you to clarify your submission in 1b, about the two-envelope system. As we understand, of course it is now 80% on technical and quality, and 20% on pricing or fees. So it seems quite reasonable, 80-20, so more emphasis is on quality, but you mentioned here that the two-envelope system results in fee levels well below that required to effectively provide professional consultancy services. Can you clarify on this? Why is that, when they already have 80% emphasis on quality? You still find the fee level too low?

Chairman:

Mr WILL.

Mr Barry WILL:

Yes. We've had a number of conferences on this, and we've been working with people from other systems which are parallel to ours — the UK, Australia and New Zealand. We have proved conclusively that this system still relies predominantly on the final price. There are maybe one or two small examples that can be shown, where the price did not influence predominantly the end product or who was chosen.

Chairman:

Can you explain in a little more detail how this is achieved? My understanding is that they open the first envelope first, so they are satisfied with

the technical expertise, before they open the second envelope on which they place a weighting of 20% only.

Mr Barry WILL:

Yes. I think it's going to take a very long time to explain that.

Chairman:

Can you be brief?

Mr Barry WILL:

Yes. I would recommend to you that you read a paper from the Hong Kong City University which is trying to explain that it took a very long academic paper to explain the problem. But in general terms, the problem is what we call grouping in statistical analysis. Normally the process you're looking at for the marking for the technical scores is that most of the firms are already on the list, because they had to pre-qualify. Remember that we are not dealing with an open market. We have pre-qualified the architect or the consultants before they get on the list.

Chairman:

So actually it fulfils 80%?

Mr Barry WILL:

We're all in the same group. We're all capable of achieving the same level.

Chairman:

Now we have some idea.

Mr Barry WILL:

So the meaning of this is very, very minor.

Chairman:

Can you furnish us with a copy of that paper?

Mr Barry WILL:

We can do. Yes.

Chairman:

Thank you very much.

Mr Barry WILL:

I think one of the other processes that goes with this is that, of course, the spread for the prices will be much greater. Here you have a grouping of your professional capabilities which are all clustered around in norm, the centre, for the prices. A small variation in price will make a big difference, but because of the methodologies we're using, it is even compounded more because the prices actually are spread over 100% and then put back onto another figure. It's actually a very complex construction.

Chairman:

I think the paper will aid us a lot.

Mr Barry WILL:

Yes, but I hope I've got across the meaning that there's a clustering on one side and then the other side is open-ended.

Chairman:

I think we have some idea. Thank you.

Hon LEE Cheuk-yan:

We understand. The 80% almost is the same.

Mr Barry WILL:

You can have 90%, and it will still be mainly price.

Hon LEE Cheuk-yan:

It's only the 20% that really counts. That's what I'm trying to say.

Mr Barry WILL:

Even 10% counts.

Chairman:

Everybody passes the 80%. 黃先生。

Mr WONG Wah-sang:

Can I just elaborate? No matter if it is 20% or 10%, because we don't know how the Housing Authority really puts the mark through each architect. Maybe the first one got 20 marks and the second one got 10; or the next one got only zero, or something like that. We don't know.

Mr Barry WILL:

I think to add to that, there are Housing Authority people here, and I think they would agree that we've had a lot of meetings on this, about trying to work out a rationale for marking for the professional capabilities. A number of the clauses, or questions that have to be ticked off by a person who marks it, is actually very, very arbitrary. Even though it's a long questionnaire, the arbitrariness should be evened out. We have spent the last 2 years arguing backwards and forwards about the questions.

To be fair to them, they are trying to come up with a rationale about shortening this process and making it a little bit more, if you like, non-subjective.

Hon LEE Cheuk-yan:

Chairman, in item 2b of the witness statement, you mentioned one thing, "Professionals within the HA should be freed up from inflexible Administrative tasks to direct technical work". You used the words "inflexible administrative tasks". Can you elaborate or give some examples on that?

Chairman:

Mr WILL.

Mr Barry WILL:

I think the thing is that having just finished ISO 9000:2000, we are fully aware of how our office is working. My own personal office: I can give you an example. I just finished it yesterday. It's interesting. We're doing quite a lot of housing work; we do ArchSD work and we do private sector work. The files for the Housing Authority are 10 times the files we have for the private sector. That can give you some indication of the problems that are underlying the methodologies that have been introduced.

One of the difficulties with ISO 9000 is that it requires a huge amount of paperwork to justify, and it depends a great deal on how you set up your first criteria. There are a very large number of manuals which have been written for the Housing Authority. Failure to complete any small portion of this is a non-conformity. Therefore there are, shall we say, back-ups on back-ups on back-

ups to try and overcome this non-conformity problem, because if you get this non-conformity, your marks go down and therefore when you apply the next time, you have a problem.

So it is a self-fulfilling prophecy that you will end up with huge reams of paper — and it's not the way to go about it. We must stop this. It has to stop. We have to sit down and re-examine this whole process, because the paper is not ensuring the quality at the end. I think the reasonable people in the Housing Authority would say they're over-burdened with this processing of paper to get to an end product. I would also say that the number of meetings held to get from point A to point B is excessive. It should be cut by at least 50 or maybe 60%, without any loss of quality. I think we would end up with a much better end product, because we would be spending more time doing the quality controls, rather than sitting outside waiting for a meeting to come on, and to present the same information over and over again to a different group of people.

That has been recorded and recorded and recorded; and our record systems are monumental, to say the least.

Hon LEE Cheuk-yan:

Can I clarify a bit? Are you trying to say that because the Housing Authority has started with a long list of manuals already, and with the ISO 9000 imposing on the whole system, as you started with a long list already and have to check every process, there's a multiplying effect? Is that what you're trying to say?

Mr Barry WILL:

I think that's partially the problem, but I think the other problem is that when you start off with a manual and then you decide that you actually have to add another manual to this system, and another manual, then the thing becomes not just double or triple; but it becomes a compound problem, because you have to go back and refer back to the other manuals to revamp the whole process. It is, if you like, exponential when you start to do this. I think it's been a methodology to try and ensure in a very large organisation that there is consistency. This is an extremely difficult problem. It's not something which just the Housing Authority faces. Most governmental agencies that do this sort of process do face it.

Hon LEE Cheuk-yan:

Thank you.

主席：

黃先生。

Mr WONG Wah-sang:

The fundamental cause of all this paperwork is that the Housing Authority is doubling up or even tripling up with different parties. One of them is the Buildings Authority, because they are not required to comply with the normal procedures for the administration work involved with the Buildings Authority. That dated back to 1973 when we had this Housing Ordinance. The other thing is about the accountability for the Housing Authority, because they have to be responsible to the society, and with all these social pressures, they have to find some way to document every action they do. In case of short piles or whatever, you'll have to find out who's really responsible. Really it doesn't work because there are so many papers that you cannot find what's happening.

Chairman:

Mr WILL.

Mr Barry WILL:

Could I add one more thing to that? I think the process is that recently the Housing Authority has actually instigated a process — I see Chris Gabriel sitting at the back there, who is actually one of the people involved — which is actually equivalent to the Building Authority submission process. The idea is that this would try to help standardise the processes.

Of course this is a sharp learning curve, and unfortunately we were the first ones to go through this with Chris's team, but I think it is helping to simplify the process, simply because now you have some degree of comparability between the private sector and the public sector. The two would have to meet the same criteria for this. That has helped a little, and I think it will probably improve as experience grows in that field. I would just add that to what Mr WONG has said.

主席：

李卓人議員。

Hon LEE Cheuk-yan:

The Housing Authority also in many instances would employ architectural consultants. Do you think that after having an architectural consultant, the Housing staff should still do technical audits of the consultancy work?

Chairman:

Mr WILL.

Mr Barry WILL:

It's a difficult question. It depends how the Housing Authority employs the architectural consultant, because you can be employed for different portions of the work. For example, you can be employed to do the project from inception. That is not the usual case. It's usually somewhere around about the second stage of the process. What then happens is that if you're employed at a much later process in the thing, already a lot of the work has been pre-done, according to the Housing Authority. Then the architectural consultant is really doing the completion work of it.

So there are a lot of instances and different cases in this process. Some of them now are really even pre-inception, because competitions are being run by the Housing Authority, and the consultants are doing that from that point. I would say that in terms of auditing, one would say that there are methodologies that you can audit, and it doesn't have to be as complex as it is at the moment. The audits are already occurring by the time you present to the Building Committee and various other committees. These are all audits of a different form, but they are auditing what the private consultant has put forward.

Hon LEE Cheuk-yan:

Also, the Housing Authority does not fall under the Buildings Ordinance. In the Buildings Ordinance there are sanctions on authorised persons. This does not apply to the Housing Authority constructions. So do you think that there should be some sanctions on architectural consultants, just like the sanctions on authorised persons on the Buildings Ordinance, which should also be applied to Housing Authority construction?

Chairman:

Mr WILL.

Mr Barry WILL:

You've raised a very interesting point. I think that is not quite correct. What happens is: as an authorised person, whether I am signing as an authorised person or whether I am acting as an authorised person, I still have responsibilities because I am a registered authorised person under the Hong Kong government processes. If, for example, I put up a hoarding and somebody is injured by the erection of this hoarding, I will have the same processes instigated against me as an authorised person, whether I'm working for the Housing Authority or not.

I think this idea that the Housing Authority is exempt from the Buildings Ordinance is actually a little bit of a misnomer. It may be in terms of some of the planning requirements of the other forms, but in terms of safety, I could not agree with the statement that we would be exempt as an independent authorised person, because having been an authorised person, you should know all these rules. I believe that if you were to create some problems and you were negligent, you would fall under the same criminal liabilities as you would if you were doing private sector work, because you would not be able to deny: "Today I'm an authorised person. Tomorrow I'm not an authorised person", or "On this project I'm not an authorised person". You don't lose that expertise, and in a court of law I don't think you'd have a chance of arguing that case.

Chairman:

Disciplinary proceedings?

Mr Barry WILL:

It would be an interesting question, because it would depend who brought the case against you, but one would suspect that if you did do something wrong, the Buildings Authority would step in and then you would be disciplined simply because you are...

Chairman:

Even for the housing projects?

Mr Barry WILL:

Well, it depends, because the housing project is actually not a sort of an island. It's actually attached to the public domain. I'm just using the hoarding because it's a very good example. The hoarding is actually between you and the public. So having done something on the outside of this, I don't think any private authorised person could hide behind the Housing Authority and say: "It's not my responsibility. It's Housing Authority's problem". I don't think it would go away that way.

We would like to think it happens that way, but I'm sure it would not. I cannot give you an example because I don't think we've actually tried that out, to my knowledge. But my belief is that if you were to do something wrong which caused, say, injury or death to the public, and you are an authorised person on the list of authorised persons, whether you're acting as the authorised person for that process or not, it would be very hard to deny that you have that knowledge.

Chairman:

I suppose if you're talking about injury and causing other people death, it is not just the authorised person who gets himself in trouble. Anybody would.

Mr Barry WILL:

We would be liable for civil processes, but we would also be liable to criminal processes.

Chairman:

Would it be fair to say that if an authorised person is subject to the Buildings Ordinance, it would put more pressure on the authorised person concerned?

Mr Barry WILL:

Yes, definitely.

Chairman:

And it would be easier to find fault in that authorised person, hence resulting in disciplinary proceedings?

Mr Barry WILL:

I would say that's a fairly accurate statement, and I think that — I'm actually the Chairman of the Authorised Persons Registration Committee, so I'm quite aware of these problems — the points you're bringing up are something we have discussed. We're not quite sure, because nobody has tested it this far yet. But we would believe that once you are down on the public list because you are gazetted as an authorised person, you're a little bit like a doctor in the sense that if you're a doctor, you're always a doctor. You can't deny you're a doctor, and if you were to treat somebody who fell over in the street, technically you'd still have to be a doctor. You can't pretend you're the public, and we believe it would be a similar process for the architects, for the authorised person.

There are about 1000 of us in Hong Kong, about 800 of which are architects. Authorised persons are very, very vulnerable people. We can be sued by the clients; we can be sued by the Housing Authority, the employers; we can be sued by the public; we can also be taken to disciplinary proceedings by the Buildings Authority. I think we're all scared.

主席：

何俊仁議員。

Hon Albert HO Chun-yan:

Thank you, Chairman. Mr WILL, in your statement under paragraph 1e, you said that the excessive management requirement for contractors should be cut down to save administrative costs which add to the construction cost. Now, apart from excessive paperwork and overly complex manuals and guidelines that you just mentioned, is there anything you would like to elaborate on this point?

Mr Barry WILL:

I'll let my colleague speak on this one.

主席：

黃先生。

黃華生先生：

如果是私人的發展，在建築過程需要更改，是比較容易的，他們可以直接跟業主的代表(所謂Project Manager)商討怎樣更改，那麼很快便可以辦到。

至於房屋署，則必須經過一個process，須經過Building Committee，要3至5個月的時間才可以作出更改。以公眾的角度來看，便會損失很多好處，譬如即使有很多新材料，有很多新科技可以應用在project，也都用不上了，最後的損失都是公眾。

何俊仁議員：

你剛才表示，如果有任何更改？

黃華生先生：

是舉例而已，即如果需要更改時，他們的process須較長時間。

何俊仁議員：

還有任何其他例子嗎？

黃華生先生：

舉例來說，如果他們deviate from specification，即本來沒有某種材料，現在需要用新材料，但以前沒有批准的，如果現在要用的話，必須經過這個process，需要幾個月的時間。

主席：

簡單而言，是否彈性不足？

黃華生先生：

可以這樣說，即是不夠彈性。如果一定要依照來做的話，是很難做到的。

何俊仁議員：

黃先生，倘若有些更改，令到承建商能在規限的時間完成，但是如果須更改，則需要房屋署很長的時間，以致不可能在合約期內完成，豈不變成要罰款？是否會有這個後果？

黃華生先生：

這個情況比較複雜，如果更改不是contractor的要求，而是業主代表(即房屋署或建築師)要求，而影響到工程延誤，這樣對contractor而言，根據一般合約，非但不用罰款，還要補償給他。

何俊仁議員：

你提到工作程序、指引或manuals太過複雜，在這方面你是否有所補充呢？

主席：

是否可以列舉例子，有哪些工序可以減省？或者如果你們今天不能提供，其實你們內部有否討論過而有結論，然後以書面形式後補我們？

黃華生先生：

你問到的這些問題，是較detailed。

主席：

是的。你們是否可提供資料？你們認為哪些工序可以減省呢？

Mr Barry WILL:

We could do; yes. We could do. I think one of the things I would add to it is that all the industry is in a state of change. To be fair to the Housing Authority, they're endeavouring to do site-specific design, which is actually quite a big change from using this monolithic multiple replication of buildings. The site-specific designs are now moving into the field where we're trying to integrate a lot more prefabrication into the processes. Although they were using prefabricated panels before, for the outside, they're now trying to do it for partitions and for staircase elements and for all these other elements. They're trying also to use different types of construction methodologies — more "buildability", as we call it.

So I think that if they're doing this, then the contractual procedure is going to change quite dramatically because it shifts from being an on-site problem to an off-site problem in a factory. So we will then be able to organise these things in a better way, and I think moving away from this sort of very traditional methodology with some prefabrication is going to improve the process considerably, because we will be able to control a lot more of the processes in a factory environment, which is a much safer environment.

主席：

可否後補文件給委員會？

Mr Barry WILL:

Yes, we will do.

黃華生先生：

可以。

何俊仁議員：

多謝主席。我希望提問關於地盤技術檢查，亦是陳述書第2d部分。我希望提問，一般而言，在地盤監察地基和上蓋工程，地盤監察人員最少有幾多人才足夠呢？同時，應具備甚麼資歷？

Chairman:

Mr WILL.

Mr Barry WILL:

I think I have to believe this one, what's happened is that already there have been a lot more moves for site safety supervision plans. This is written previous to this time. Already we have more things on site. My belief is that the key thing for this, though, is that we are looking in the wrong areas. If we were to do more development of design, with more, if you like, sophisticated techniques, we will not need as much site supervision as we have now. Our problem is that we're still dealing with relatively primitive systems which are equivalent to 18th century technology. As we move forward into more modern methodologies, the supervision will shift into a different environment. Instead of having somebody on a site standing there looking over the thing, it will already be something which is much more monitored in the process; and this comes from higher levels of equipment, from better methodologies of calculation, which mean we may not need some of the foundations that we actually have. In fact, a lot of the things we do now are so over-designed that we're doing it simply because we don't know how to calculate the processes.

To give an example, the private sector is moving more into wind tunnel testing and into these methodologies, to actually contest the building regulations about structural design. I'm just doing some 70-storey buildings here on Hong Kong Island. We have used Canadian and UST people to do our wind tunnel tests for us, and we are changing. We're not following the building regulations according to their processes, because we can show from our computer modelling that we can reduce down the structure.

So, often we're using, if you like, brute force techniques, to get to an end answer. So my belief is besides supervision, actually we should be putting more emphasis on the front end design of our buildings, rather than on, if you like, the crude construction methodologies of the building sites. We're not going to get away completely from site supervision, from boring piles and from doing this. We're not going to get away completely from it, but we will be able to improve our methodologies and reduce down the number of piles we require, for example, by using different methods of calculation. That's one of the methods of process.

Hon Albert HO Chun-yan:

I see. Would you be also kind enough to elaborate on this on a short paper, on how advanced technology would help to strengthen the quality?

Mr Barry WILL:

Yes.

Hon Albert HO Chun-yan:

To ensure quality, and hence site supervision can be better?

Mr Barry WILL:

Absolutely. I don't want to make a speech at this time. I just want to say one or two words. I think one of the things is: we answered a problem which was sent to us, and we sent back some information to you. We believe that at the moment Hong Kong is in a very difficult situation, not because of the financial crisis but because we do not have a comprehensive housing policy. Our problem lies in the housing policy. It's not in the problems with foundations and with other things like this. This is a symptom of the disease.

Recently what happened is this: we did several flip-flops of our housing policy. We said: "We're going ahead. We're going to build 85,000 units a year in the public sector". Suddenly somebody says: "No. We're not going to build". "We're going to build 35,000". "We're going to build none". "We're going to build some".

The bodies that are involved in this process — I sit on a number of government bodies myself — is the Housing Bureau; the Housing Authority; the Housing Department; the Housing Society; the government procurement system, which is the one looking after all the government flats, which is now pouring very large numbers of units on to the market, without anybody knowing about it. All the universities have given back their expensive luxury housing. We have the URA now, which surely is part of, sitting on this process, working for new housing elements. All these people are involved in housing. None of them are talking comfortably to one another — why don't we have one body looking after this? Because then, we will have a process. At the moment there is a pyramidal system of contracting in Hong Kong. At the top of it we have the consultants. Underneath this we have the contractors; underneath this, the sub-contractors; underneath this, the workers who are working for this; and the very large supply network we have. We cut this off immediately. What has happened is that the whole industry has turned into turmoil. Suddenly, we were supplying all this system, you can't turn the tap off like that. This is crazy. We're doing ourselves a serious, serious injury. You cannot make a decision that we will have 85,000 houses now and no houses next year. It will not happen.

Hon Albert HO Chun-yan:

Yes. What you said is indeed very interesting, and we look forward to reading your paper, with regard to the introduction of modern technology.

Chairman:

Please include that in your paper.

Hon Albert HO Chun-yan:

Yes; to enhance building quality.

Mr Barry WILL:

In fact we won't have these problems if we're doing it the right way.

Hon Albert HO Chun-yan:

Yes. But let's go back to reality. OK? Let's go back to what is happening in reality.

Mr Barry WILL:

What is reality? Please tell me what is reality.

Chairman:

I think what Mr WILL's saying is very real.

Hon Albert HO Chun-yan:

The fact is that the system in Hong Kong is still rather primitive, it has still yet to be developed towards the direction you just mentioned. Now, do you have any comment on the Clerk of Works system that is now in place in the public housing projects in Hong Kong? Is the size sufficient? How about the qualifications of the people? Can they be expected to discharge their functions properly?

Mr Barry WILL:

I don't know whether Mr WONG will agree with me, but personally I think the Clerk of Works system should have gone out 100 years ago. I think it's a problem which is not a very satisfactory answer to a problem. The people involved in it are put under pressure that they cannot resist, in some instances.

Hon Albert HO Chun-yan:

Yes.

Mr Barry WILL:

Many of them are not fully qualified and therefore do not have an overview of the whole project; and I think the reason why we have fewer problems on civil works compared to, say, housing works, is because we have a higher level of technical staff operating the supervision processes. To be fair, I believe personally that the Clerk of Works system is out of date.

Hon Albert HO Chun-yan:

Is out of date?

Mr Barry WILL:

Is out of date. We should not be working at that level on sites like this.

主席：

黃先生。

黃華生先生：

我就Mr WILL的意思作出補充，Clerk of Works的目的，是有些人直接監管地盤，如果高level的人，不是去監管地盤，只是監管Clerk of Works所做的事情，那是沒有意思的。如果又有Clerk of Works、又有高level的人，譬如Engineer和Architect去監管。如果高level的人，只是看低level的人所做的事情，則是沒有意思的。

主席：

如果有高層的人去監管，也不需要低層的人了？

黃華生先生：

不是這樣，因為高層的人是人工昂貴，如果落石屎或如何放鐵等工序，是不需要Clerk of Works full-time監管的，工程師應實地去監管該項工程。

何俊仁議員：

即是你也同意資歷和經驗，很多時候都不足夠？即現在公營房屋內的Clerk of Works？

黃華生先生：

這不是表示他們資歷不足，而是高level的人，也要參與實地監管那個product，不是單看工人所做的工作。

Hon Albert HO Chun-yan:

Now, let's move to another topic about the sub-contracting system. OK? It seems that it actually is the practice. It seems that a certain problem has emerged from this practice of sub-contracting. Now, presently the Housing Authority has come up with a proposal that there should only be one layer of sub-contracting, instead of multi-levels of sub-contracting.

Chairman:

Just for piling works.

Hon Albert HO Chun-yan:

Just for piling works. Now, do you have any comments on this newly introduced policy?

Mr Barry WILL:

I don't think there's any problem with that, but I think one of the processes is that the reason why piling works are sub, sub, sub-contracted is because of the price problem. So one contractor will take it on and then try to let it to somebody else. He tries to make a small profit out on top of it, and then leaves it to his colleague, and so it goes on. So to track it down is often quite difficult. What it means is that we have to be fiercer on the registration of contractors. They will not like that, the sub-structure contractors, but the main contractors probably would not have any objection to that in some ways.

I think that if the sub-structure contractor is getting paid fairly, he will not want to sub-contract it. It's a problem which has developed from the pricing strategy. If he's making a reasonable profit out of it, why should he give it away to somebody else? If he's not making a reasonable profit, he will try and skim off the top and then pass it on to somebody else. It has been an endemic problem in a lot of areas in Hong Kong, even in the private sector for smaller buildings, with the sub-contracting.

There is nothing wrong with sub-contracting, provided you know who the sub-contractor is, they have a track record and they actually do the work. I think we are now moving towards a slightly better system of registration of contractors. We have got this specialised area of registered contractors for sub-structure work, but we will take a few years to get these people into a very

professional organisation in terms of experience. That is why I go back to that point, that if we cut off Housing policy like this, these people will disappear out of the industry, and we'll get a new lot of them back in again, who are not experienced. This is a very worrying trend that we see — you have a certain amount of public work, and then suddenly it's cut off. What are these people going to do? They've actually built up to try to do this contracting work. Now there's no work for them, so they have to lay off staff, lay off their senior people, the ones who actually know how to do the work. This problem is not a problem of sub-contracting. It's not a problem of this. It's a problem of policy, about where we're going and how we see our industry.

Hon Albert HO Chun-yan:

In short, do you agree that limiting the sub-contracting to only one layer is beneficial?

Mr Barry WILL:

It will not work if the contractor is no good. It doesn't matter how many layers you limit it to, if the contractor is not experienced and is not properly equipped. It will not matter.

Chairman:

Are you also saying that the registration of the contractors for the sub-structure should also be phased?

Mr Barry WILL:

It's there now, but what we're looking at is this: you can register people, but you also need an intrinsic experience pool in the industry.

Chairman:

How do you avoid that pool being dissipated?

Mr Barry WILL:

By not doing very rapid round turns on policy, because you're looking at an industry; you're trying to predict where it is going, so you built up an industry; and then suddenly it's gone overnight. This is a very big problem. I can't emphasise this enough. We're looking at the wrong area of the problem. We're asking these people to forward — think, to put their money where their mouth is; to buy equipment; to buy these very large rigs; get experienced people in place — people who can do proper testing, people who are honest and experienced. And then suddenly there's no business for them. So they're going to go.

Hon Albert HO Chun-yan:

What is the view on extending the application of the Buildings Ordinance to all public housing projects?

Mr Barry WILL:

No problem at all. I don't think the Housing Authority has a problem. We're doing it already. It's already been done. I think the last three or four projects I've done for Housing Authority we've done under Buildings Ordinance — the same format. In fact there are Buildings Ordinance staff in the Housing Authority, vetting our plans and looking at them in exactly the same way as we were doing it in the private sector.

Hon Albert HO Chun-yan:

And you support this proposal?

Mr Barry WILL:

Definitely. I think we need a standardisation of processes, because then for the consultants it's much simpler; for the contractors it's much simpler — because we all know what the rules are.

Hon Albert HO Chun-yan:

Now, if the Buildings Authority has to supervise this building work in addition to the supervisory role of the Buildings Authority, do you think it would increase the building costs as well as time?

Mr Barry WILL:

No. I don't think so, because many of the processes are so well-known. I think in essence we have enough staff, if we organise the staff in different ways — costing, supervision and that. I think there's enough money already in the system to do the supervision work. I think it can be done in a number of ways. One of the processes is that in this industry we have a problem in terms of trying to understand how the Buildings Authority works, but in essence the Buildings Authority is now sub-contracting work to the private sector. So what it is doing is: where it has over-demands in some areas, it is actually using private sector methodologies for helping it to do this work. There's no reason why it can't be done that way.

Hon Albert HO Chun-yan:

OK. I have no further questions.

Chairman:

Thank you very much. If the members have no further questions, I wish to take this opportunity of thanking Mr WILL and Mr WONG for taking the time to attend this hearing of the Select Committee. In future, if the Select Committee has any further queries and wish to invite both of you to come up again, I hope you don't mind coming to spend some time with us.

Mr Barry WILL:

You would like us to submit some extra things?

Chairman:

Yes. We will await from you the documents that we referred to earlier, your views on various matters. Thank you once again, both of you. You may both retire now. Members, can we have a 5-minute recess?

(研訊第二部分於下午12時17分結束)

(研訊第三部分於下午12時26分開始)

主席：

各位委員，現在進入公開研訊的第三部分，委員會會向 Mr Peter BERRY 取證，現在邀請證人 Mr Peter BERRY。

(Mr Peter BERRY 進入會議廳)

多謝 Mr Peter BERRY 出席今天的研訊，首先我希望指出，專責委員會的目的，是依照立法會透過決議案所委派的任務，傳召證人作供，委員會不會就任何人，包括所傳召人士的法律權利或法律責任而作出裁決。如果在委會的提問或者證人的答覆中，提述到法院尚待判決的案件，並且可能妨害這些案件的話，我作為委員會的主席，可以禁止這類提述。

本委員會決定所有證人需要宣誓作供，我將以專責委員會主席的身份，負責為證人監誓。Mr Peter BERRY，你可選擇用手按聖經以宗教式宣誓，或者以非宗教式宣誓。請依照放在你面前的誓詞宣誓。

Mr Peter BERRY:

I, Peter John BERRY, swear by the Almighty God that the evidence I shall give shall be the truth, the whole truth and nothing but the truth.

Chairman:

Thank you very much, Mr BERRY. Mr BERRY, I understand that before you take questions from members, you wish to make an oral statement. Is that correct?

Mr Peter BERRY:

Yes, Chairman, what is missing from the oral statement is thanking you for allowing me to be present here today. I did put that in my first paper, not expecting that I would have to have an opening statement as well.

Chairman:

Only if you wish.

Mr Peter BERRY:

If the members have read the opening statement, then there is no real need for me...

Chairman:

Which one was your opening statement? We have three documents.

Mr Peter BERRY:

That's right. I did one document. I was then asked to do two more, there's a minor confusion.

Chairman:

I see. We have a copy of that already. So you have nothing to supplement over and above what is already contained in this document?

Mr Peter BERRY:

Other than to reinforce what Mr WILL said. For me, Housing Department has gone a long way with solving the problem that was there 2 years ago. I don't think quality on-site for the general construction — or perhaps even not in piling — is an issue of quality any more. It is other kinds of problems that are coming that need solving as a follow-up to that. That is the bureaucratic problem seemed to be somewhat — and as a 30-year bureaucrat even I recognise that to be over the top in places. There is too much of it. My background would give a little more clearer picture.

I did work for the government for 30 years, in the Architectural Service Department, for all but six of those, nine of those years in Architectural Service Department as a technical auditor and the last 6 years in Works Branch, as it was then called, on policy. So I have a rather chequered career within government. I retired more than 5 years ago and now do some consultancy work to both consultants and contractors on a number of issues on a part-time basis.

My interest in housing goes back quite a long way. I have never had anything directly to do with them but I was involved in drafting contracts that they then took up and modified for their own use and benefit. That is where the allocation of risks problem comes in but, as you've seen from my first paper, the real problem is with time scale of solving on-site problems. It takes forever to get an extension of time sorted out and then the money flow sorted out. As I said in my opening statement, I am not here to broadside Housing Department. They are the leaders in much of this and Works Bureau, for instance — is trailing somewhat behind on these issues. That is a bit embarrassing for me, but Housing Department are leading these things and trying to do the right thing but there is still a major problem in the decision-making process when you actually get on to a construction site. I refer to "fear" in my notes and it keeps coming up from the contractor's side. I sit on several little sub-committees and working parties and I hear it in small talk all the time. It is a background — "I am not going to put my head above the parapet" and you will not hear from individual contractors direct complaints in this room. That is why I put my head above the parapet because who is going to shoot at me?

Chairman:

You are indeed brave, Mr BERRY.

Mr Peter BERRY:

No, foolish probably. I just think that something needs to be opened up and discussed with, some solid effort of a change of culture towards what after all the Honourable Henry TANG and Housing Department or Housing Authority themselves have said, "We want to go towards partnering." I don't see it happening. They are not working towards this mutual problem-solving problem. Well, my guess is that if they were found talking too closely to contractors, there would be immediate suspicion about the outcome. But that is not necessarily so, if you have a strong audit team that overlooks and sees fair play and you have a process that requires a quick step-by-step decision-making process and an end product which doesn't drag on disputes for years or drive everything towards lawyers and arbitration, because the only ones who benefit are the lawyers. Housing Department won't. Public money is wasted and contractors have to find this money from somewhere else and in other tenders to pay for the money they spend on lawyers going to arbitration. There's got to be a better way.

Chairman:

Apart from this very important criticism of the system as such, do you think that the policy of accepting the lowest tender compounds the problem?

Mr Peter BERRY:

Yes.

Chairman:

In what regard and is there any substitute for this policy?

Mr Peter BERRY:

There are a large number around the world. I am not sure we are ready for the more extreme ones yet. There's no tender like alliancing, which is used in Australia by government departments and authorities. I'm not sure we are ready for that yet. We do not have partnering, never mind alliancing. I think that the two-envelope approach — Housing Department is really quite well set up for it. They have their "Super League" and they have their "Secondary League". They have "PASS 2000" with scores. What they should do is emphasising these scores, keeping them as objective as possible so that contractors would have no complaint when they are the lowest tender but don't get it. It should be open and seeable, checkable. If they went down that road...

Chairman:

You are talking more transparency to that system?

Mr Peter BERRY:

Absolutely, so everyone feels they can trust each other on these issues.

Chairman:

Do you think that is a workable method or does it need refinement?

Mr Peter BERRY:

It needs refinement. They've gone a long way down this road. That's why I am not here to broadside Housing. They have gone a long way. It's just not quite reached there yet, and I was hoping, as I have said — and what you are endeavouring to do in opening it up — is that you will give them the final shove that is necessary to close this low tendering. I mean, I would love to see 80-20 for contractors, 80 on their skills and 20 on their price. We don't get that now.

I don't think with the past system, even though you have "Super League", it will be quite as narrow in its money side to quality side, as you have got with consultants, because I think the list goes on for over a period of 2 years, when the quality control "PASS 2000" is operated on a monthly or quarterly basis. We've got a whole bunch of records that will add up at the end of the day and this will give a good starting point, at any given spot in time, as to what the contractor is doing now, as a picture of what the contractor is doing now. Is he improving? Is he not improving? These are things to be brought in and given a number, a value, and if they agree these numbers and values with HKCA, and the contracting bodies that form Housing Department's preferred list, then the contractor has no argument or reason to complain about the outcome. It is in their hands.

Chairman:

Ms Audrey EU.

Hon Audrey EU Yuet-mee:

Yes, Mr BERRY, I thank you very much for coming. I would just like to start with some general questions. You have very kindly given us three statements and it refers, in fact, to your coming to Hong Kong before traffic lights. You have been here for 40 years. Can you also tell us a little bit more and say, in what aspect of the construction industry you were mainly involved in?

Mr Peter BERRY:

I was trained as a quantity surveyor. I was qualified in 1959, before coming here I went to construction sites in England and Jamaica and came here in 63; worked privately for a quality surveying firm before joining government in October 66.

Hon Audrey EU Yuet-mee:

We are particularly interested, of course, in the Housing Authority projects. Can you tell us whether you've done any contractor's work for the Housing Authority?

Mr Peter BERRY:

I have looked at some problems in the Housing Authority in the last 2 years, yes.

Hon Audrey EU Yuet-mee:

And before the last 2 years?

Mr Peter BERRY:

No.

Hon Audrey EU Yuet-mee:

So you haven't done any contractor's work for the Housing Authority?

Mr Peter BERRY:

No, not until basically 2 years ago when I was asked by one particular contractor to write some letters for him.

Hon Audrey EU Yuet-mee:

And can you tell us with the last 2 years' experience that you have with the Housing Authority, what aspect of it — for example, what type of construction is it and what is the problem that you were particularly dealing with?

Mr Peter BERRY:

It was basically getting answers to problems that come up on site, requests for extensions of time, for example, to solve cash flow and to get paid. When agreement has been reached, it takes quite a long time for these papers to be produced and sent off to the Housing's Building Committee for their approval. There are questions and answers going backwards and forwards and all this time, the contractor, having got basic agreement, is entitled to a sum of money but just doesn't get it. It can take a very long time.

Hon Audrey EU Yuet-mee:

And you were acting as a consultant for that particular contractor who was then trying to get money?

Mr Peter BERRY:

I write his letters. I don't make claims. I don't want to stress individual contractor's examples because I see a snapshot of that and I only hear the contractor's point of view, so to say that, I've got the full story, I am not even close to it.

Hon Audrey EU Yuet-mee:

No, but what we are actually interested in is the contractor's point of view and we were just wondering in your dealings, for example, as a consultant to the

contractor with the Housing Authority, whether you can tell us from your snapshot whether there is any conclusion that you can draw which could help us; for example, in the paperwork, in the way the Housing Authority deal with contractors? That, of course, is what we are interested in.

Mr Peter BERRY:

I did do a paper, a proposal, to Housing Department, I suppose, to Mr MILLER, some while ago on how we might deal with extension of time expediently, by putting time limits with the reasons as it passes up their chain on the basis that if the contractor doesn't look after his own interests and fails to make a claim, then bad luck. It is his fault. If he does make a claim, then we expect the conditions of contract to be followed, which requires the architect to ask for information and the contractor then has an obligation to provide it within a certain amount of time, I am suggesting now. The people on-site know at that time the answers to these questions. If they find it is not true or the contractor is exaggerating and they give reasons, then that will go forward. If they can find no reasons to dispute with the contractor, then that goes forward for sanctioning and the contractor gets the time or a modified amount of time, depending upon whether these reasons, given by Housing Department staff on-site, are rational and reasonable. At the moment, it just drifts on.

Hon Audrey EU Yuet-mee:

You see, Mr BERRY, one of the things we feel in this particular Select Committee is that quite often we notice that everybody who comes to tell us about the Housing Authority projects always concentrates on progress. In all the progress reports, in all the site meetings and whether you ask the Site Engineer or whatever, everybody said, "My job is to look at progress and whether there are complaints about environment concerns and so on". I was just wondering how can that possibly, if at all, be a question of quality control and whether, for example, you feel that there is an over-concentration on progress and hence to the detriment of quality control, and whether you think that it is not a fair conclusion to draw?

Mr Peter BERRY:

It was a problem because if a contractor has no commercially sensible completion date by which to end and he is threatened with liquidated damages of very large sums, then he is going to try and accelerate the work. If you are going to rush your work, there is going to be a risk of less quality at the end of it. Less safety, less environmental if you are going to cut corners to reach the deadline imposed, then what very often happens is that 6 months later, 12 months later, 7 years later, someone will give the extension of time.

Hon Audrey EU Yuet-mee:

How does that compare with private contracts in terms of the extension of time or the assessment of extension of time and the control of progress? Do you feel in your dealings with private projects that there is a marked difference between how the Housing Authority looks at progress and how private developers look at progress?

Mr Peter BERRY:

When you are dealing with the taxpayer's money, you have to be a lot more staged, step-by-step and justify it. We have a panel here that could be called — this Select Committee, a panel, Public Accounts Committee — anyone could investigate where the money went and why. With private side, whilst they may screw down the contractor for as little profit as possible. They may also push him towards the deadline so they can rent, sell, whatever their end product. They usually make sure the guy doesn't make a loss and things like liquidated damages and claims and time extensions are not dealt with in the same ritualistic way as they were with the government department spending taxpayers' money. They are actually spending their own money, as Mr WILL so rightly pointed out and they will sort it out one way or another.

Hon Audrey EU Yuet-mee:

But is it possible to make any general comparison? Maybe you will say it is not fair to make any general comparison in which case, of course, we do not need to pursue this particular line but I am just really interested in finding out whether, in terms of a private developer and the Housing Authority, whether you think there is any difference in terms of the emphasis they put on progress and on time control in granting extensions.

Mr Peter BERRY:

I would think, as the evidence says, the private side is much more determined over time. They have spent huge land premiums and invested enormous sums of money and it is essential to get the product out onto the marketplace whereas Housing Department obviously has time limits and they want people in these buildings. They have forward-planned to do that and time is important to them, but it is not quite as critical, I would suggest. Housing Department may turn around and say, "You are talking nonsense." I would suggest it is not as critical. They have extensions of time clause; they honour those extensions of time clause certainly, eventually, when the battle is all over.

Hon Audrey EU Yuet-mee:

I have to come back to liquidated damages later but can I ask you, as a contractor, whether you prefer the Housing Authority's design-and-build type of

contract or whether you prefer engineer's design and whether you have any comment on the Housing Authority standard design?

Mr Peter BERRY:

I am not a designer. You are getting a bit out of my league on design.

Hon Audrey EU Yuet-mee:

But from the contractor's point of view, whether you have any particular comment on design-and-build contracts or engineer's design contracts?

Mr Peter BERRY:

My take on it would be that the contractors will prefer to do the whole thing themselves because they are in control of their own destiny. I am quite sure professional architects will be up in arms at that thought because it would possibly mean that they have to work for the contractor.

Hon Audrey EU Yuet-mee:

I'd like also to ask you about the pre-tender stage and, in particular, about site investigation. We know the Housing Authority would undertake what is called "a Foundation Advisory Report" but their policy is that it is not released to the potential tenderers for whatever reason which we don't need to go into. I just want to ask you what you think of this particular practice and whether, as a matter of practice, contractors will always do their own site investigations?

Mr Peter BERRY:

They don't have time. They simply don't have time to go on-site, unless you are going to give them 6 months lead time and you have six or ten contractors all trying to do site investigations. It is also not practical.

Hon Audrey EU Yuet-mee:

So if we are looking at improvements, do you have any suggestions as far as site investigation work is concerned?

Mr Peter BERRY:

This is what I meant by my comment about what harm I might have caused in my past. I fought against releasing this information when I worked for government on the basis that it was so unreliable and to guarantee it to a third party would probably get somebody sued for even advising it.

Hon Audrey EU Yuet-mee:

And now?

Mr Peter BERRY:

The controls that are in place now just sweep that aside. I see no reason why a contractor cannot be given as full as possible information on soil investigation reports. I don't think manifest cheating goes on like it used to. I can give examples now but it is not relevant at the moment. The controls are there and are quite explicit. As far as I can remember, Housing has introduced some hundred-and-some-odd extra site staff to oversee those matters and other things. They have restructured how things are observed, supervised, from what I've said was, from the lowest possible common denominator to the lowest competent person.

Hon Audrey EU Yuet-mee:

So is it a general rule you would suggest that the Housing Authority ought to release the site investigation or the Foundation Advisory Report?

Mr Peter BERRY:

Absolutely, I have no qualms about that whatsoever. I think it's an essential step.

Hon Audrey EU Yuet-mee:

The other thing is on this lowest tender. You've already answered the Chairman's questions on that and given your views as to why you think the lowest tender is not a good idea. I'm just wondering — and if you can't, just say you don't want to — whether you think that if price is one of the factors to be taken into account. What proportion or how much percentage should one give to a pricing?

Mr Peter BERRY:

It depends upon policy. If you are trying to save money, then price. If you are trying to get quality, then quality.

Hon Audrey EU Yuet-mee:

We are talking about Housing Authority projects.

Mr Peter BERRY:

Yes, exactly.

Hon Audrey EU Yuet-mee:

Those things are obviously important, quality and price.

Mr Peter BERRY:

Yes, but if you allow yourself a budget that will get you the quality you are trying to achieve then you must emphasise quality. Competition keeps the prices down quite low. Prices now are very competitive, say, compared to 1997.

Hon Audrey EU Yuet-mee:

So you would not have a proportion to be allocated to prices?

Mr Peter BERRY:

If I am playing God for the day, then it would be 80% for the quality and 20% for the money. I have to say, I have not changed my view whilst I was in government and now outside. That has not changed.

Hon Audrey EU Yuet-mee:

The other thing I like to ask you is about the preferential tender award system which is adopted by the Housing Authority and we understand that they put about 20% on past performance. Now, do you think this's the right proportion and, if not, what would you suggest to be the correct proportion?

Mr Peter BERRY:

I have not seen enough of it in practice to make a comment. I think it is a damned good idea to be fully supported. It is going certainly in the right direction but I think only time will tell how this works out. You have to start somewhere, so why not 20% and you can adjust that as you go along, as you get information and experience.

Hon Audrey EU Yuet-mee:

The other thing you mentioned in your witness statement is what you call the "Super League." We understand that is actually called the "Premier League" and you seemed not to approve of it.

Mr Peter BERRY:

No, I'm not.

Hon Audrey EU Yuet-mee:

Can you tell us what you think of it and why you have your reservations?

Mr Peter BERRY:

Well, I don't have reservations, to be honest. The wording must have somehow got mixed up. I think it's a good idea because it limits the number of tenderers that are competing for the work. What I have said is that you might go one step further and limit the amount of work that each one in that Super League may carry, so that someone is not simply buying all the work. You can put a stop to that, which means cut-throat tendering is at least marginalised to that extent. You cannot have more than two housing contracts at any one time or whatever is appropriate for the housing program that potentially gives work to these particular large and very heavily investigated contracting firms. They are gone through with a fine tooth comb over many, many days before they get on to that, so they are of a standard that is demonstrably satisfactory to Housing and you now have a limited — for the big stuff — group of tenderers; sensibly limited, I say. Six is not bad. Twenty-six is awful, which happens at lower levels in other departments. Again, I am fully supportive of what Housing Department is achieving here. It is just a matter of fine-tuning a bit more, so we don't get cut-throat tendering; anything that stops cut-throat tendering. The contractor is going to have to make claims to get his money back somewhere down the line.

Hon Audrey EU Yuet-mee:

Before leaving the tendering and the pre-tendering stage, is there any general comment that you wish to offer to the Select Committee up to this stage, tendering and pre-tendering; as to the current system that is adopted by the Housing Authority, whether you think there is any other areas for improvement?

Mr Peter BERRY:

I think I have covered the basic ones.

Hon Audrey EU Yuet-mee:

The other thing I wanted to ask you about is liquidated damages which you've touched on. I just wondered whether you can help us by giving your views on this in greater detail; for example, the comparison between liquidated damages adopted by the Housing Authority and in the private market. How do they compare and whether you think this has any effect on the question of quality and also on the question of supervision of control?

Mr Peter BERRY:

On the private side, as Mr WILL said, they don't run much to liquidated damages in all the developments. SWIRE do, for instance. It is a little more like a government department. SWIRE developments do have all the standard forms of divisive, I have to say, risk assessment and liquidated damages attached but they are the only ones I can think of quickly. Again, dealing with the taxpayer's money, government must have some come-back when the contractor does not perform. The losses made to the taxpayer shouldn't be picked up by the taxpayer in this particular system, so, hence, liquidated damages. Now, liquidated damages should not be a threat or penalty. They have to represent a reasonable assessment of the likely loss to the community if the contractor doesn't deliver on time.

That's okay in principle but if it's divisive, it should go away with partnering. You should not get yourself into that stage because at a very early stage, everyone concerned in the team — the architect, the engineer or whoever is deeply involved — will come together with the architect and problem-solve and get it out of the way.

Hon Audrey EU Yuet-mee:

Are you suggesting that the Housing Authority should do away with liquidated damages altogether or are you suggesting they should adopt it flexibly?

Mr Peter BERRY:

Not flexibly. They've said they will move towards partnering. When a partnering system is in place they will not need liquidated damages. They will find they will not need it actually because it just will not be used. It will be tagged on the end of the contract but it will not be used because proper partnering does away with the need. The problem-solving is not just left to one party to argue for extensions of time, make claims later some time. It's left with the on-site team. You can go from partnering to other things. The Australian government uses one quite successfully which does not include any kind of tender sum whatsoever.

Hon Audrey EU Yuet-mee:

Liquidated damages?

Mr Peter BERRY:

They never even think about it.

Hon Audrey EU Yuet-mee:

What happens if there is a dispute and there is a delay? In place of liquidated damages, what do you have in the partnering situation?

Mr Peter BERRY:

They will get together to find out what is actually driving this problem and they will solve it. This means people taking responsibility for what they did or did not do.

Hon Audrey EU Yuet-mee:

But eventually it may not be solved in the sense that there may still be a dispute. Then what? You still need to claim damages.

Mr Peter BERRY:

What has happened in Australia is that they have introduced a process of expert determination which is done for each dispute as it comes up and it solved there and then. It could be considered rough justice but there are experts in that particular problem.

Hon Audrey EU Yuet-mee:

So the expert will be mediating and arbitrating in the course of the construction?

Mr Peter BERRY:

Yes, and make the problem go away and directions will be given. "You, Mr Contractor, you haven't done your job right. Throw some money at it and get yourself back on track." "You, Mr Architect, you didn't deliver those drawings on time; the contractor is messed about and you are going to have to give him X dollars."

Hon Audrey EU Yuet-mee:

I see. So before you enter into the contract you actually agree on a sort of independent guy to...

Mr Peter BERRY:

With the independent guy you have picked on to start with things move on — he is a chartered surveyor for valuing construction work and you have got an E & M problem, then you bring in an E & M engineer.

Hon Audrey EU Yuet-mee:

Mr BERRY, one other thing I want to ask you is, in the course of our evidence-taking, we notice that there is a problem about what I would call after working hours, for example, that people go off at 5 o'clock or 6 o'clock or whatever it is, but work is still carried on the construction site, in particular, for example, for concrete pouring. We also hear about this EPD requirement that you cannot get a permit after certain hours and so on and, therefore, everybody just pretends they don't know about this because otherwise they would be aiding and abetting committing an offence. Can you tell us your experience on this and what you think can be done to solve the particular problem?

Mr Peter BERRY:

Let's go back to the beginning. You get an environmental impact assessment which the employer is required to deliver and there is a response from EPD on the environmental impact assessment. They set certain guidelines which the contractor, when they are tendering, may or may not see or may not know about. But what he will find out is that, as soon as he goes to EPD for work permits, for noise permits, a number of restrictions will be imposed which are not mentioned anywhere in the contract, all allocated within the time. For certain things, paint takes just so long to dry and even if you stand there with a blowlamp you are not going to get there much faster and the quality will deteriorate because of it, so certain things have to be done in time.

Hon Audrey EU Yuet-mee:

So you think it's necessary to work after certain hours or do you think it's possible to have a cut-off time when you have to stop work whatever?

Mr Peter BERRY:

That's a matter of management on-site. If you have got the last couple of metres out of one concrete pour with the lorry standing there on-site you don't waste it, but you are talking margin. If they say, "After this particular time, 6 o'clock, you cannot make this noise" and this machine goes above that noise...

Chairman:

Mr BERRY, you are suggesting that the contractor should be given more time to comply with what is laid down at all?

Mr Peter BERRY:

Well, what happens is, they don't know about this until they've started on-site. The time has already been set for them to complete and all of a sudden they are faced with a challenge on noise restriction.

Chairman:

Should there be a challenge? If they are contractors they should know about environmental laws. They should know about these restrictions.

Mr Peter BERRY:

They don't know until EPD has actually said...

Chairman:

But generally you're not supposed to work on weekends and Sundays. You're not supposed to work after 7 o'clock. I thought that's common knowledge.

Mr Peter BERRY:

What I'm saying is that the individual bits of plant to a sensitive receiver, EPD manages that. But only after the contract is awarded because they don't know what the contractor is going to do until after the contract is awarded.

Chairman:

Ms EU is actually referring to the more common problems of working after 7 o'clock and on weekends.

Mr Peter BERRY:

There are laws dealing with that.

Chairman:

So the contractor should be fully apprised of the legal requirements?

Mr Peter BERRY:

Absolutely, there is no question that they are.

Chairman:

And they should actually have facted all these restrictions in their tender?

Mr Peter BERRY:

Well, I think also up front. The employer, whoever they may be, should also realistically have thought their way through that there is sufficient time. This is necessary.

Hon Audrey EU Yuet-mee:

Thank you.

Chairman:

Thank you. Mr LEE Cheuk-yan.

Hon LEE Cheuk-yan:

Thank you. I would like to ask your comments on sub-contracting systems in the construction industry. Do you think that there is enough monitor or control of the quality on the part of the main contractor over the quality of the sub-contractor and their work?

Mr Peter BERRY:

There has been a problem with that, because it is such a major issue. Sub-contracting in Hong Kong — Hong Kong is the sub-contracting capital of the world — and the ways that work collects within the building industry, it's so difficult not to have sub-contractors. Mr WILL mentioned about work flow so unless you have got a guaranteed work flow you are not a factory. So sub-contractors come and go.

Hon LEE Cheuk-yan:

Yes. We know, of course, that sub-contracting is the existing system now but do you think that there is enough monitor on the part of the main contractor on the quality of the work done by the sub-contractor?

Mr Peter BERRY:

In the Housing Department I dare say it is. Otherwise, Housing Department would be screaming blue murder over the fact that the quality is not being delivered and in the "PASS 2000", there would be a lot of "No's". So somewhere down the line the contractors are coming into line as far as Housing Department is concerned. They are coming into line and meeting their requirements. They have been driven to it, whether they like it or not.

Hon LEE Cheuk-yan:

Do you agree that in the foundation of sub-contracting, there should only be one layer of sub-contractors instead of layers of sub-contractors? Do you think that Housing Department is implementing a new improvement in terms of having only one layer in foundation? Do you agree that that is the better system?

Mr Peter BERRY:

I think it will put up prices because each single sub-contractor will have its own equipment. He will not be able to go to someone else and hire equipment and have a labour gang. The flexibility will go, so each of the contractors on the list must have their own plant and if they haven't got enough, then there is a problem because they have got to get it. They cannot go anywhere else and hire it. They have to go and buy it and bring it in. In the long term, the work production of, the buying surplus plant has to be paid for and the prices will go up.

Hon LEE Cheuk-yan:

But in terms of quality, is it more assuring?

Mr Peter BERRY:

As long as you are not suggesting sub, sub, sub with people creaming off the top 2 or 3% all the way down the line. If you have one, maybe two, no problem. If you have plant hire and labour, there should be no problem. Because, at the end of the day, you look at the plant and say, "That's rubbish. Get rid of it", or "That's fine. It's sparkling new. It does the job". You look at the labour, do they know what they are doing? If they don't, all right, off your list.

Hon LEE Cheuk-yan:

I would like to go into the question of construction quality. From your experience, do you think that staff employed by the contractor, including the Contract Manager, Quality Control Engineer and site staff representatives, is qualified enough to perform their duties — from your own experience?

Mr Peter BERRY:

I would look more for more experience than qualification on a construction site. It is safer.

Chairman:

It's not what you are looking for. It's what you have experienced. Do you find that they are qualified with sufficient experience?

Hon LEE Cheuk-yan:

I think qualified not in the sense of qualification as such, but qualified in the sense of experience or competency. What's your observation on that?

Mr Peter BERRY:

I agree with Mr WILL. If you have got a team working together and they go on and they will learn, then the team is broken up, no one knows where they go or when you are going to get them back, or do you have to start again with a new set of graduates or graduate engineers or whatever? They may be coming out of City University or Morrison Hill, I don't know, whatever the level that we're talking about. You then start again with them and you'll have to start retraining them and they'll have to gain their own experience all over again. So you go on one particular site, you'll find very experienced people that they'll have to continuously run the work; you go on to another site, you're scratching around, trying to find the people that you'd like to see there, cause they are not available, they've gone off — I don't know — they have found a clean job, a less dangerous job that they'd go to, like working in an office.

Hon LEE Cheuk-yan:

Also in a construction site, very often, it depends on whether the construction workers are doing everything according to standards and their requirements imposed upon by, say, the developer or the Housing Authority. In actual fact, the workers are not employed directly by the main contractor, there are often so many layers that you get the workers. Do you think that this is a major problem in terms of quality because there is exactly no control over what sort of workers being employed to do the work?

Mr Peter BERRY:

If you look around Hong Kong, it is obviously some very very good workers about. Housing Department is driving through their quality systems that these kinds of people are employed on their product. The employer drives these things. What the employer wants the contractor must deliver or you don't employ him again. This is what Housing Department, I assume, is trying to achieve a good quality contractor, a reliable contractor with whom they can do business on a regular basis. But like my criticism — it is cut-throat tendering in a difficult market, which emphasises on money not quality, this defeats the major purpose what Housing Department is trying to achieve. It seems to me it needs attention in that particular area. Sub-contracting is almost irrelevant to that process. The contractors will do as they bid in terms of achieving quality. If they're allowed the money, throw out the problem; if they haven't got any money, then they start squeezing the sub-contractors. Where else can they go? Housing Department, or the employer? Never mind the Housing Department, as I said, they are the best of the employers. If they have to top-down start to squeeze the contractor, if anyone blazes, the squeeze will go.

Hon LEE Cheuk-yan:

You know that the Housing Authority or Housing Department requires the contractor to employ a Quality Control Engineer, is this really an assurance of quality of construction since the QCE is actually employed by the contractor and not independently so they may sacrifice quality on the instruction of the contractor. What's your comment on this?

Mr Peter BERRY:

It shouldn't happen in the Housing Department environment because Housing Department is just not standing back idle and letting this happened. If the Quality Control Manager on site is not doing his job, they've the power to get rid of him and tell the contractor to get a proper one. Why don't they? They can.

Hon LEE Cheuk-yan:

They have the power to do so?

Mr Peter BERRY:

Yes. They can remove any sub-contractor or employee that is not doing his job.

Hon LEE Cheuk-yan:

I have no problems. Thank you.

Chairman:

Mr Albert HO.

Hon Albert HO Chun-yan:

Thank you, Chairman. Mr BERRY, in your statement, you mentioned that the Housing Authority used to take quite a lot of time to deal with contractor's claim...

Mr Peter BERRY:

Yes.

Hon Albert HO Chun-yan:

Can you tell us what is the time span you are talking about and what sorts of claims are the Housing Authority usually faces with?

Mr Peter BERRY:

As I said, I don't get inside each and every contractor. I don't make claims. It's not my business. I'm not involved with that kind of things. I don't have enough time to do that; I'm semi-retired. But from a general observation, there are three issues that I've set out. Because program and finishing to a time is so important, extensions of time are vital and knowing where the contractor stands in terms of the commercial completion date is vital to everything he does. So that area needs, as I've said, some rigorous attention to be solved early. If it's not — or the architect is having an argument with the contractor over when he should finish and the report goes in that you are not on program — it's an adverse report. This affects the contractor's right to tender.

If it's right, then that is what it should be, but no one knows at this point because a final decision is left floating around in the atmosphere. So the contractor doesn't have a fair crack of the whip to actually know where he stands and then regear himself...

Hon Albert HO Chun-yan:

I understand the difficulties that the contractors are in but what is the time that you know of that everybody has to take to do the thing? 6 months? A year?

Mr Peter BERRY:

7 years.

Hon Albert HO Chun-yan:

7 years? As long as 7 years?

Mr Peter BERRY:

Well, I have seen one recently.

Hon Albert HO Chun-yan:

I see. That's incredible.

Mr Peter BERRY:

Where the architect asked for two things which caused me to raise my eyebrows, shall we say. One was on a date back in time, how hard was it raining on that date? The other question was: Do you have any documentary evidence that the ferries were not running on that day? Nine years on from the event they are asking questions like this. It isn't common sense.

Hon Albert HO Chun-yan:

So it is not unusual to see that HA will take a couple of years to deal with claims?

Mr Peter BERRY:

It depends how stubborn, of course, the contractor is. If the contractor rolls over, it's done overnight.

Hon Albert HO Chun-yan:

Tell us, if you are in a position to do so, how often do the contractors have to resort to arbitration for resolution of disputes?

Mr Peter BERRY:

Not very often because it's a very, very expensive process. The only winners are lawyers and the arbitrator.

Hon Albert HO Chun-yan:

Then, how about mediation?

Mr Peter BERRY:

I would very much encourage that because it's a negotiation between the parties but there is a problem coming up here. Well I think, within a government environment, mediation may simply die. I was shown a proposal from Works Bureau late last week which requires mediation — Public Accounts Committee are requiring the information under mediation and arbitration, to put forward all paperwork for their inspection as and when public accounts wish to look at it.

Mediation creates a huge problem in that what you get is a statement of position miles apart, obviously, otherwise there would not be a dispute. Then somewhere between that gap, a number where they have compromised their position. That's what mediation is all about, to save battling in a win-lose situation where there is only one winner outside — the lawyers and the arbitrators get paid. You have to throw all sorts of resources and expertise that should be working on the site in some way or another. Then you end up a compromise. You just do that. It just collapses it at some point down that continuum. Government will say, "You are entitled to \$5,000" and the contractor will say, "I want \$105 million, please" and there you start and they will argue and debate and be cajoled, bullied, tested into this compromise.

Hon Albert HO Chun-yan:

So, in short, you prefer to see that mediation is to be used more widely in the industry?

Mr Peter BERRY:

Absolutely.

Hon Albert HO Chun-yan:

Thank you. In your statement you also mentioned about the importance of having a speedy and fair resolution of differences in an amicable manner between the parties, but you also said, and I quote, "Currently the decision-making process often involves an advisory committee who are not involved in the project." I suppose if somebody is to be engaged to act as a mediator, he has to be a neutral party. Why do you criticise on that?

Mr Peter BERRY:

Well, it's an in-house one and I am talking specifically about the extension of time by the committee. These places obviously rotate, to avoid conflict of interest which is not unreasonable, but they are basically advisory. Contractors will say, "We don't know what they see." So it may be that it only gets what the architect, engineer may wish them to see. The contractors don't know and it takes a long time. What we are talking about here is quick reaction to a problem.

Hon Albert HO Chun-yan:

So are you suggesting that members of this advisory committee are usually not qualified or experienced enough to advise on the matter?

Mr Peter BERRY:

I don't know what information they get.

Chairman:

You are talking about transparency?

Mr Peter BERRY:

Yes. I do not know what information they get. As far as I know, it is very rare for a contractor to appear in front of a committee of that nature. It is very rare and, in fact, as far as I can tell, to appear in front of a Building Committee. It is a special privilege for them to get up and state their case.

Hon Albert HO Chun-yan:

Do you have any suggestions on how the system should be improved?

Mr Peter BERRY:

I suggested that there should be set time limits with reactions, as I discussed a few minutes ago. That kind of thing, where it's a cut off guillotine and you get on with it, and at the end of that, it's still a part; and if you have not come to an agreement — what has not been resolved — then you bring in whatever you want to call it, an expert witness or an adjudicator to give perhaps rough justice on the information provided. He just deals with the information provided; nothing ancillary. If you haven't got it by then, you are not going to get it in 5 years' time. You've got to do it now.

Hon Albert HO Chun-yan:

So rough justice is better then delayed justice in your view?

Mr Peter BERRY:

Yes, in the construction industry. We are not talking about life and death. We are talking about money.

Hon Albert HO Chun-yan:

In your statement, you also mentioned that it's of paramount importance to have an objective and fair appraisal of the problems of the contractors. Now, what is the view on the past system? How did it work?

Mr Peter BERRY:

I think it is better than anything else that is available out there. I haven't gone through it personally for quite a long time. When they first started it, I was working for government and they did educate me and led me around, warts and all, how this was working and I was very impressed with the openness of it all. I have looked at the most recent document and I have discussed it with the guy that controls it. The one thing that sticks out like a sore thumb is, again, program which means time. If the time is so valuable and so important, and there is no procedure for getting time quickly sorted out, it is almost inevitable the contractor is on the wrong program so far as the architect is concerned. You need this sorted out.

Hon Albert HO Chun-yan:

Do you have any further suggestion on how the system can be improved?

Mr Peter BERRY:

My only three real issues are those stated there. I think if you get rid of a lot of those three problems, an awful lot will fall by the wayside. Housing is developing quite a lot of initiatives. It has the 50 initiatives. It was 40 originally. It seems to have grown to 50 the last time I looked. These are all good things but the other thing that needs to be done is, if they are going to be serious about partnering, then get on with it. At the moment it is still "them and us", battling it out. Why does it need to be a battleground?

Hon Albert HO Chun-yan:

My final question, Mr BERRY, is what is your view on the proposal of extending the application of the Buildings Ordinance to the projects of the Housing Authority?

Mr Peter BERRY:

I looked at this when I was in government and I was a bit nervous about it in the sense that, where will the people going to come from that will take over what the in-house professionals were doing, which you have to substitute building checks, Buildings Department and Buildings Ordinance checks, for checks already being carried out by liaison architects or the actual architect and engineer on site employed by the Architectural Services Department in that particular case. The Housing Department, on the other hand, has the same problem.

By Mr WILL's reaction, Housing Department seems to have reached a sensible compromise on this without having huge staff resources having to be added to the bureaucratic process. Then, well and good, terrific. They found the answer that I didn't find.

Hon Albert HO Chun-yan:

So you are rather concerned with the problem that quite a number of people may be laid off as a result of this change?

Mr Peter BERRY:

No. I thought we would just need more and more people being dragged into it and where were they going to come from? Perhaps by some transfers, possibly Housing Department architects and engineers become Buildings Ordinance surveyors. That's what they do. We just need a new set of rules. That's all.

Chairman:

I think perhaps we need to know more about this new system that the Housing Department has just adopted. I think we will ask them more information.

Mr Peter BERRY:

I think that would be safer.

Hon Albert HO Chun-yan:

But are you, in general, in support of the idea that a common standard should be adopted in respect of all these public works?

Mr Peter BERRY:

Yes. I think it is a good idea because everyone knows where they stand and it is towards that centralisation of control.

Hon Albert HO Chun-yan:

Thank you. I have no further questions.

Chairman:

Thank you, Mr HO. Mr Abraham SHEK, please.

Hon Abraham SHEK Lai-him:

Thank you, Madam Chairman. I do not know whether this has been asked. I just want to elaborate on paragraph 17.

Chairman:

Of which paper, please?

Hon Abraham SHEK Lai-him:

Paper SCI-R(Mis)0019, paragraph 17. My question is, do you feel that these general conditions of contract are up to date and what impact does this have on the construction industry, taking into consideration the present cut-throat competition of prices. Does this have an impact on the time element and does this have an impact on the quality of work and does it also have an impact on the partnering approach? Can you comment further on this particular issue?

Mr Peter BERRY:

What would I change? I would certainly put in response times. I would certainly require more reasons for why people decided to do or not to do what they have done. I would certainly look at ground conditions. At the moment, the risk is on the contractor. I have seen that abused too far. That, as Mr WILL suggested, would be a perfectly good way of dealing with it and Architectural Services Department did take much of the ground condition risk where piling was concerned because they re-measured it as done, so the contractor was not taking such a big risk. It was not designed and built by the contractor to carry a load. The engineer in house took some of that risk. Other than allowing early dispute resolution which clause 86 does not really permit at the moment, I would encourage that now under those general conditions of contract.

Hon Abraham SHEK Lai-him:

So in your opinion the general conditions need to be re-written?

Mr Peter BERRY:

No. I don't believe that.

Hon Abraham SHEK Lai-him:

But how does this promote good partnering between them and us, between the contractors and the developers?

Mr Peter BERRY:

There are two ways of dealing with partnering and in the normal first step, I think Housing is already undergoing with one or two of the contractors. They have had their partnering agreements drawn up that overlaid the general conditions of contract. I remember also Housing Department has, by special condition of contract, modified these general conditions of contract that I was responsible for by quite a lot and we are not talking quite the same thing any more.

The partnering agreement is very much personality based. If you got the right team and people together, they will solve the problems. If you have got people who do not get on, it does not matter what you write, what form of contract, it does not matter, it will fail. There will be problems and they will not be solved. There will be a battleground. So somehow or other, you are trying to encourage the right people to work together at the start. Partnering helps this.

Hon Abraham SHEK Lai-him:

So you don't consider that the present standard conditions of contract are fair to the extent that it will put all the risks on the contractors?

Mr Peter BERRY:

There are two elements where risk is dumped on the contractors. One is site ground condition. By and large, the laws — change in law. This has been modified. The contractor had to take the risk of changes in law and you have to be a little careful how you word that, otherwise you will find you would be repaying the contractor his profits tax every time someone changes the margin, so we let that pretty conservatively and that sort of silly claim would not come firing across for the taxpayer to bear, remembering that draft was done with the taxpayer in mind. I was working full-time for government and nobody else at that time.

So there're some tough clauses in there and perhaps they do not say it to my face but I do not hear too much complaint. A decision has only once been taken to a very high level. The draft was taken to, oddly enough, the Privy Council in London on a liquidated damages problem and it was handed back to us and saying, "The clause is perfectly good law. Get on with it."

Hon Abraham SHEK Lai-him:

I have just one more question. On your paragraph 20 in the same document, under performance appraisal report you said that the present appeal against an adverse report is rather subjective.

Mr Peter BERRY:

Well, we fear it is, but I think with the past system — my understanding is that this has moved on better but there's still the annoying bit about program and delivery on time. That really upsets the contractors because they don't know where they stand. If they knew, they could organise. They would have to organise and face liquidated damages if they don't. They don't know where they stand on time. Whenever they make something as simple as weather, well, you know it rained and you know from the site record book whether work was done and whether that work was critical to the continuing progress of the works. If the rain stopped, then you were given a day's extension. There was no money involved. They could catch up. Where is the problem?

Hon Abraham SHEK Lai-him:

Having been on both sides of the fence now, do you have any suggestions for improvements to the appeal system on the adverse report issue?

Mr Peter BERRY:

I would like to see Housing Department run it a bit longer. That was written possibly a little unfairly for the Housing Department. I do think they give contractors a better opportunity to say, "This is not right for these reasons." I don't hear too many complaints these days. I think it's getting better.

Hon Abraham SHEK Lai-him:

We have earlier heard evidence this morning that in a number of cases where contractors were asked to help out on situations to speed up the work. After having done the work and then the time has come for writing reports, the individual officers have to take the route that he has to give them an adverse report because they didn't follow the rules in making good the project. How does this appeal system work?

Mr Peter BERRY:

Well, that really shouldn't happen, should it?

Hon Abraham SHEK Lai-him:

And it had happened.

Mr Peter BERRY:

It is not contract. It's common sense. It should not happen. Now, this is what I mean by — the other moan is that perhaps the top level of Housing Department don't have the authority, or feel they are not armed with the authority to put these things right. It is common sense that this cannot be. If you ask a contractor to help, he helps in good faith and then you kick it.

Hon Abraham SHEK Lai-him:

Thank you.

Chairman:

Thank you very much. If there are no further questions from members, I wish to take this opportunity to thank Mr BERRY for attending this Committee to assist us on the matter. In future, if this Select Committee should require any further help, we shall certainly extend a further invitation to you. I think you can retire now, Mr BERRY.

Mr Peter BERRY:

Thank you very much.

Chairman:

Thank you very much. Members, I think this draws a conclusion to today's hearing. Thank you.

(研訊於下午1時27分結束)