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(English version only)

Date: 7 July 2006

To: Clerk to the Panel on Public Service  
Legislative Council Secretariat  
3/F., Citibank Tower  
3 Garden Road  
Central  
HONG KONG

Attn.: Ms May LEUNG

Dear Sir/Madam:

### **Private Certification of Building Submissions**

It has come to our attention that the Provisional Construction Industry Co-ordination Board (PCICB) had commissioned a consultancy study, funded by Government, on a proposal called "private certification (PC) of building submissions". The letting out of this consultancy has proceeded without due regard to the strong reservations expressed by the industry at large and the strong objections from LegCo members.

After examining the related issues and the background in detail, we share the concerns of the industry and would reiterate our strong objection to this proposed consultancy study for the following reasons-

- (a) At the moment, the Building Authority and its executive arms, viz., the Buildings Department and the Geotechnical Engineering Office of the Civil Engineering and Development Department are charged with a statutory duty to ensure safety of private building developments by

scrutinizing building submissions before granting approval of building/street work plans and consent for commencement of actual works on site. The PCICB's proposal of checking of building submissions by private professionals amounts effectively to the outsourcing government's control for building safety, including structural safety, slope safety and fire safety, and built quality to the private sector. Should approval be based on private professionals' recommendations, the Building Authority will then become a "rubber stamp" and thus effectively renounce its statutory duty of safeguarding public safety. This is, in essence, contradictory to the Administration's pledge that government's statutory and regulatory functions would not be outsourced to the private sector. Remember: A fundamental principle is that government's public duty cannot be relinquished.

- (b) The proposed implementation of the PC and outsourcing of government's statutory building control authority will have far reaching and undesirable implications. It will give a serious blow to the morale of existing civil servants and seriously and adversely affect their job opportunities. The Administration is duty-bound to adequately consult its staff before granting its consent to PCICB's commissioning of the consultancy study.
- (c) A large number of fundamental issues such as independency of certifiers, consistency of standards, built quality as well as the public receptiveness and confidence should first be thoroughly examined and resolved before embarking on the study. In the absence of proper addressing to these fundamental issues, PCICB has, however, included in the scope of study the formulation of implementation details and making of proposals for trial schemes and so on. Obviously, they have already considered PC a fait accompli and intend to work out the details as soon as possible. In our opinion, this should not be condoned.


- (d) With support from the building industry, the Buildings Department has recently taken the lead to continuously streamline and eliminate outdated, excessive and unnecessary government regulations. As of today, the extant building control system has built up an excellent track record in ensuring building safety and built quality of private buildings. It is totally unconvincing if one says that PC is the only viable way to speed up construction cycle or to reduce development cost. Regrettably, other options have never been carefully considered or studied by PCICB. The actual intention of the study is dubious.
- (e) We have learnt from our colleagues in the Building Department that the Department has already conducted a comprehensive study on the feasibility of adopting PC in Hong Kong. The study findings have indicated that PC is not suitable because of various inherent deficiencies of such a system. The findings of the study have been made known to the PCICB. As most of the PCICB's board members are construction professionals in the private sector and property developers who could have such vested interests and benefits from the proposed PC, their impartiality in forcing through the issue and leading the consultancy study is questionable. We are informed that the Consultancy has been commissioned to an engineering consulting firm and the project team will be composed of practicing engineers. There comes the question of conflicts of interests. It is worth noting that the consultancy study commissioned by PCICB should have been for the interests of private developers without any consideration to the general public at large. However, government still commits \$1.3M to finance the study. As pointed out rightly by LegCo members, this is a waste of public money. Government should not launch the consultancy study before gauging the public's receptiveness of the proposal. Public interests are at stake.

- (f) The proposed PC has far-reaching implications on building safety and built quality of private buildings. The implementation of PC is, in our opinion, totally acting against the general public's will and expectation for building safety and quality of buildings. Moreover, in a small market like we have in Hong Kong, private independent certifiers could easily be influenced by developers. Their independence and impartiality are questionable. The recent fallout in Japan of an engineer who, under the pressure of developer, fabricated documents on building design resulting in more than 80 substandard buildings in Tokyo is a vivid example of failure of PC. Moreover, subsequent to the fatal collapse of the temporary soil retaining system of the Nicoll Highway in Singapore which occurred in April 2004, a delegate of the Building and Construction Authority (BCA) of Singapore, visited Hong Kong in November 2004 to get more information and understanding of our building control system. BCA informed our BD colleagues that its private certification system was insufficient and with lots of deficiencies.
- (g) The proposed drastic change to the building control would also stimulate reverberations from the industry. The Structural Division and the AP/RSE Committee of HKIE had a meeting with the PCICB on 21 March 2005 and expressed their grave concerns on the inapplicability of the PC system to Hong Kong.

It is rather disappointing that despite the joint efforts of the professional staff associations of the Buildings Department and the Civil Engineering and Development Department to bring the issue to the personal attention of the Secretary for Housing, Planning and Land in January 2006, the Administration still proceeded to finance and commission the Consultancy Study in February 2006.

As PC has such an overwhelming impact and yet the community and the building industry are having difficulties to fully understand the various concepts and practices, we consider it a must that full and detailed consultation with the general public and the affected staff associations be conducted before pursuing the matter further.

Yours faithfully,



(Jimmie Kai-kwong TAM)  
Chairman

JKKT/jt

c.c. Members – by email