

For discussion on
17 July 2006

**LEGISLATIVE COUNCIL
PANEL ON PLANNING, LANDS AND WORKS
PANEL ON PUBLIC SERVICE**

Private Certification of Building Submissions

Purpose

This paper reports the progress made on the Study on Private Certification of Building Submissions and the outcome of the interviews with government staff associations which have expressed concerns the subject.

Background

2. The Subgroup on Business Facilitation was established under the former Economic and Employment Council (EEC) in March 2004 to facilitate business development and job creation through identifying and eliminating outdated, excessive, repetitive or unnecessary government regulations. The subgroup had embarked on a comprehensive review of the entire property development process and requested the Provisional Construction Industry Co-ordination Board (PCICB) to make recommendations for speeding up the construction cycle and reducing the cost of complying with existing statutory requirements. The Task Force to Review the Construction Stage of the Development Process (the Task Force) was formed under PCICB in late 2004 to undertake this task. Given that the ambit of the Task Force is limited to the construction stage, the Pre-construction Task Force and the Town Planning Task Force were formed under the Subgroup on Business Facilitation in late 2004 and late 2005 respectively to tackle lands and town planning issues for the pre-construction stage.

3. EEC was disbanded in December 2005 and the Business Facilitation Advisory Committee (BFAC) was formed in February 2006 to continue its business facilitation functions.

4. The agenda of the Task Force include the following initiatives for improving the regulatory regime –

- (a) alignment of key development control parameters to minimize inconsistencies and streamline the approval process;
- (b) web-based system for tracking processing status of building submissions;
- (c) improving the co-ordination in resolving inter-departmental issues through the centralized processing of building plans;
- (d) reducing overlapping controls on building developments through delegation of checking authorities;
- (e) private certification of building submissions; and
- (f) overall review of regulatory regime for the construction stage to identify strategic directions for achieving alignment with the developments of the construction industry.

5. As consultation with various industry stakeholders on private certification had revealed several fundamental issues requiring in-depth examination, the Task Force commissioned the Study on Private Certification of Building Submissions in February 2006 to examine the subject holistically before making recommendations to BFAC on whether private certification is worthy of further consideration. Recommendations on the way forward will be made to Government after the Task Force and BFAC have completed their deliberations.

Study on Private Certification of Building Submissions

(A) Purpose and scope

6. The main objective of the study is to consider the feasibility of improving the building approval process through undertaking appropriate checking of building design and certification by private professionals. However, the primary purpose of private certification is not the complete replacement of the existing system through outsourcing of statutory power. Instead, the study will aim to identify the specific tasks of the checking process which are appropriate for entrusting to private professionals and the parts which should continue to be undertaken by government departments. The study will also formulate an

implementation strategy that would retain the existing checks and balances for assuring the health and safety of building users and the general public while minimizing changes to the statutory framework.

7. The specific scope of the study includes –

- (a) documenting the current procedures for making, processing and approving building submissions;
- (b) ascertaining the problems and issues arising from the building submission process that affect the cost and programme of property development;
- (c) identifying the problems and issues that can be tackled through private certification and assessing the effectiveness of private certification in resolving them;
- (d) ascertaining the benefits of private certification as well as drawbacks, risks and issues which may affect its implementation and formulating solutions;
- (e) developing an implementation strategy for private certification; and
- (f) formulating proposals for conducting and monitoring trials on private certification.

8. While the study includes development of solutions for implementation issues and proposals on implementation strategy, these are only ancillary tasks for verifying the feasibility of private certification to facilitate the Task Force in drawing up recommendations to BFAC.

(B) Progress

9. The consultant for the study, Babtie Asia Limited, has completed the fact-finding exercise which included interviewing the industry stakeholders listed at Annex A to gather views on the current problems and issues affecting the building submission process and on the proposal for private certification. The consultant has also examined the private certification systems in Australia, Japan, Singapore, United Kingdom and the Mainland to find out the scope of these systems, their performance, benefits, drawbacks and acceptance by members of the public.

10. The consultant is analyzing the information gathered in the fact-finding process and is preparing the draft final report of the study.

Interviews with Staff Unions

11. The stakeholders interviewed include five government staff associations who have expressed concerns on private certification, including –

- Buildings Department Local Building Surveyors' Association.
- Buildings Department Structural Engineers' Association.
- Buildings Department Technical Officers Working Group.
- Buildings Department Surveying Officers Working Group.
- Civil Engineering and Development Department Geotechnical Engineers' Association.

12. The notes of the interviews with the first association (conducted on 22 May 2006) and the other four associations (conducted on 29 May 2006) are at Annexes B and C respectively.

13. The following paragraphs set out the key points made by the staff associations and the observations of the Task Force on them.

(A) Implications on health and safety of building

14. The staff associations have expressed grave concerns on the impact of private certification on the health and safety of buildings. At present, the Building Authority, with the support provided by Buildings Department and the Geotechnical Engineering Office (GEO) of Civil Engineering and Development Department, is responsible for scrutinizing building submissions before granting approval of building design and consent for commencement of construction. If approvals were based on recommendations of private professionals, the Building Authority would become a rubber stamp and effectively renounce its responsibilities in safeguarding building safety.

15. The staff associations have also highlighted the prevalence of high-rise buildings in Hong Kong and the substantial number of building

sites on sloping grounds making buildings vulnerable to catastrophic incidents if building designs were not properly checked by Buildings Department and GEO. Furthermore, the high land costs and keen competition between contractors have resulted in strong commercial pressure on building professionals. These unique building, topographical and market characteristics make the current control exercised by Government crucial for ensuring building safety. Overseas systems may not therefore be suitable for local conditions.

16. Health and safety are also the primary concerns of the Task Force and are core issues being investigated under the study. The consultant will consider carefully and thoroughly the views of the staff associations. Health and safety will also be pivotal in determining whether private certification will be recommended for further consideration.

17. However, the Task Force wishes to stress that private certification will not necessarily imply sacrificing existing safeguards. As explained in paragraph 6 above, the Task Force aims to consider the feasibility of undertaking appropriate checking of building design and certification by private professionals while retaining the existing checks and balances for assuring the health and safety of building users and the general public and minimizing changes to the statutory framework.

(B) Scope and funding arrangements for the study

18. The staff associations made the following points on the scope and funding arrangements for the study –

- (a) the staff associations are unconvinced that private certification is the only possible way for improving the building approval process. If there were real problems, the whole development approval process should be reviewed instead of focusing only on Building Department's system; and
- (b) the staff associations doubt whether the study should be funded by Government since it was commissioned by PCICB for the interest of private developers. Commissioning the study before gauging the public's acceptance of private certification is considered to be a waste of public funds.

19. On paragraph 18(a), private certification is not the only measure for speeding up the building approval process but is part of the overall efforts to improve the regulatory regime for building developments. As indicated in paragraph 4 above, apart from private certification, the agenda of the Task Force also encompass five other initiatives. The streamlining of the procedures for dealing with planning and lands matters is being pursued through the Pre-construction Task Force and Town Planning Task Force of BFAC.

20. On paragraph 18(b), in view of the adoption of systems allowing private involvement in checking building design in several major economies, the merits and demerits of introducing similar systems in Hong Kong should be considered. Private certification has the potential of opening up new strategic directions for streamlining the regulatory regime. Such changes could improve the business environment, promote investment in property development and create employment opportunities for the construction industry thus benefiting the whole community. The attention given to the report of the World Bank on Doing Business in 2006 published at the end of 2005 is a clear reminder that continuous enhancements of the regulatory regime are crucial for maintaining the competitiveness of the local economy.

21. The study was commissioned with the general consensus of members of the Task Force and is supported by BFAC. The Legislative Council Panel on Planning, Lands and Works had been advised of the scope and objectives of the study vide a paper discussed at the panel meeting on 20 December 2005. The Task Force will strive to ensure that the recommendations of the study will address the interest of the whole community and will not be biased towards any individual sectors.

(C) Staff implications

22. The staff associations are concerned about the impact of private certification on the employment of their members and consider that the Administration should have consulted its staff before allowing PCICB to commission the study, which has dealt a serious blow to staff morale.

23. The Task Force is not in a position to respond to these concerns given that civil service matters are outside its ambit. The Task Force wishes to reiterate that the study is not part of the preparatory work for introducing private certification on which it is still maintaining an open mind. Nor will the study turn private certification into a fait accompli.

since the eventual decision on introducing private certification is outside the ambit of the Task Force.

The Administration's Initial Views

24. The Administration maintains an open mind on the subject of private certification of building plans submission. The Administration firmly believes that no such proposals should compromise health and building safety. Nevertheless, in line with the Government's policy to facilitate business, it would be worthwhile to explore proposals which might help streamline the building plan approval process. The Administration notes the concerns expressed by the staff associations, and will carefully consider the way forward after PCICB has completed the study and examined the relevant issues. The Administration will duly consider the views of all stakeholders, including staff members, when studying the recommendations of the consultancy report.

Way Forward

25. The draft final report for the study will be circulated in August 2006 to industry stakeholders for comment (including the concerned staff associations). The feedback received will be taken on board in preparing the final report, which will serve as reference for the Task Force in recommending whether private certification should be further considered. The recommendations will be submitted to BFAC after securing endorsement by PCICB. The Task Force will also be prepared to discuss the recommendations with relevant Legislative Council panels if they so wish.

26. The tentative timing for the foregoing activities are as follows –

Tentative Milestones	Activity
Aug/Sep 2006	Issue of draft final report to industry stakeholders for comments Submission of comments on draft final report by industry stakeholders Preparation of final report and response to comments Consideration of final report by the Task Force and formulation of recommendations on private certification
Oct 2006	Consideration of recommendations of the Task Force by PCICB

Tentative Milestones	Activity
Nov 2006	Consideration of recommendations of the Task Force by BFAC
Early 2007	Presentation of recommendations of the Task Force to interested Legislative Council panels

Conclusion

27. The Task Force aims to complete the deliberation on private certification in accordance with the above work plan. Meanwhile, Members' comments will be welcome and will be considered by the consultant in preparing the draft final report.

**Provisional Construction Industry Co-ordination Board Secretariat
July 2006**

List of Stakeholders

Government Departments

- Architectural Services Department
- Buildings Department
- Geotechnical Engineering Office of Civil Engineering and Development Department
- Housing Department

Academic Institutions

- City University of Hong Kong

Client Organizations

- Hong Kong Housing Society
- Kowloon-Canton Railway Corporation
- MTR Corporation
- The Real Estate Developers Association of Hong Kong

Professional Institutions and Associations

- Hong Kong Institute of Architects
- Hong Kong Institution of Engineers
- Hong Kong Institute of Planners
- Hong Kong Institute of Surveyors
- Association of Consulting Engineers of Hong Kong
- Association of Engineering Professionals in Society
- Association of Structural Engineering Consultants
- Professional Building Surveyor Association
- Hong Kong Association of Architectural Practices

Trade Associations

- Hong Kong Construction Association

Staff Unions

- Civil Engineering and Development Department Geotechnical Engineers' Association
- Buildings Department Local Building Surveyors' Association
- Buildings Department Structural Engineers' Association
- Buildings Department Technical Officers Working Group
- Buildings Department Survey Officers Working Group

Other Organizations

- The Hong Kong Association of Banks
- The Hong Kong Federation of Insurers
- Consumer Council

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Meeting Notes

(Form QP207/F2 Issue 3)

Project Title	Study on Private Certification of Building Submissions	Job No	G2937
Meeting Location	19/F, Chau Tai Fook Centre, 580A Nathan Road	Client	EABFU
Meeting Date/Time	22 May 2006 4:00pm to 5:30pm	Our Ref	G2937
Subject	Notes of Meeting with the BDLBSA	Your Ref	-----
Participants	Dick Yu (DY) John Fok (JF) William Ng (WN) Desmond Yang (YYP)	BDLBSA BDLBSA Babtie Asia Ltd. Babtie Asia Ltd.	
cc	-----	File	G2937/103
Date of Distribution	6 June 2006	Notes Prepared By	Desmond Yang

Item	Notes	Action
1.	<p>WN explained the scope of the private certification study recently awarded by the Hong Kong Government to BAL which referred to demolition, general building, structural, drainage, site formation and alterations and additions plans:-</p> <p>i) BAL will not be recommending whether private certification should be introduced in Hong Kong.</p> <p>ii) BAL would report on the issues of the present submission system in Hong Kong to identify areas where private certification might be helpful.</p> <p>iii) BAL would study the possible problems on private certification by making reference to other overseas countries private certification system as well as the construction industry conditions pertinent to the local Hong Kong conditions and characteristics.</p>	
Item	Notes	Action

A Subsidiary of Jacobs Engineering Group Inc.

Babtie Asia Limited, Registered Office: 15th Floor, Cornwall House, Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong
百泰工程顧問有限公司 香港灣仔區英皇道979號太古坊康和大廈15樓

	iv) BAL would propose the scheme of the private certification works together with the trial scheme.	
2.	<p>DY and JF commented on the current building submission system by the Buildings Department (BD):-</p> <p>i) The current BD system is satisfactory in general. The existing BD system is necessary in order to deliver acceptable levels of public safety, health and environmental protection to meet the expectation of the community.</p> <p>ii) The BD submissions are essential but generally not critical to overall development programme as BD's processing time should be within the statutory time limit under the BO and can be planned. JF commented that from his past experience in the private sector, the changes initiated by developer during the development and construction processes had much more impact to the programme of development than the time taken for building submissions.</p> <p>iii) There are already streamlined procedures and fast track mechanism that provide speeding up of building submission and approval. Also, to be responsive to the development industry, BD has provided practice notes, which are reviewed regularly, for use by the practitioners. In addition, a minor works system will be considered by the LegCo.</p> <p>iv) JF explained that different types of building submissions would require circulation to different government departments. Some submissions require circulation to more departments than other submissions. The central processing and co-ordination role of BD is critical and will be difficult to be conducted by a private certifier, particularly when dealing with conflicting advice from different departments.</p> <p>To improve overall efficiency of building submission process, streamlining should not be limited to the BD, but all the relevant departments will be required.</p> <p>v) BD takes an independent, fair and right role in the building control. BD maintains consistency of level of acceptance. The current BD system is considered as unbiased, transparent and independent.</p>	
Item	Notes	Action

	<p>vi) The current system allows for changes in technology or unusual design. Building Committees and Building Authority Committee are established for modification/exemption applications. There is an Advisory Committee on Barrier Free Access, which consists of stakeholders such as representatives nominated by the Commissioner for Rehabilitation representing the physically handicapped visually impaired and hearing impaired respectively and a private sector authorized person. There is also a Building Innovative Unit in BD to deal with innovative design.</p> <p>vii) The design check and supervision are considered both important and shall be considered together. A good design will be one of the criteria for a good building development.</p> <p>viii) It is noted that for some non-profit making projects, e.g. the School Improvement Programme, the checking and approval is faster because the Government has allocated extra resources for such purpose.</p> <p>ix) BD also provides pre-submission enquiry service to the private sector (PNAP 30 refers).</p>	
3.	<p>DY and JF expressed that they do not support implementation of private certification of building submissions. They commented on the various problems and issues of private certification:-</p> <p>i) The issue of building safety is the main concern. Incidences that impair building safety, like the short piling cases and inadequate means of escape, will result in additional cost and time for carrying out remedial works.</p> <p>ii) Conflict of interest will be an issue in private certification. Commercial pressure to private certifier will affect the independent role of building control. Independence of private certifier is in doubt.</p> <p>iii) The public concern on collusion between business and the Government will be an issue.</p>	
Item	Notes	Action

- iv) Regarding the issue on PII, small companies may not be able to have sufficient PII coverage.
- v) The private checker's liability has to be carefully defined. There will be a question on how much authority shall be delegated to the private checker in checking and approval of building submission. It is noted that in the Australia private certification system, for building submission involving modification of building standard will require government checking and may even take more time for approval.
- vi) When there are many private checkers, there will be inconsistency of acceptance criteria. The level of checking will also be different and commercial factor may also affect the quality of checking. BD, being an independent and centralized government department checker can provide a quality and more consistent and controlled checking service with uniform standard. The private checkers could not afford adopting BD's three-tier system of checking not to mention the directives from the Senior Directorates of the BD on complicated cases and policy matters.
- vii) It will be extremely difficult for private certifiers to be independent commercially from other parties, in particular the developers. The relationship between developers and building professionals in the private sector is complicated and there will always be business connections between them. Too many private certifiers will result in fee competition and consequential lowering of quality of services. Insufficient competition will affect the independency of the private certifiers.
- viii) An appeal system will be required for the private certification system. However, in case of an appeal from a developer against a private checker's decision, the latter may not have the comparable resources to back up its defence. No such concern rests with BD. The fear of handling appeals in terms of manpower and financial burden will adversely affect the independence of the private checkers.
- ix) Implementation of private certification will affect the existing staff of BD. The concern has been stated in the relevant staff associations' letter to the Chief Executive date 20 April 2006.

Item	Notes	Action
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- x) There will also be effects on the employment, training, and education prospect of the probationers of the building professional institutions and the impacts shall be carefully studied.
 - xi) BD can maintain experience and knowledge of building design and checking, viz the quality of building control and consistency. The regional and past experience can be kept in database for reference and can be built up continuously. Private sector may not be able to have this function.
 - xii) The training to building surveying graduates and other technical staff currently provided by BD will be affected if the checking work is privatized.
 - xiii) In approval of General Building Plans, which involve aspects related to public interest such as granting bonus plot ratio and exemption of gross floor area, private certifiers shall not be entitled to exercise discretion.
 - xiv) Other comments from BDLBSA have been provided in their email to BAL dated 8 May 2006. (A copy of the email is attached in Appendix A)
 - xv) Overseas experiences indicated that there may be problem in sustaining the PII system for the private certifiers.
-

Yang, Desmond

From:

Sent: Monday, May 08, 2006 11:36 AM

To: Yang, Desmond

Cc:

Subject: Study on Private Certification of Building Submission - Interview with BDLBSA

Dear Mr. Desmond Yang,

Private sector involvements in approving plan submissions under different STATUTORY building control systems depend on the local statutory framework and practice, community needs and expectation, specific social culture and background, and characteristics/nature of building stock/developments. The private sector involvements under various "Private Certification" Systems being practiced in a few overseas countries/places are different in extent and nature. Systems that are viable in other places may not be applicable to situations in Hong Kong .

To our understanding, the following issues/problems have been encountered :

- (i) In Singapore, the private certification system is applicable to structural design only.
- (ii) In Singapore, a number of offences by accredited checkers and building professionals were noted, including the collapse of the roof of a multi-purpose hall under construction.
- (iii) In New York, the audit results indicate that the rate of non-compliance is rather high (about 13% in average from 2002 to 2004).
- (iv) In England, due to insurance consideration, most approved inspectors cannot deal with projects involving construction of new houses, or flats for sale or private renting.
- (v) In Japan, false certification on earthquake proof design was recently discovered.

There were many practical difficulties (e.g. interpretation of Building Regulations, limitation on granting exemptions and modification under the Buildings Ordinance, independence and impartiality of private certifiers/checkers, commercial viability, public confidence, liability, insurance, etc.) yet to be resolved. Without knowing the details of your proposals, our Association has **GREAT RESERVATION** on the practicability of "Private Certification" in Hong Kong.

Furthermore, we wish to point out that a "Building Submission" comprises building plans (mainly demonstrating compliance with Building (Planning) Regulations), structural plans for foundation and superstructures, drainage plans, site formation plans and demolition plans; and each of them should be checked separately by different building professionals with input from concerned government departments. I presume you will consider them separately in your study.

If you wish to have an interview with our Association, please make an appointment with our Vice-Chairman, Mr. Dick TC Yu

Davy YUEN, Chairman of BDLBSA

To:
cc:

04/05/2006 18:04

Subject: Study on Private Certification of Building Submission - Interview with BDLBSA

01/06/2006

Dear Mr Davy Yuen,

We are sorry that the previous scheduled interview on 24 April 2006 is not convenient to you and your members, and we will be most pleased to re-arranged an interview with your organization.

Due to the tight programme of our study, we can only conduct the interview latest by the end of May, or views and comments from your organization will be unable to be included in our study.

We would therefore appreciate if you could propose date(s) convenient to you for the interview within May for our further arrangement. On the other hand, your views and comments conveyed in the form of writing will also be welcomed.

Please be noted that in any case if your response is not received on or before 29 May 2006, we will assume that your organization has declined to offer us an interview and to convey your views and comments on the captioned subject.

For further queries, please feel free to contact the undersigned.

Best Regards,

Desmond Yang

JACOBS BABTIE

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01/06/2006

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Meeting Notes

(Form QP207/F2 Issue 3)

Project Title	Study on Private Certification of Building Submissions	Job No	G2937
Meeting Location	Room 1816, 18/F, Pioneer Centre, BD	Client	EABFU
Meeting Date/Time	29 May 2006 5:00pm to 6:30pm	Our Ref	G2937
Subject	Notes of Meeting with Staff Associations:- BDSEA, BDTOWG, BDSOWG and CEDDGEA	Your Ref	-----
Participants	Lo Gon Fai Jacky Chiong C M Tang P H Kwok Wong Yat Wing Chan Kwok Fai Au Chak Fu Rodney Pun Lung Tsui Ping Alan Ip David C H Chang C K Siu Jenny Yeung David Kwok Mark H C Chan Albert Leung (AL) William Ng (WN) Desmond Yang (DY)	BDSEA BDSEA BDSEA BDSEA BDTOWG BDTOWG BDTOWG BDSOWG BDSOWG BDSOWG CEDDGEA CEDDGEA CEDDGEA CEDDGEA CEDDGEA Babtie Asia Ltd. Babtie Asia Ltd. Babtie Asia Ltd.	
cc	-----	File	G2937/103
Date of Distribution	6 June 2006	Notes Prepared By	Desmond Yang

Item	Notes	Action
1.	AL explained briefly the salient points of the private certification (PC) study awarded by the Hong Kong Government to BAL:- i) BAL will not be recommending whether private certification should be introduced in Hong Kong.	

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Item	Notes	Action
	<ul style="list-style-type: none"> ii) BAL would report on the issues of the present submission system in Hong Kong to identify areas where PC might be helpful. iii) BAL would study the possible problems on PC by making reference to other overseas countries private certification system as well as the construction industry conditions pertinent to the local Hong Kong conditions and characteristics. iv) BAL would propose the scheme of the PC works together with the trial scheme. 	
2.	<p>The staff associations commented on the scope and objective of the PC study:-</p> <ul style="list-style-type: none"> i) The brief from client on the study is biased towards PC and the objective is confused. The scope of study has already assumed that PC is the only solution to the problem, if any. BAL should, being a professional engineering consultant, highlight such deficiencies of the brief in their report to the client. BAL should also make it clear in the report that, under the restriction of the biased brief, the findings may not be legitimate. ii) It is necessary to identify the problem before considering study of PC. The Staff Associations opined that the current problem, if any, has not been well defined. iii) The staff associations would like to know where the concern for the current system comes from. As from the understanding of BDSEA, both the public and the engineering practitioners in Hong Kong prefer to maintain the current BD system. There are also channels for practitioners to suggest improvements to the existing system. iv) If there is a real problem, the whole building construction cycle has to be reviewed, but not just the BD system. The present scope of study has not included the time taken by the AP/RSE in preparing submissions and resolving comments from BD, and submissions involving other government departments, as these submissions are actually critical to the overall building approval process. . 	

Item	Notes	Action
	<p>v) PC is not a suitable solution for improvement. The current study is considered too superficial.</p> <p>vi) The staff association raised the issue of possible conflict of interest of BAL on the current study.</p> <p>vii) The proposal of trial scheme for implementation required in the study brief is questioned and considered premature at the present stage. Although BAL will not be making recommendations, in formulating the trial scheme, BAL have to address the issues and problems conveyed from different stakeholders, which may be contradicting such that BAL will need to make their judgment and recommendation to balance those possible contradicting comments.</p> <p>viii) As the funding for the current study is from the money of the general public, the study has to be worthy to the general public.</p> <p>ix) In quoting PC in overseas countries, comparison on saving from implementation of PC will be necessary and have to be compared under the same level and basis. The level of control in these countries might not be the same.</p>	
3.	The staff associations stated that their comments on the study have been included in their letter to Mr Donald Tsang (Chief Executive of HKSAR Government) dated 26 April 2006 and the Press Release. A copy of the letter and the press release is attached in Appendix A.	
4.	Additional comments from CEDDGEA and BDSEA were provided at the meeting for incorporation into the study. Their comments are attached in Appendix B and C respectively.	

Item	Notes	Action
5.	<p>The staff associations commented on the issues, risks and drawbacks of PC:-</p> <ul style="list-style-type: none">i) It is recognized that under the competitive property market in the Hong Kong economy, it is often that the engineering consultants do not have enough time for preparing quality design submissions. Shortening of checking and approval time under the current BD system will induce greater pressure to the consultants and further lower the quality of their design submissions.ii) Consultants are always facing pressure from their client. The current building control by the Government is therefore crucial for ensuring building safety.iii) BD has to maintain a minimum standard of design and to keep the control of this standard for buildings. The control is good for homeowners, the public, consultants and the industry. The property developer is only one of the stakeholders.iv) In PC, both the designers and the checkers will face huge commercial pressure and the quality of works may be affected.v) BD has a '3-tiers' checking system to ensure quality of checking as a responsibility to the public. However, in private certification, the checking system and the quality of checking is difficult to guarantee.vi) Different private certifiers will have different standard of checking, particularly when under commercial pressure, and a consistent standard cannot be maintained.vii) Once private certification is implemented, it will be difficult to go back to the previous system like the case in Singapore. If problems occur in private certification system, the government will have to deal with it then. A new class of homeowners of buildings built in the period will be created who may suffer great loss in property value.	

Item	Notes	Action
	<p>viii) The situation in Hong Kong is different from other overseas countries. The land cost is very high and the contractors are very competitive. In Hong Kong, there are a lot of high rise buildings and in general the buildings are owned by various owners, which is different from other overseas countries where there are less high rise buildings and the buildings are generally owned each by a sole owner. The private certification system adopted by other overseas countries may not be applicable to Hong Kong.</p> <p>ix) In some overseas countries, public and private certifications are in parallel and the owners can choose between public or private certifications. It is noted that building under private certification is more difficult to be re-sold and higher premiums are involved. It is also noted that in UK, where both public and private systems can be chosen, 90% of the building is under public certification. The many private certification systems in the overseas countries cannot be a reason to support implementation of private certification in Hong Kong. The Associations pointed out that the details, reasons and actual implementation of PC in other countries should be studied instead of just quoting the countries adopting PC.</p> <p>x) The Hong Kong site situation is different from other overseas countries in terms of topographical and geological conditions. In Hong Kong there are a lot of sloping ground with building sites stacked one above another. This makes construction more difficult and more vulnerable to catastrophic incidents if the design is not properly checked. BD and GEO, being the government centralized building control bodies and with technical and regional database and knowledge, can provide a holistic view to the overall developments in an area and the interaction between various sites.</p> <p>xi) Whether PC can save time is questionable and need to be justified. It is believed that the time saved from PC is often achieved through cutting down on design engineer's time, and this will have a knock-on effect on the quality of work being compromised, which is unacceptable.</p>	

Item	Notes	Action
	<p>xii) The general public, being the owners and users of buildings, shall be consulted on the proposed change in the checking and approval system.</p> <p>xiii) An issue on buying flat is raised and illustrated with an example. To an owner of a flat of a building, who buy his flat with mortgage payment of as long as 25 years, the shortening of only a few months is insignificant to him.</p>	

新聞稿

香港高級公務員協會聯同十個政府部門內的十三個專業人員協會就政府撥款與臨時建造業統籌委員會聘請顧問公司研究及推行「私人審批建築圖則」一事，提出強烈反對，理由如下：

1. 現時審批私人物業發展建築圖則由屋宇署聯同土力工程處執行，對樓宇設計、物料使用、建築安全及施工方案等，均由政府監管，務使所有私人建築物符合法定的基本安全標準。而「私人審批建築圖則」建議等同把現行的政府監管工作「外判」予私人市場，導致屋宇署只能根據私人執業的建築專業人士的建議來審批建築圖則，毋疑變成橡皮圖章，難以履行維護公眾安全和保障樓宇質素的重大法定責任。
2. 監管私人物業發展實有賴政府執法人員的獨立性。由於私人執業的建築專業人士是受僱於地產發展商，將現有的政府監管工作「外判」予他們，容易造成在物業發展上的角色混淆不清，引致利益衝突，或甚至有私相授受的情況，導致他們難以獨立判斷，嚴重影響建築物質素和安全，以及公眾對樓宇安全的信心。在缺乏公眾諮詢及未有深入探討上述問題的情況下，臨時建造業統籌委員會有意把「私人審批建築圖則」變成既定事實，並以公帑聘請及要求顧問公司制定落實方案的具體計劃，實為草率。
3. 政府一直致力提升效率，改善現行監管制度及將過往不必要的規例廢除，確保建築物的設計及建造上安全，並得到業界的認同及支持。在缺乏研究其他可行方案下，臨時建造業統籌委員會指出「私人審批建築圖則」是唯一加快建造速度及節省建築成本的說法極為不妥，亦間接否定公務員過往在建築物安全監管上的努力和貢獻，不但影響公務員就業，更大大影響公務員的士氣。
4. 類似「私人審批建築圖則」的方法已在一些國家試行，但效果成疑。其中更有發現多宗建築物設計或施工方面欠妥而出現嚴重的安全問題，實與採用的私人審批制度有關。事實上，樓宇是市民的主要資產，監管制度若出現問題，受害的必為購買物業的市民。「私人審批建築圖則」方式一旦出現問題，輕則會引致進行繁複的樓宇加固工程，重則會導致樓宇倒塌，影響公眾安全。
5. 在香港這國際大都，高樓大廈聳立的稠密地方，審批建築圖則不容有失。推行「私人審批建築圖則」制度定會對市民、政府和公務員造成「三輸」局面。

聯絡人：潘偉明醫生



香港高級公務員協會

Hong Kong Senior Government Officers Association

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Tel : 2522 4267 Fax : 2523 3319

By Fax 2509 0577

26 April 2006

Mr. Donald Tsang
Chief Executive
Hong Kong SAR Government
Government House
Hong Kong

Dear The Honourable Mr. Tsang,

Private Certification of Building Submissions

It comes to our attention that the Provisional Construction Industry Co-ordination Board (PCICB) had commissioned a consultancy study on private certification (PC) of building submissions despite reservations expressed by the industry at large and strong objections from LegCo members. After examining the issue and its background in detail, we share their concerns and strongly object to PCICB's proposed consultancy study for the following reasons:

- (a) At present, the Building Authority with the executive arms provided by Buildings Department and Geotechnical Engineering Office of Civil Engineering and Development Department is charged with the statutory duty to ensure safety of private building developments by scrutinizing building submissions before granting approval and consent for commencement of works. PCICB's proposal of checking of building submissions by private professionals amounts to outsourcing the 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 renounced its statutory duty to safeguard public safety. This is contrary to the Administration's pledge that the Government's statutory and regulatory functions would not be outsourced to the private sector, under the fundamental principle that the Government's public duty cannot be relinquished.

- (b) The proposed implementation of the PC and outsourcing of government's statutory building control authority would have far reaching implications and seriously affect the job opportunity of our members. The Administration is duty bound to consult its staff before consenting to PCICB's commissioning of the consultancy study.
- (c) A 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 address to these fundamental issues, PCICB has however included in the scope of study to formulate the implementation details and propose trial schemes for PC. Obviously, they have already considered PC a fait accompli and intend to work out the details as soon as possible.
- (d) With support from the building industry, the Buildings Department has taken the lead to continuously streamline/eliminate outdated, excessive and unnecessary government regulations. As on today, the extant building control system has had excellent track records in ensuring safety and built quality of private buildings. It is totally unconvincing that PC is the only viable way to speed up construction cycle and reduce development cost. We regret to know that other options have never been considered by PCICB. The actual intention of the study is suspicious. The PCICB's action has done a serious blow to our colleagues' morale.

- (e) We understand that the Buildings Department has already conducted a comprehensive study on the feasibility of adopting PC in Hong Kong. The study findings indicate that PC is not suitable due to various inherent deficiencies of the system. The findings of the study had 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 in doubt. Meanwhile, the Consultancy was commissioned to an engineering consulting firm and the project team consists of practicing engineers. Obviously, there are conflicts of interests. It is strange to note that whilst the consultancy study commissioned by PCICB is for the interests of private developers without considering the general public at large, the Government still commits \$1.3 millions to finance the study. As pointed out rightly by LegCo members, it is a waste of public money to launch the consultancy study before gauging the public's receptiveness of the proposal as public interests are at stake.
- (f) 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), Singapore, visited Hong Kong in November 2004 to get more information and understanding of our building control system. We note that BCA considers its private certification system is insufficient and has great deficiencies.
- (g) The proposed PC has far-reaching implications on safety and built quality of private buildings. Apparently, the implementation of PC is totally acting against the public's will and expectation for safety and quality of buildings. Moreover, in a small market like Hong Kong, the private independent certifiers could easily be influenced by developers, and their independence and impartiality is

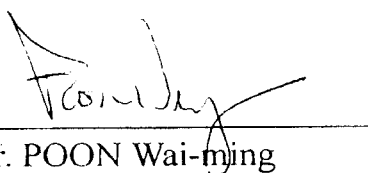
certainly in great doubt. The recent fallout in Japan of an engineer who, under the pressure of developer, fabricated documents on building design resulting in more than 80 substandard buildings in Tokyo is a vivid failure example of the PC.

- (h) The proposed drastic change to the building control had also stimulated reverberations from the industry. The Structural Division and the AP/RSE Committee of HKIE had met the PCICB on 21 March 2005 to express their grave concerns and on the inapplicability of the PC system to Hong Kong.

We are disappointed to know that despite efforts of the professional staff associations of Buildings Department and 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 financed and commissioned the Consultancy Study in February 2006.

As PC has such unfathomable impacts to the community and the building industry, we have no choice but to escalate the issue to your kind attention. We sincerely request your urgent personal intervention into this matter with a view to safeguarding the public interests and relief our grave concern by halting the Study. Full consultation with the public and affected staff associations should be conducted before pursuing the matter further.

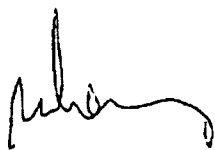
Yours faithfully,



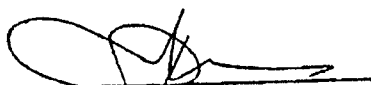
Dr. POON Wai-ming

Chairman,

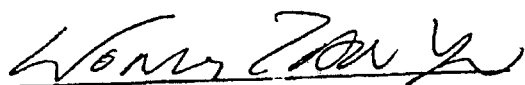
Hong Kong Senior Government Officers Association



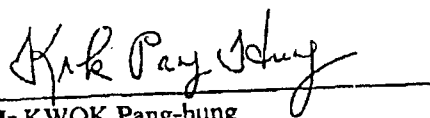
Ir CHEUNG Kin-keung
Chairman,
HKSAR Government Civil Engineers' Association



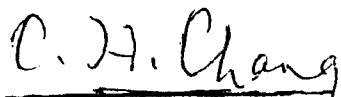
Mr. Patrick HAU
Chairman,
Architectural Service Department Architects' Association



Ir WONG Tak-yu
Chairman,
Architectural Service Department Structural Engineers' Association



Ir KWOK Pang-hung
Chairman,
Buildings Department Structural Engineers' Association



Ir CHANG Chung-hung, David

Chairman,
Civil Engineering and Development Department Geotechnical
Engineers' Association



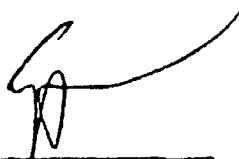
Ir YEUNG Kok-fai, Michael

Chairman,
Association of Professional Engineers of Electrical and Mechanical
Services Department



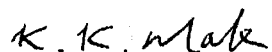
Mr. TAM Kai-kwong, Jimmie

Chairman,
Hong Kong Housing Department Architects Association




Ir SZETO Ic-chung

Chairman,
Hong Kong Housing Department Building Service Engineers
Association



Ir MAK Kam-kui, Peter
Chairman,
Hong Kong Housing Department Civil Engineers Association



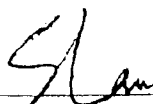
Ir SUEN Pak-chiu
Chairman,
Hong Kong Housing Department Geotechnical Engineers
Association



Ir CHU Wai-chiu
Chairman,
Hong Kong Housing Department Structural Engineers Association



Mr KWAN Kan-fat
Chairman,
Hong Kong Marine Department Local Professional Officers' Association



Ir LAU Siu-key

Chairman,

Government Waterworks Professionals Association

c.c. All members of Legislative Council
c.c Ms. Denise Yue Chung-yee, GBS, JP

Private Certification (PC) of Building Submissions
Additional Views and Comments in addition to our joint letter to CE

1	<p>The current submission procedure would not incur any additional cost on building development if AP/RSE/RGE have properly designed and programmed realistically. For any development, the design should always go before the works. The Building Authority's approval of a plan is to ensure the submission has satisfied the required statutory requirements under the Buildings Ordinance and Regulations regarding concerns of public safety. The designer and owner thus have the means to go ahead with the actual construction. This avoids costly rectification should there be mistakes or misjudgments (e.g. interpretation of code, adopting a wrong design figures, etc). The procedure actually proactively helps the designer/developer in the developing of idea. It would be inconceivable if the government does not provide any control until the faulty buildings are completed and need to be demolished for public safety. It is also inconceivable that the government only steps in to prosecute when something goes seriously wrong. Thus the submission system is an effective and efficient means to enable the Building Authority to put all private developments under the basic control. The argument to push for PC is unfounded.</p>
2	<p>As far as structural design is concerned, the Buildings Department has compiled and published codes and practice notes for practicing engineers to follow. These codes and guidelines are not mandatory but help to ascertain that the required performance is achieved or deemed to be achieved. While codes used today are written in <i>Performance Based</i> approach of design, the various guidelines only help to bridge up areas where it is otherwise difficult to prove performance. Engineers in the Buildings Department are well experienced and have a wide exposure to various standards/quality and complexity of design. They are well ready to apply their knowledge to make engineering judgment in ensuring consistent acceptable standards for the compliance of Performance Based codes. They are also experienced law enforcement agents to ensure public safety in building control.</p>
3	<p>It should be noted that in private development, the developer is usually not the end-user. The consumer (i.e. homeowner) has no representative in the process of the planning and design of the building. PC will put the benefit of the consumer in jeopardy. Without the basic control by the Building Authority, the public has to accept a greater variance of building quality, both in design and construction. This does not encourage exchange of property nor promote the construction industry. Without the Building Authority's positive control on the system, any irregularity exposed would have far greater impact (of unlimited scale) to the industry. PC is a dangerous move. Apart from safety for everyone, the Building Authority is protecting the benefit of every homebuyer.</p>

4	The engineering profession is in general against the proposal of PC. Apart from serving the client, the engineer is obliged to serve the public also. Engineering design cannot afford to fail. The consequence of a collapse is disastrous and should never be allowed to happen. Poorly constructed building also causes losses to the homeowners and tarnishes the image of the industry. The homeowners that are victims of the loss will also need to bear the liability of the problematic building. Thus the problem is a lot more than just considering indemnity insurance for the PC engineer.
5	We notice that provision of insurance to cover the designer and the PC checker is proposed. We are appalled by the notion that public benefit is ignored when the PC engineer is considering his way out by means of insurance. For each building with hundreds of individual homeowners, any serious fault would cost astronomical compensation for lives and repairs. The serious financial cost will eventually be borne by the end-users. It should be noted that once there is a quality problem, the insurance premium would be out of anyone's control. If PC will be adopted, the general public will have to pay a lot more but with less protection.
6	Higher standard of building safety will certainly involve a cost for everyone. But it is the lack of control and relaxed standard that will cost more to everyone. Insurance premium for all kinds of cover in connection with buildings will be very high if we cannot maintain a good basic standard on quality and safety of procedures. When the public loses confidence, exchange of property will become more risky and this will be reflected by the market value. The current submission system not only provides an effective risk control, it also provides the confidence that enhances exchange of property.
7	From the above points of view, the current system is highly cost-effective in the best public interest. Nevertheless the Buildings Department always welcomes realistic suggestions with good intentions. We deeply regret that the consultancy study of PC is carried out in such a hasty manner. The study has not only hurt the morale of our staff whose contributions to ensuring public safety are well recognized, it also affects the image of both the industry and the civil service. We object to the whole idea of PC. Finally we would like to propose that the public should be consulted first if PCICB would consider going any further from here.

Buildings Department Structural Engineers' Association (BDSEA)

29 May 2006



Civil Engineering and Development Department
Geotechnical Engineers' Association
土木工程拓展署土力工程師協會

Babtie Asia Ltd,
15/F Cornwall House, Taikoo Place,
979 King's Road, Quarry Bay,
Hong Kong

29 May 2006

Attn: Mr. Desmond Yang

Dear Desmond,

Private Certification of Building Submissions

We will like to provide the following additional comments:

- (i) As a central body in geotechnical control, the GEO has amassed a good wealth of specialized geotechnical experience/knowledge over all these years, which are relevant to Hong Kong, as well as other countries, and which are made available to local industries. This experience/knowledge will be lost/discontinued if the duties of auditing are left to individual private practitioners, which because of individual commercial interest, will keep the experience/knowledge gained only to themselves.
- (ii) The GEO has a holistic view of the geotechnical problems that we are facing. For example, the effects of the proposed construction activities in the Mid-levels area, and that are the reasons why special control has to be exercised such that regional stability can be maintained. Impartiality is the key to ensure compliance of performance criteria and the interpretation of the performance data, and such duties cannot and should not be left to the individual private practitioners.
- (iii) The auditing process performed by GEO/BD consists of a package of design checking, compliance with material specifications and

site monitoring. Any separation of the above items would be undesirable and unsatisfactory, and would certainly compromise the effectiveness of the present system which is working well.

- (iv) Whilst other countries have long implemented systems similar to Private Certification, the situation Hong Kong facing is unique. Hong Kong has a hilly terrain and building developments are constructed along the hillside. Any slope failure or building collapse would likely induce a "domino effect" causing chain failures. The Kotewall Road failure in 1972 which resulted in chain collapse of three buildings is a typical example. Since the set up of a centralized organization (GEO) to exercise overall control of the geotechnical aspects of private development, no major failure of this type has ever occurred. Private certification would only put public safety back at risk and retrograde to the situation we had 30 years ago.

Yours faithfully,



David C H CHANG
Chairman, CEDD GEA