

**Extract from the minutes of meeting  
of the Panel on Planning, Lands and Works on 20 December 2005**

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**IV Private certification of building submissions**

- (LC Paper No. CB(1)304/05-06(01) -- Information paper on “Private certification of building submissions” provided by the Administration
- LC Paper No. CB(1)525/05-06(03) -- Letter dated 25 November 2005 from Hon LEE Wing-tat
- LC Paper No. CB(1)1996/04-05(07) -- Information paper on “Certification of building plans by private professionals” provided by the Administration
- LC Paper No. CB(1)1981/04-05(01) -- Letter dated 30 June 2005 from the Administration concerning the Administration’s plan to outsource certification of building plans to private professionals
- LC Paper No. CB(1)525/05-06(04) -- Letter dated 18 July 2005 from the Panel Chairman to the Financial Secretary on “Certification of building plans by private professionals”
- LC Paper No. CB(1)110/05-06(01) -- Letter dated 24 August 2005 from the Financial Secretary to the Panel Chairman on “Certification of building plans by private professionals”
- LC Paper No. CB(1)87/05-06(01) -- Letter dated 17 October 2005 from Task Force to Review the Construction Stage of the Development Process on “Certification of building plans by private professionals”
- LC Paper No. CB(1)2362/04-05 -- Minutes of meeting on 13 July 2005)

Presentation by the Provisional Construction Industry Co-ordination Board

4. The Deputy Secretary for the Environment, Transport and Works (Works) 2 (DS/ETW(Works)2) explained that regulation of the property development process was under the purview of the Housing, Planning and Lands Bureau (HPLB) and there were representatives from HPLB attending the meeting of the Panel held on 13 July 2005 when the subject of private certification of building submissions was first discussed. Since the Administration had not yet proceeded to the policy formulation stage in respect of the subject, the Administration considered that the attendance of HPLB's representatives at the present Panel meeting was not necessary. He assured members that the Administration would not formulate any related policy before the subject had been fully studied.

5. DS/ETW(Works)2 then briefed members on the background to the proposed consultancy study on private certification of building submissions. He made the following points –

- (a) The Economic and Employment Council chaired by the Financial Secretary was established in January 2004. The Economic and Employment Council Subgroup on Business Facilitation (EECSG) was established to facilitate business development and job creation through identifying and eliminating outdated, excessive, repetitive or unnecessary government regulations.
- (b) EECSG had embarked on a comprehensive review of the regulatory regime for the property development process. The review was divided into two parts: one covering lands and planning matters related to the construction stage and the other covering the construction stage. EECSG had requested the Provisional Construction Industry Co-ordination Board (PCICB) to undertake the second part of the review.
- (c) Environment, Transport and Works Bureau officials were attending this Panel meeting in their capacity as members of the PCICB Secretariat while the representative from Buildings Department (BD) would provide information on the relevant regulatory issues where needed.

6. The Chairman of the PCICB Task Force to Review the Construction Stage of the Development Process (Chairman of the Task Force) made the following points –

- (a) The Task Force was charged with the task of reviewing the regulatory system in respect of the construction of property development and making recommendations to EECSG on how to speed up the construction cycle and reduce the cost of compliance

with prevailing statutory requirements. Private certification of building submissions was one of the possible enhancement measures being examined by the Task Force. The statutory power of approving building plans rested with the Building Authority. A lot of vetting work in the technical aspects, currently undertaken by BD, was required in the approval process. The Task Force was exploring the feasibility of engaging professionals of the private sector to share the workload, thereby enabling greater flexibility in the vetting process.

- (b) The Task Force agreed with the Panel that statutory powers should not be outsourced lightly to private entities. The primary objective of private certification was not the outsourcing of statutory powers, but to streamline the approval process through engaging private professionals to undertake appropriate checking of building design while retaining the existing checks and balances and minimizing changes to the statutory framework.
- (c) As private certification had been implemented for some time in countries such as the United Kingdom, Australia and Singapore, some stakeholders of the construction industry considered it worthwhile to explore whether private certification would be applicable in Hong Kong. They expected that private certification would speed up the approval process, shorten the property development cycle and reduce the development cost, thereby encouraging investment in real estates and benefiting the whole society. Whether overseas experience would be applicable in Hong Kong and the anticipated merits of private certification would require further verification.
- (d) The Task Force was not recommending the implementation of private certification. It only recommended that a consultancy study be conducted to ascertain the feasibility, assess the merits and drawbacks as well as risks, and identify implementation issues of private certification so as to facilitate PCICB to make a recommendation to EECSG as to whether private certification should be pursued. The consultancy study would not turn private certification into a fait accompli.
- (e) It would take about three to four months to complete the study and the cost involved was about \$1.3 million. In view of the potential benefits of private certification, it was value-for-money to conduct the consultancy study. The attention given to the recent report of the World Bank on Doing Business in 2006 was a clear reminder that continuous improvements to the regulatory regime were crucial for maintaining the competitiveness of the local economy.

7. Mr W H LAM pointed out that there was a wide range of building plans requiring approval by BD in the course of a construction project. For simple construction projects, the number of steps needed might be some 250. For complicated projects, the number of steps might reach some 700. The building plans requiring approval could be broadly divided into two categories. The first category was related to basic principles such as general building plans. These plans included information such as the density of the development and required approval from many Government departments. In exploring the feasibility of private certification, no consideration had been given to including the first category of plans. Rather, the focus was on the second category which was related to technical matters such as sewers, curtain walls and fire fighting systems. Through the consultancy study, it was hoped that the feasibility of private certification or otherwise could be established. The Task Force remained open on the issue.

## Discussion

### *Merits and drawbacks of private certification*

8. Mr CHEUNG Hok-ming enquired about the views of the Task Force on the merits and drawbacks of private certification. In reply, the Chairman of the Task Force pointed out that private certification would be useful in handling technical matters, especially those related to amendments of building plans for which BD had to process the certification within a statutory period of time ranging from 28 to 60 days. As many amendments were inter-related, it might take a long time for completing the whole certification process. Private certification could speed up the process. In relation to drawbacks of private certification, there were concerns on issues such as the independence and quality of work of third party certifiers and public confidence in private certification. Although private certification was being practiced in some overseas places, an independent and comprehensive consultancy study would assist the Task Force in reaching a conclusion.

9. Acknowledging that private certification had both merits and drawbacks, Mr CHEUNG Hok-ming asked how the Administration would strike a balance between the two in coming to a conclusion. The Assistant Director/New Buildings 1 of the Buildings Department (AD/NB1) replied that at this stage, BD held an open attitude on private certification. BD would give consideration to any proposed mechanism that would be beneficial for society without compromising building safety. Issues such as commercial viability of private certification, availability of insurance for private certifiers and the need for legislative amendments would need to be investigated in the consultancy study. BD was prepared to further study the subject after the completion of the consultancy study.

10. The Chairman of the Task Force commented that for concerns such as public confidence in private certification and independence of private certifiers,

consideration could be given to formulating codes of professional practice, guidelines and independent technical audits.

11. Mr Abraham SHEK expressed support for exploring private certification of building submissions in view of the potential benefits to the economy of Hong Kong. He commented that the organizational structure of the Government was large and some regulations were outdated and problematic. Through private certification and eliminating undesirable regulations, the construction cycle could be speeded up. The private sector had the expertise and experience required for private certification. He agreed to the view that the Administration should bear the final responsibility in approving building plans and that the process should be transparent. He pointed out that if in the end the consultancy study found out that private certification was not feasible, status quo could be maintained. Without the consultancy study, there was no way of moving ahead a further step and identifying possible areas for improvement. He hoped that other members would support conducting the consultancy study.

12. Mr WONG Yung-kan asked how the Administration would address the various concerns on private certification. He considered that the large organizational structure of the Government and the established procedures might be the main reasons for the lengthy processing period required for vetting building plans at present. He asked whether the Administration would consider including a review of the organizational structure of the Government in the consultancy study. He sought clarification on the level of responsibility that the Administration would have to take up in the case of implementation of private certification. He asked whether the Administration had any stance on private certification.

13. The Chairman of the Task Force said that the proposed consultancy study would identify problems in the existing building plan vetting process and recommend solutions to those problems. AD/NB1 supplemented that all along BD had been making efforts to expedite and simplify the building plan vetting process. Since 2002, BD provided consultation service for submission of building plans and used electronic means to check the calculation of building areas. Certain procedures relating to amendments of building plans had been simplified. Moreover, since 2003, BD, Lands Department and Planning Department had issued Joint Practice Notes to streamline the approval procedures. BD would continue to streamline approval procedures as appropriate.

14. Mr WONG Yung-kan queried the need for conducting the consultancy study if BD was already putting in efforts to streamline the approval procedures. In response, AD/NB1 explained that private certification was a new idea raised by the construction industry with a view to speeding up the construction cycle. The consultancy study would investigate the feasibility and merits of private certification and, if private certification was pursued, the degree to which private certification would be applied in Hong Kong. The consultancy study and the Administration's enhancement measures could proceed in parallel.

15. Mr Alan LEONG asked whether the fact that BD would not maintain a large number of permanent staff was a reason for proposing private certification and whether the final responsibility for approval of building plans would still be rested with BD. He also enquired whether the proposed consultancy study would include the feasibility of final certification of building plans by private professionals. Mr W H LAM replied that the consultancy study would identify appropriate methods for implementing private certification. One possible method would be for BD to engage private professionals to perform the certification of certain building submissions on behalf of BD. Another possible method would be for building submissions to undergo checking by private professionals, and the building submissions together with the reports of checking would be submitted to BD for approval. The proposed consultancy study would identify methods which were efficient and safe and could safeguard public interest.

16. Mr Patrick LAU expressed support for the proposed consultancy study, which he hoped would be comprehensive covering the design and construction aspects. He commented that the current approval procedures had become very complicated and with the implementation of private certification, the vetting process could be speeded up and this would be beneficial for the development of Hong Kong.

#### *Outsourcing of statutory power*

17. Mr Albert HO pointed out that many policies relating to privatization had attracted a lot of disputes. He considered that certification of building submissions was a statutory power which should not be outsourced to the private sector lightly. In considering the feasibility of private certification, the fundamental issue of whether it was appropriate to outsource a statutory power had to be resolved first. He was concerned that private certification of building submissions, if implemented, would set a precedent for other statutory powers and asked whether the Administration had any policy in this regard.

18. In response to Mr HO's concerns, the Chairman of the Task Force emphasized that private certification of building submissions was not aimed at outsourcing statutory power. Rather, it was aimed at engaging professionals in the private sector to assist in the building design certification process by sharing the workload and speeding up the approval process. The Administration should maintain a monitoring role and existing checks and balances should be maintained. Mr W H LAM supplemented that the focus of private certification would be on technical and professional aspects for which BD had no appropriate expertise to handle, such as complicated fire engineering works, curtain walls and advanced structures. He pointed out that professionals in the private sector had already been engaged in the checking of building submissions in some other Government projects such as the Tsing Ma Bridge.

19. Noting the above explanation, Mr Albert HO said that engaging professionals in the private sector to carry out the checking of building

submissions was not a major problem. The key issue was who would be the final approving authority and who would be held accountable for the approval. His main concern was whether the Administration would bear the final responsibility. In response, the Chairman of Task Force responded that the aim of conducting the proposed consultancy study was to address the concerns raised by members, identify what aspects of building submissions would be suitable for private certification and assess the associated risks.

20 Mr Albert HO asked whether other Government departments had experience in allowing private professionals to certify matters that involved public safety and public interest. He was worried that private certification of building submissions would set an undesirable precedent jeopardizing public interest. He asked whether the Administration had any policy direction in this regard because it would be a point for consideration if the Legislative Council's approval in such matters was needed in the future.

21. In response, DS/ETW(Works)2 said that he had no available information on hand to answer Mr HO's first question and remarked that the subject of private certification of building submissions had not yet reached the policy formulation stage. When there was the need, the Administration would certainly provide further details. Mr W H LAM supplemented that as far as he understood, in cinema licensing, there was a mechanism for certification of air-conditioning systems by private engineers for the issuance of a temporary licence. The Administration might have considered/implemented similar arrangements in other areas.

