

連接中區五座商業樓宇的行人天橋

主席：

我現在宣布聆訊開始。我們今天會就審計署署長第31號報告書第6章，即連接中區5座商業樓宇的行人天橋事宜進行公開聆訊。大家應該記得，委員會曾為這報告作公開聆訊，我們看過政府提交的文件後，決定再作聆訊。請吳亮星議員為委員會開始提問。吳議員。

吳亮星議員：

多謝主席。作為委員會成員，我們很關心中區5座商業樓宇的行人天橋事宜，並對此展開工作。根據近期從政府方面得到的資料和證供，前後相距20多年，最早可追索到1975年。加上有關政府官員的變動，而委員會從物業註冊資料得悉有關業主亦有明顯的變動。基於以上的情況，我覺得有需要就審計署署長報告書內這章節的一些關鍵性問題，請政府官員作出解答，以核證一些要點。

首先，有關樓宇I天橋A的事項，我們留意到在1975-76年間，根據香港法例第123章《建築物條例》第42條，向樓宇I的業主發出許可證，樓宇I業主獲批予額外地方面積。首先我請問屋宇署署長，當時批出額外和豁免的面積，是否有意圖作為換取業主接納興建連接一條行人天橋設施的代價。我希望屋宇署署長在翻查資料後，對當時批出額外地方和豁免地方的具體考慮作出補充。

主席：

現在我正式介紹今天獲邀請的證人，包括規劃環境地政局局長蕭炯柱先生、地政總署署長布培先生、屋宇署署長蔡宇畧博士、規劃署署長馮志強先生。請蔡署長回應這問題。

屋宇署署長蔡宇畧博士：

多謝主席。我們翻查73至76年間的資料，如吳議員所述，當時的屋宇署確實曾與業主聘請的認可人士作出多次商談，在商談的紀錄中，是公認政府有意圖實施中區行人天橋的計劃。在商談中，政府亦清楚表明希望在樓宇I與樓宇II之間以一條行人天橋連接，因此，在地下和一樓撥出額外地方面積。豁免的面積並不計算在核准的地積比率內，正如報告書指出，額外的面積是作為補償的優惠地積比率。在當時確實有這些文件。多謝主席。

主席：

吳議員。

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

吳亮星議員：

在文件中，其中有一封是代表業主的一間公司在82年1月29日，即在政府給予額外的面積後致函政府，表示原則上並不反對興建行人天橋以接駁樓宇II的建議。政府為何在業主不反對的情況下而沒有作出跟進呢？政府基於甚麼理由沒有在這機會下完成興建接駁天橋的工程？

主席：

蔡署長。

屋宇署署長：

我已翻查屋宇署現有的檔案，並沒有發現任何紀錄有關這方面的批地契據資料。

吳亮星議員：

我相信當時樓宇I的認可人士，即代表Woodhall Company Limited的曾與政府作出跟進時曾發出過的一份函件，是否屋宇署或其他政府部門曾作處理呢？

主席：

這問題應由布培先生回答較為適當。

Mr R D Pope, Director of Lands (D of L):

Mr Chairman, there was indeed correspondence at that time and the Authorised Person (AP) did indicate that he would receive the footbridge. It would appear that was never pursued because the legal document that was issued in 1975 didn't provide for the owners of Building I to receive the footbridge. There were some uncertainties at that time as to where the footbridge from Building II would actually go. As I said, nothing was pursued at that time.

主席：

劉慧卿議員。

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Miss Emily LAU:

Chairman, may I refer to the Director of Lands' letter to us, which is in File I. If Members would like to turn to File I, Document A, that is the Director's letter to us dated 16 January 1999. I hope the Administration also has the same bundle?

D of L:

I have it.

Miss Emily LAU:

Chairman, the letter which Mr NG Leung-sing just referred to was mentioned at the top of page 4, which follows on from page 3. If Members want to refer to that letter, you can turn to X(a) which is in the same file. In Mr Pope's letter to us, he said that:

“Accordingly, Highways Department was informed and it is noted that detailed engineering proposals had been examined, subsequently, in consultation with the Buildings Department.”

So it seems something has happened. Then he went on to say that:

“According to file records, there was very little redevelopment progress immediately following the above. The redevelopment of Building II became active again towards the late 80s and early 90s. However, the Authorised Person for the owners of Building II advised the Government that his negotiations with the owners of Building I on the footbridge connection had proved unsuccessful.”

Chairman, it seems that something has happened. If we look at the letter which Mr NG referred to, the letter of 29 January 1982 from Wong & Ouyang & Associates, representing Woodhall Company Limited, in the letter it says that:

“We are given to understand that the Highways Office will contact us.”

In fact that is what happened, according to Mr Pope. They did work out some detailed engineering proposals, but then nothing else seemed to happen. Then there is a reference to the redevelopment of Building II.

Chairman, I want to know: is it all dependent on the redevelopment of Building II at this stage in 1982? Was all this discussion quite futile? If you know at that time that there would be no redevelopment of Building II anyway, why did all this discussion take place? These few brief paragraphs from Mr Pope do not give us the full picture. Also,

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Chairman, at that time, according to our Legal Adviser, I don't know whether the Administration has the chart on the history of the ownership of Building I, the Woodhall Company Limited is no longer the owner. Maybe the Legal Adviser can also help. What is the point then, if it is not the owner?

主席：

業權轉讓的資料是由政府提供的，我相信他們應該有有關的資料。

Miss Emily LAU:

If they want to, Members can refer to the chart. I hope Mr Pope gets my question.

主席：

布培先生。

D of L:

Thank you, Mr Chairman. My letter really set out the history, as we saw it, from the different files that were in my possession. Certainly, in the early 80s the AP indicated that there were no objections to a connection of footbridge and it was dependent on the Highways Office. As I said before, the Highways Office was uncertain as to where the footbridge would actually connect because it wasn't sure whether Building II would be redeveloped and, if so, where the connection would be.

It is noted a detailed engineering proposal has been examined typically in consultation with the Buildings Department. My record shows that basically nothing happened until Building II was proposed to be redeveloped, I think in 1991, when there were discussions between the Building I owners and the Building II owners. I think the Building I owners then indicated that they would not receive the footbridge.

Miss Emily LAU:

Chairman, with all the discussions in 1982 in relation to the letter and so on, should all the parties have been informed that it is a futile discussion if Building II is not going to be redeveloped? Had someone been misled or was the condition at that time really conducive to this whole project? In page 4 of your letter, you refer to the lack of redevelopment. That is a very germane point. Why wasn't that made at the time? Why

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

do you go into making all these detailed engineering proposals, knowing full well that the project is not going to be carried out?

D of L:

I can't really comment on that, Mr Chairman. I think the Administration always felt that we should work towards a footbridge link and that we should always have plans for this. This has always been our intention right from the very beginning, which has been frustrated at different stages. It could have been a waste of our resources at that time because Building II was not planned to be redeveloped at that stage. Building II wasn't redeveloped until the early 1990s, so perhaps it was a waste of time.

主席：

劉議員，或許這問題我們可以書面向運輸署提問。

劉慧卿議員：

主席，這問題當然要詢問，但他們太離譜了。我們邀請了4位官員到來，他們卻要求更多位證人出席回應。主席，其中一個核心問題是，若當時的條件並不存在，更多書信往還亦徒勞無功，其實寫信的前提應該指出若不重建，便沒有商討的餘地。第4頁第1段指出，初期大家商談氣氛良好，亦談及各方面的建議，但卻表示沒有重建。直至80年代末，90年代初才進行重建，我覺得實在太離譜，浪費公帑，稍後要問問審計署署長是否知道這些事？

主席：

Mr Pope.

D of L:

As the Director of Buildings has pointed out, there had been discussions before 91 regarding the redevelopment of Building II. It didn't transpire until the early 90s. In those discussions, he is referring me to a letter in 1973 when they were talking of redevelopment proposals. So, they have always been possible. This was a letter from the solicitor for Building II on the question of redevelopment but it didn't actually pursue at the time, maybe because of different economic problems that arose during that period.

主席：

劉議員。

劉慧卿議員：

主席，我想問屋宇署署長，這是否“煲無米粥”呢？在73年，你們已經提出此事，現在是99年了，究竟重建計劃在商談的時候是否已很實在的呢？我們同意政策必須執行，但若你明知事情並不可行，或根本沒有成功的條件，你便應開宗明義地展示出來，沒有條件就不應進行，事情纏繞了十多二十年。或者請屋宇署署長先解釋，然後請審計署署長回應是否知悉當時的情況？多謝主席。

主席：

蔡署長。

屋宇署署長：

多謝主席。這些討論在當時是相當正常的。樓宇的發展過程通常是業主先有一個構思，然後與屋宇署討論，視乎在這些條件下是否值得發展才繼續進行研究。在1973年3月15日，代表樓宇I業主的律師曾致函予屋宇署，提出樓宇I及樓宇II的業主有很密切的關係，樓宇I及樓宇II的業主希望可以一起合作發展，因而展開討論。但約一、兩年後，情況有所變化，樓宇I及樓宇II的業主決定各自分開發展，於是其後的討論便集中在樓宇I。以後的情況在審計署署長報告書內已有詳細的記載，而樓宇II的業主在80年代才提出重建計劃及再次討論。

劉慧卿議員：

主席。73年開始討論了兩年，但兩年後卻因不再發展而不繼續討論。其實在82年已經沒有討論條件了，為何仍要信來信往和作那麼多詳細的工程建議呢？當時的大前題是，是否仍可繼續商討？既然沒有與樓宇I及樓宇II的業主達成協議，亦沒有重建樓宇II的建議，請問署長，這是否白費心機呢？

主席：

蔡署長。

屋宇署署長：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

政府在Outline Development Plan中，一直有意願興建中區行人天橋，我們必須把握樓宇I重建的機會，把每一個有可能建設的部分實行，因此在重建樓宇I時，我們要求當時的通道能配合整體行人天橋計劃的需求。

劉慧卿議員：

主席。75年和82年均可以做，應該做的卻沒有做，原來連基本的條件也沒有。審計署署長在聽到政府的回應後有何意見呢？

主席：

陳署長。

審計署署長陳彥達先生：

我們是知悉這情況，我同意你的意見，在82年是有機會的，要重建樓宇II才能進行。當時有重建的機會時，政府為何沒有跟進呢？

主席：

劉議員。

劉慧卿議員：

主席。樓宇II是這情況嗎？

審計署署長：

要待樓宇II在重建時才會提供天橋，太早提出並無用處，必須在重建時才能進行。

主席：

署長。劉慧卿議員的意思是，若樓宇II並沒有重建的意圖，甚麼商討也是浪費的。當時樓宇II並沒有確實的重建計劃，政府進行多次商討，是否浪費政府高級官員的時間呢？劉慧卿議員希望你對這情況作出評論。

審計署署長：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席。我並不認為他們是處理不當，因為重建的機會是存在的，他們是應該有一個計劃，若實行重建時會如何處理，他們預先討論並沒有問題，預計在重建時會興建天橋，這問題我覺得是見仁見智，我沒有意見，我並不認為是浪費。

主席：

劉議員。

劉慧卿議員：

這事件糾纏了這麼多年，由80年代末到90年代初才有少許跡象。我並不介意你們作出準備，但問題是你們要展示所有的事實，讓有關人士知道。代表樓宇I的則師樓寫信詢問時，他們仍以為需等待路政署的回覆。不知有關官員是否能掌握當中的情況？

主席：

這事件牽涉很多部門，或者我請蕭局長考慮今天所提出的問題和劉議員的意見。蕭局長選擇現在回應、或是回去翻查紀錄後作覆呢？請把當時路政署提交的意見包括在內，從政府的角度，看看在那階段是否值得多番商討。蕭局長，可以嗎？抑或需要多個部門作出協調。

規劃環境地政局局長蕭炯柱先生：

主席。會後，我會跟進在82年引起連串文件來往的原因。我並未翻閱所有政府內部的資料，因此我今天不能回應當時的情況。但我看過幾份70年代至90年代的重要文件，為中區興建行人天橋的意圖是很明顯的，曾有一個階段是希望在同時發展兩座樓宇時可把天橋興建，但這事情並沒有發生。而在興建樓宇I和樓宇II之間的過程中經常有提及這事項，惟沒有以法律文件落實興建，又因為這兩座樓宇的發展相距10多年，期間互相提醒，這過程我覺得是有理由。但沒有落實的原因，我需要回去再跟進，我會找出引發這公司致函給政府的原因。

主席：

李華明議員。

李華明議員：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席。我也有劉慧卿議員的感受，看得越多文件產生越多疑問。就以劉慧卿議員的問題為例，在82年，代表樓宇I業主的律師開始接受興建天橋的建議，路政署卻沒有與他們聯絡，這期間不知路政署發生何事？事情就此停頓了。直至91年再次提出討論，從82年至91年間，當中有一段長時間是真空的，並不知道發生了甚麼事，這是我第一個問題。

第二，75年2月，代表樓宇I業主的律師表示，雖然不願意，但也接受興建天橋。可惜在75年的修訂書中卻遺漏了這一點，雖然有發展大綱圖，卻沒有法律效力。在上次的公開聆訊的會議紀錄中，布培先生表示很難指出誰人犯錯，但承認政府確實有疏忽。布培先生答應會翻閱所有文件，相信布培先生已翻閱了文件，究竟是政府哪個部門和誰人的疏忽呢？在75年和82年，代表業主的律師答應興建天橋，為何期間甚麼也沒有發生？是甚麼原因呢？到重建樓宇II，又放走了這黃金機會。究竟發生了甚麼事情呢？重建樓宇II就是一個機會，你們竟然又一次錯失了，現在他們完成重建，已不能達致協議。為何82年又再出現這問題呢？

主席：

事實上，不單布培先生看過文件，委員會很多委員也看過，我希望找出當時文件所出現的問題，是哪個部門出錯？但在詢問這問題前，我先讓布培先生詳細向委員會和公眾解釋，究竟當時錯在哪裏，為何會出現這錯誤？

主席：

布培先生。

D of L:

Mr Chairman, as I read from the different correspondence, there was that letter from the owners' AP when he indicated that his client would reluctantly accept the footbridge proposals. That was in 1975, 5 February. Then on the following day, it was discussed at the PWD Conference. That seemed to be the turning point on this proposal because in the PWD Conference, they specifically said that the owners could not be required to take into consideration such connections into their buildings. Sorry, I am referring to the wrong PWD Conference. Following the AP's letter on 5 February, it was discussed at the PWD Conference - I think the following day - and the PWD Conference didn't pursue the fact that the owners' AP had reluctantly accepted. They merely talked about a pedestrian way. There is nothing in that PWD Conference which says that the owners should be made liable to receive the footbridge.

As I said, that is the crucial turning point because PWD Conference acted almost as if that letter hadn't been seen or received. To me, that is the crucial turning point.

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Thereafter, everything acted in accordance with the PWD Conference decision, but that Conference didn't seem to take into account what the AP had offered.

Chairman:

Could I pursue this point? There are a couple of points in the record that I want to sort out. First of all, there is a meeting, I don't know what the meeting is actually called, on 3 February where most of the representatives of the Government have attended. We know that the meeting had been convened because it was referred to subsequently in the correspondence. What I want to find out is whether there are any minutes of that meeting on 3 February. Particularly, I would like to ask whether the lawyer who represented the Legal Advisory and Conveyance Office (LACO) was present? It seems from the correspondence that they were not. I want to find out whether the people who drafted the subsequent deed were there. In that particular Conference, I think the subject of the footbridge was mentioned.

D of L:

Mr Chairman, you have all our records. We have no further records or any notes of meeting or anything.

Chairman:

Can you confirm that in writing, the meeting on 3 February?

D of L:

Certainly.

Chairman:

You also mentioned just now that there is another meeting of the PWD Conference on 6 February, of which we have no record. There is one that you referred to which is 3 February, which is before the letter of 5 February from the AP.

D of L:

Sorry, Mr Chairman. I have so many papers here. I am trying to find it.

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Chairman:

We have to get it right. Whether that meeting was held after the letter from the AP was received or before is critical.

D of L:

Mr Chairman, the PWD Conference I referred to is on 6 February. You haven't got a record of this? You have all our records?

Chairman:

I will go back and search the file again. But my Legal Adviser and Clerk, none of us seem to have seen it. I will search my file again and I will make sure. We have looked at each document quite carefully and none of us recall a record of the 6 February. Let's deal with that later.

So, we would like to see that because the letter received on 5 February from the AP basically said that they were reluctant but they would still accept the proposal of the footbridge. The next thing we saw was a memo on 20 February, 15 days later, from an official whose signature we cannot decipher. I would like you to look at that memo, which is addressed to the Chief Estate Surveyor of Property Management of the Public Works Department, instructing him to prepare the drafting document for the deeds.

This is an important document because that is the drafting instruction. We all know that the subsequent deeds did not contain the requirement and that is why it went wrong. But the drafting instruction seems to have omitted a very obvious decision which was mutually agreed. We would certainly like to know who initiated that drafting instruction. It is a very brief internal memo. All it says is that it should be prepared on full basic terms. I am sure the full basic terms letter does not include the instruction of providing for the footbridge connection.

That is important to us: who issued that instruction and why the person who issued the instruction to the legal draftsman had omitted something that was agreed time and again? Whether that is reflected on 6 February, I think that is important too. If the 6 February meeting did not reflect the letter that came on the 5th, the day before, certainly everybody at that meeting should account to the Administration and to us as to why they missed out this very important agreement.

D of L:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Mr Chairman, I really don't know why you haven't got the minutes of the 6 February PWD Conference. We thought we had sent you everything. There is nothing particularly wrong in that Conference that we wouldn't send it to you. You have asked for all copies of correspondence in the file, I think, from a certain date?

Chairman:

Which was relevant to the decision, yes. You mentioned that it is where the problem lies and if we don't have a copy of the minutes then obviously we would like to have it. We will follow it up in writing.

As far as we can see, the AP had agreed on 5 February 1975. Somehow there was a miscommunication to the people who drafted the deeds, and I think we can clearly pinpoint what had happened within that 15 days and why that instruction, which was so vital to the deeds, had been missed. I don't think it is impossible to find out who is responsible. I think it is very possible to find out.

D of L:

I recognise the signature of that minute.

Chairman:

Can you tell us who it is? It is just a scribble?

D of L:

Is it appropriate to disclose it in public?

Chairman:

It is up to you.

D of L:

I can certainly inform members, no problem. I am just a bit concerned about

Chairman:

At the end of the day our report will reflect where we pinpoint the responsibility.

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

D of L:

The minute on 20 February is the one I think you are referring to?

Chairman:

Absolutely.

D of L:

That was from Mr Rolfe, who was I think the then Government Land Agent or at one time he did act as the Principal Government Land Agent. As I said, that was his instruction to the then Chief Estate Surveyor. As far as I can see, it follows what was discussed at the PWD Conference on 6 February.

Chairman:

Was he present at that meeting on 6 February?

D of L:

We cannot trace who was present at the February meeting of the PWD Conference. We cannot find any record. Normally, in those days the Director of Public Works and the Directors attended, and I think some Deputies. But I am not sure whether that particular person attended.

Chairman:

The meeting was held on the 3rd, two days before the AP's letter was issued. So obviously everybody was up-to-date and up to speed with exactly what was negotiated. Although I didn't see anybody from the LACO attending, the Principal Government Land Agent was there.

D of L:

That was the gentleman who signed that minute, Mr Rolfe.

Chairman:

So he is clearly informed of all the negotiation and the requirement?

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

D of L:

Yes. He was at the meeting with the AP when the AP wrote the letter and said his client reluctantly accepted the proposals.

Chairman:

If your recognition of the signature is in any way in doubt subsequently, please write to us confirming it. Otherwise, we will take your evidence now as the correct evidence.

D of L:

Yes.

Chairman:

I would like to follow this up with one more question. I am sorry, Mr LI. Because it is important, I would like to follow it up.

On 24 February, the Modification Offer Letter from the CES also went to the AP. At that time the requirement has already been missing. When that letter goes out directly from the Chief Estate Surveyor to the AP, who is responsible for checking that letter? Or does it go completely unchecked? In short, does the Principal Government Land Agent, who issued the memo for the instruction of this letter, have a role to check the accuracy of the letter before it goes out?

D of L:

I would say not normally, Mr Chairman, no. It is the Chief Estate Surveyor who would act on the instructions received and proceed accordingly.

Chairman:

The person who issued the drafting instruction doesn't get to look at the final draft of the letter which is the basis of the legal document subsequently? He doesn't even look at it?

D of L:

That is right.

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Chairman:

Is that a good internal procedure?

D of L:

I think it is impossible administratively to check everything of everybody. In my department now, if I feel it is particularly important, I may ask to see something before it goes out. But normally it would be sent out by my staff in accordance with instructions issued.

Chairman:

The Deed of Variation seems to have been drafted and goes out on 17 March, which is only a month later, less than a month later.

D of L:

Yes.

Chairman:

Who checks the Deed of Variation to ensure accuracy?

D of L:

The Chief Estate Surveyor should check it.

Chairman:

If he gets the wrong instruction to draft it, he will be wrong all the way?

D of L:

Yes.

Chairman:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

And the people who are involved in the negotiation initially and the people who make the decision initially don't even get to see the draft document, and the drafter was not party to all this negotiation in the meeting?

D of L:

That's right, yes.

Chairman:

I will ask again: is that a good internal procedure? I think in the commercial world, this would never happen.

D of L:

As I said, it would appear that what went wrong was the PWD Conference in February, which wasn't aware of the letter written by the AP, where many of the people who were present at that meeting should have been at the PWD Conference and somebody should have picked it up.

Chairman:

How do they pick it up if the Deed of Variation and other letters have gone out without their knowledge?

D of L:

As I said, the PWD Conference would seem to have ignored what was in that letter. I apologise if Members haven't got that memo. But it does throw some light on what we are discussing now.

Chairman:

Let's have all the documents so that at least we are looking at the same documents and we have the complete set of documents. I would certainly hope that the Government would reflect a little bit on whether that is a good internal check procedure - the person who issued the draft instructions did not have a chance subsequently to check the legal document that went out?

I'm not talking about any documents. I am talking about a Deed of Variation, which is the most vital legal document which forms the contract subsequently with the private company. If that document is not checked by the people who negotiated it in the

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

first place, who issued the draft instructions in the first place, it seems to me very odd. I would ask you to reflect on whether that is the best procedure to adopt. If you say it is impossible, maybe the Committee will study it and may want to comment on this. Can I ask you to send us the documents and then reflect on this?

D of L:

Certainly, Mr Chairman, yes.

主席：

李華明議員。

李華明議員：

Mr Rolfe 的名字曾出現在2月5日的函件中。樓宇I的業主和其他代表律師在2月3日曾與他舉行會議，在2月5日發出函件，而2月6日舉行的PWD Conference，我們卻沒有那次的會議紀錄，Mr Rolfe 亦有參與PWD Conference，他明顯是清楚整件事情的始末。我不清楚他現在是否仍在公務員隊伍內。請問在81年、82年之後，直至91年的大約八、九年間，是否沒有任何跟進呢？為何在82年時仍會錯失機會呢？請你確實回應。

Chairman:

I will put it in perspective. I think 1975 was the initial phase. I think that was the first opportunity to get it right and we seem to have missed it. Mr Fred LI is asking about the second opportunity, the second chance you can have to get it right, which is in 1982. It seems that that was missed too. Then there was a long period of silence. I think Mr LI is also asking why for so long nothing seems to have happened.

Miss Emily LAU:

Mr LI also asked about Mr Rolfe, who seemed to be the person who should know.

Chairman:

I think it will become very obvious once we get all the minutes and records to know who was attending and who was not. Mr Pope seems to have confirmed

D of L:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Yes.

Chairman:

..... seems to have confirmed that he should be the person who has knowledge already. I think this is a direct comment on Mr Rolfe. He is not here, but maybe you can defend or comment on his behalf?

D of L:

It is not clear whether Mr Rolfe attended the PWD Conference on 6 February which I referred to. He has left the service. He retired many years ago, 10, 15 years ago.

On Mr LI's point, following up whether the opportunity was lost in the early 80s, as the Deed of Variation was executed in 1975, I would suggest we didn't have the opportunity in 1982. In 1982, a lot of the discussions were on a friendly basis because, according to the Deed of Variation executed in 1975, we couldn't require them to receive the connection, even though in 82 they indicated they would. I suppose we could have gone back to the owners and said "Look, you have indicated you will receive the footbridge. Can we change your Deed of Variation to reflect this?" We would have done that at that time, yes, but we didn't. The legal document didn't provide for it, originally, the 75 document.

李華明議員：

為甚麼沒有呢？樓宇I的業主代表在81年再次重申接受興建天橋的建議，要求路政署安排商討，雖然沒有Deed of Variation，但在那期間可以修改契約，加入此條款。從文件中看到樓宇I的業主並沒有反對興建行人天橋。剛才署長輕輕帶過，只表示可以修改契約，但為甚麼他們沒有這樣做？

Chairman :

Mr Pope.

D of L:

I cannot comment, Mr Chairman. It is many years ago. I can't say why it was missed out at the time.

主席：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

或者我們多給一次機會讓政府再次翻查紀錄，否則難免令本委員會和公眾人士質疑為何政府當時未能把握第2次機會。蕭局長，請你設法為本委員會和公眾人士在此問題上釋疑。

規劃環境地政局局長：

主席。我會先翻查文件上的證據，為了對曾參與82年有關事件的同事公平，待翻查完畢後才以書面向委員會報告。

主席：

我們也曾翻查紀錄，在現階段暫時未能找出應向哪些人詢問較為恰當。請你在此事上提供協助。劉江華議員。

劉江華議員：

主席。我仍然對Mr Rolfe 的處理手法感興趣。剛才主席對政府較為寬鬆，讓他們在聆訊後翻查文件。

主席：

本聆訊尚未完結，還未討論有關處理的問題，你不要以為我的態度必定寬鬆。

劉江華議員：

這已經是第2次的聆訊，政府亦已翻查所有資料，請問政府或布培先生可否作出判斷？在當時的情況下，主席謂在私人機構很難想像會容許這樣的溝通，我亦很難想像政府部門會這樣溝通，這是不可能發生的。請問署長，Mr Rolfe 在處理這事上是否犯了嚴重錯失？除了Mr Rolfe，有沒有在同年代曾參與此事的人仍然在職？能否讓我們多些了解此事的真相？否則即使蕭局長翻查所有資料，都不能作出判斷，而我們同樣不能作出判斷。

Chairman:

Mr Pope, would you like to deal with that?

D of L:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Mr Chairman, on the first point, whether Mr Rolfe made an error, as I have said - and if members haven't got a copy, it is very unfortunate - it would seem that he merely followed the way that the PWD Conference acted. The problem seems to arise from the fact that the PWD Conference was not informed of the AP's letter, because the PWD Conference specifically said that the AP could not be required to accept the footbridge and acted accordingly. Mr Rolfe merely seemed to follow the tone of the PWD Conference.

On the other point about other members, looking at the attendance list of the meeting with the AP in February, I think they have all retired now for many years.

Chairman:

Just a quick follow-up. Even if he was not informed of the letter on 5 February from the AP to the DBD, he should at least know of the negotiation. There was a meeting that he attended on 3 February, only three days before, where the subject was obviously raised. He must be aware that that is something being actively negotiated with the AP.

D of L:

I accept that, Mr Chairman.

Chairman:

It would be very strange to any person that it was not followed up properly on the 6th.

D of L:

I accept that.

主席：

劉江華議員。

劉江華議員：

主席。我想詢問他的判斷，因為他熟悉政府的程序。雖然他已經按照委員會的做法，但在某些事情上是脫了節，對於起草文件，明顯是遺漏了，請問你認為Mr Rolfe是否犯了一些過失？雖然他已作出某些跟進，但另一些地方卻沒有作出跟進。布培先生，現在的判斷為何？

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席：

剛才劉議員詢問有關程序上的問題尚未獲得滿意的答覆，請署長再次提供意見。

Chairman:

The procedure still seems a little unacceptable to Mr LAU.

D of L:

It is quite clear to me, Mr Chairman and Members, that an error was made between the letter from the AP on 5 February following on from the meeting on 3 February and the instructions given to the Chief Estate Surveyor. It was certainly missed out somewhere that Building I should be required to receive the footbridge. Why that was done, I cannot say. Whether it was Mr Rolfe's fault or not, I wouldn't like to say, Mr Chairman.

劉江華議員：

你承認他有過失，但他是否在程序上犯錯？

主席：

若劉議員不介意，或我稍作解釋，讓政府官員較易作答。他是否已完全依循當時政府的所有程序，在20年後看來，該程序又是否足夠？

劉江華議員：

或者從另一角度而言，他是否沒有完全依循某些程序？

D of L:

I don't think he missed out any procedures. I think what he missed out, or somebody missed out, was the reluctant acceptance by the AP of the footbridge proposals. Whatever took place after that, it is almost as if that meeting never took place.

Chairman:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

But if the procedure is proper, don't you think that there should be some internal checks and balances? I think we are talking about the same point that I mentioned earlier, that somebody would have picked it up.

D of L:

But he was at the meeting anyway.

Chairman:

You are depending on one person. There are at least six or seven very senior people in the meeting negotiating the same thing. If that one person who issued the instruction missed it, everything is being missed from the legal document? Is that really true that that is the procedure the Government still follows today, that nobody checks it? There is no internal checking by other persons involved?

D of L:

We do have a procedure of checking and counter-checking on proposals.

Chairman:

How does that work and why did it fail here?

D of L:

It is impossible for me to put myself in the position 20 years ago as to what happened. As you said, Mr Chairman, at the meeting on 3 February there were a large number of very senior people. There was only one representative from the Lands Department, who is Mr Rolfe, and it was the department responsible for formulating the Deed of Variation.

Chairman:

I will try one more time hopefully, Mr LAU, to get you satisfied. What would you have done in the present day situation, what would you have done to check it and discover the mistake? If somebody like the Government Land Agent issues a memo which is equivalent to the drafting instruction to its own legal officer, what would happen in the present day procedure that will help you to detect that mistake?

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

D of L:

First of all, the letter from the AP of 5 February should have been tabled at the PWD Conference.

Chairman:

Say it was missed?

D of L:

Well, the people attending that PWD Conference, I imagine at least two or three of the people were at the meeting on 3 February, should have picked it up.

Chairman:

From where?

D of L:

Because they were at the meeting.

Chairman:

They could have picked it up from the minutes. If everybody missed it, like what happened now, and the Government Land Agent issued the instruction to the legal officer to draft the Offer Letter and then the subsequent Deed of Variation? What you are saying to me is that even under the present day procedure, nobody will have checked that Offer Letter and nobody will have checked the Deed of Variation?

D of L:

If the senior officers involved went to a meeting and agreed something with ourselves and I went back to my office and told my staff to prepare a legal document, basically, I am the one telling them what to do and I should issue a firm set of instructions, which is what I do now, to my staff to prepare a document in accordance with my agreement with the owners and I undoubtedly would have sent you a letter confirming what we had agreed at the meeting. I think that is what I would do now.

主席：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

請劉議員跟進。

劉江華議員：

主席。我認為現在的做法，與20年前政府部門的做法應該相同，這是很正常的，但布培先生剛才提出的兩個答案有些矛盾，他說Mr Rolfe 是有錯失，他卻說Mr Rolfe 是完全依循程序做事。既然他在程序上沒有犯錯，你又憑甚麼說他有錯失？

Chairman：

Mr Pope.

D of L:

Mr Chairman, if a mistake was made, as I said, it seems to arise from the PWD Conference and then followed on by Mr Rolfe's minute. The mistake made was not bringing to the Chief Estate Surveyor's attention in his minute that the AP had accepted that he would receive the footbridge. That is implicit in the AP's letter, that his client reluctantly accepts it. Subsequently, the PWD Conference and the minute instructing the staff to prepare the document do not make provision for that, and that is a mistake.

主席：

吳亮星議員。

吳亮星議員：

政府在85年錯過了在官契修訂書內增加有關的條款，使天橋由樓宇I接駁到樓宇II的機會。布培先生表示在相隔一段時間之後和沒有根據的情況下去做是十分困難的，除非在75年開會後，以會議紀錄作依據進行跟進。請問是否真的沒有可能？政府有否考慮，當時所給予的豁免或額外面積，可否因而追索業主和修訂官契？若政府認為在85年修訂官契有困難，主要的困難在哪裏？抑或是再次的疏忽，還是時間相隔太久，不能再做？如果政府不能利用修訂書迫使業主提供通道來接駁天橋，既然樓宇I的問題未能解決，為甚麼在92年仍給予樓宇II業主豁免地方作為興建行人天橋接駁樓宇I的代價？我請政府作出實質的解釋。

Chairman：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Mr Pope.

D of L:

Mr Chairman, as Mr NG said, basically the document was completed in 1975. Certainly, in 1982 when the AP indicated that his client would receive the footbridge, we could have gone back to the owners and said “In view of the AP’s letter, will you now modify the Deed of Variation yet again and impose a requirement to receive the footbridge?”. This could have been done. Why it wasn’t done, I cannot tell from the files. It isn’t clear.

On the question of Building II, basically, the conditions in that one are correct because they do contain a requirement to receive the footbridge and to build the footbridge, etc, etc. Whether it was appropriate to do that knowing that Building I would not receive it, I cannot really say. I think we are still hoping that one day we will resolve this problem in one way or another and, therefore, it is necessary to have a requirement in the conditions for Building II. I would say that it was right at that time to make that provision and it is up to the Administration, as we are now, to try to find a solution to this problem and provide a footbridge in some way.

主席：

劉慧卿議員。

劉慧卿議員：

主席。我希望先解決樓宇I的問題，才討論樓宇II、III。在業權方面，剛才我們討論代表Woodhall Company Limited的則師行於82年致函政府，立法會秘書處法律顧問的圖表是根據政府所提供的資料而訂定的，當時Woodhall Company Limited並不是業主，我們所說有關業主在82年已表示同意興建行人天橋，但該公司根本不是當時的業主，這是一個問題。另外，政府在81年8月27日致函該則師行，在我們的文件File I, Appendix VII提到，政府謂樓宇I在結構上是不能負荷行人天橋的，若基本結構不能負荷，而那間公司又不是業主，那麼他們還討論些甚麼？審計署署長報告書第18段指出76年樓宇I地段的認可人士表示同意連接行人天橋，第一，究竟樓宇I能否負荷行人天橋？第二，業權誰屬？

主席：

我們先討論究竟樓宇I是否可以負荷行人天橋的問題。在同一個大業主總公司所委派的則師在76年和後來的書信來往中似乎出現了兩種不同的說法，一是說樓宇I

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

可以負荷，另一卻說不可以。請問政府有沒有翻查過或做過任何測試，檢查清楚樓宇I是否可以負荷連接天橋；若不可以，又如何解決？請屋宇署署長作答，因為他是負責樓宇結構的問題。蔡署長。

屋宇署署長：

我們已翻查過那些已經批准了的圖則，也檢討過當時的情況，結論是該樓宇的地基承受力可以承受天橋所給予的額外載荷。但在興建樓宇I時，天橋位置尚未落實，故沒法預先安排在樓宇I哪個位置的支柱用來承受天橋重量，因而樓宇I的支柱沒有足夠的承受量來承受額外的壓力。總括而言，地基是可以負荷天橋，支柱卻不能。

主席：

你的意思是否謂當時樓宇I的認可人士在1976年3月與政府開會時表示可以接駁天橋只是指地基部分？

屋宇署署長：

主席。按照當時的會議紀錄，並沒有詳細清楚指出是哪部分，只是記載他可以作出一些安排，使將來能夠承受天橋的壓力，但因為當時不能確定天橋的位置，故只有地基可以承托。

劉慧卿議員：

請問署長，假設業主現在同意連接天橋，但在位置方面，業主不接受在樓宇中間，只同意在旁邊連接。究竟樓宇I可否負荷行人天橋，抑或要建設些甚麼才可以承接？

屋宇署署長：

純粹從結構工程來判斷，樓宇I是可以接受天橋的額外壓力。

劉慧卿議員：

但剛才署長說支柱不能負荷行人天橋。是否現時在任何一個位置接駁，任何支柱也可以承托得起？

主席：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

我也不明白，你說樓宇的地基可以承托天橋，但樓宇本身卻不可以，是因該樓宇在興建時未定在那裏會接駁天橋；現在你認為可以連接天橋，是否因為可以在工程上作一些補救的工夫，使任何一個位置都可以連接天橋？蔡署長。

屋宇署署長：

可以這樣說。例如這是條橋，地基在這裏，中間有幾條支柱，正如你剛才提到那封信所說的no structural loading，現有的支柱不能承受壓力，但可以作一些補救工作使之能把壓力轉移到地基。

劉慧卿議員：

署長。你的意思是否增加支柱？

屋宇署署長：

是。

劉慧卿議員：

業主當然不會接受在他的大廈出入口增加支柱，很多業主都不願接受這種方法，你的意思是否真的增加支柱？

主席：

署長。

屋宇署署長：

主席先生。在工程上有很多種方法可以做，我們在此階段不必局限於增加支柱。

主席：

即技術上可行。

劉慧卿議員：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

我們最重要是知道技術上是可行的。這個問題解決了。主席，請問可否討論業權問題？

主席：

有關業權問題，據我理解，劉議員認為根據政府提供的資料，擁有這座物業的公司，已經歷數次業權轉換，現在由3間不同的公司擁有。本委員會曾作討論，當時業權的轉讓，雖然是屬同一集團的公司，我們後來翻查有關集團的報告，知道是屬同一集團，但在製訂這些法律文件時，有否把Woodhall Company Limited跟政府所承諾的責任，也跟隨業權的轉移而轉至其他的公司呢？否則，這有甚麼可以再討論？這裏牽涉法律的觀點。政府現在仍與業主商討，請問政府有沒有查過這些新業主是否有責任去履行Woodhall Company Limited在75年時與政府作出的承諾？

劉慧卿議員：

在82年亦有再商討。

主席：

在82年仍然有業權。

D of L:

Mr Chairman, the main deed, the original Land Grant, was modified by the Deed of Variation. Whoever assigns a property takes it subject to the land document as varied at different times. So, yes, any subsequent owner is committed to performing under the Land Grant and any Deed of Variation issued thereafter.

Chairman:

I think we are really talking about the footbridge, which is not reflected in the deed.

D of L:

There was no undertaking, you see. There was a letter but that isn't an undertaking.

Miss Emily LAU:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Chairman, maybe the Legal Adviser can help. I am asking about a factual thing. If you look at the letter dated 29 January 1982, it is from Wong & Ouyang, representing Woodhall Company Limited. According to our chart here, Woodhall Company Limited is no longer the owner. Is that correct or not?

Mr Jimmy MA, Legal Adviser (LA):

Chairman, the chart was based on information retrieved from the Land Registry. It obviously didn't contain all the details, but the dates referred to were actually the dates of the relevant companies when they took on ownership or a share of the ownership. Here we will see, as far as Woodhall Company Limited is concerned, it was May 75 when it became the owner of the whole building. On various dates and for different parts of the building, its interest was divested. As far as 1982 was concerned, at that time there were three co-owners. One of them was still Woodhall Company Limited, in relation to areas of the building which were later on in June 1990 assigned to Zame Limited. So, as far as 1982 was concerned, Woodhall Company Limited was still the owner of a major portion of the building and, indeed, the relevant part of the building. That is the fact.

Miss Emily LAU:

The part we are talking about is the mezzanine floor, isn't it?

LA:

That's right.

Miss Emily LAU:

The part that should be receiving the footbridge, that should be Wayhong (Bahamas) Limited. It is not Woodhall Company Limited. Woodhall Company Limited is no longer the owner.

Chairman:

You are both right. I think the whole building was co-owned by three different companies and Woodhall Company Limited remained the major owner of the major part of the ground floor and anything above the third floor. The relevant part that you want the bridge to go into, which is the mezzanine floor, is owned by somebody else. But all these companies are still bound by the Deed of Variation.

LA:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

That's right.

Chairman:

But it is not reflected in the Deed of Variation. There is nothing legally to pursue with any owner. I think that is the Government's response.

Miss Emily LAU:

Chairman, I want to confirm that Woodhall Company Limited is still in a position to negotiate with the Administration and say that they in principle support it, although they only own the ground floor and third floor and so on.

Chairman:

Actually, there was a subsequent change.

Miss Emily LAU:

At that time, they were in a position to say that, given the ownership structure.

Chairman:

Mr Pope?

D of L:

If Woodhall Company Limited doesn't own the mezzanine floor, then it is really not of any relevance because they cannot enter into any agreement to receive the footbridge. Woodhall Company Limited might still say "Yes, in principle we are agreeable", but they don't own it.

Miss Emily LAU:

So why did the Administration enter into negotiation with a party that is not in a position to deliver?

D of L:

At that time, I think they did.

Miss Emily LAU:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Well, if we look at the structure, they did not.

D of L:

It was the AP's letter which said on behalf of his client Woodhall Company Limited, he was prepared to agree.

Miss Emily LAU:

Of course they would agree. It has nothing to do with them.

Chairman:

I think Miss LAU is just illustrating another legal slip-up.

Miss Emily LAU:

Isn't it true, Chairman? They own some other part of the building and they agree with you that you can do something to a part of the building that they do not own and you negotiate with them. What a farce.

D of L:

We didn't negotiate with them in 1975 when the Deed of Variation was done. The letter in 82 was merely a letter. It wasn't a negotiation. As far as we were concerned, he was the AP for the project.

Miss Emily LAU:

No, Chairman. I think they had some discussion. There are a whole series of letters. I don't think we will waste time by reading all of them out.

Chairman:

Maybe what we can do is to ask the Government to see if they can get it from the company, to see where the relationship of Woodhall Company Limited and Wayhong (Bahamas) Limited lies and why they can still represent them?

Miss Emily LAU:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Chairman, of course we can do that but it is incumbent on the Administration to know who they are negotiating with.

Chairman:

The point is noted.

Miss Emily LAU:

They are negotiating with people who don't own the company.

Chairman:

They should have checked that in the early 80s, not now.

李華明議員：

主席。81年8月27日由G.A.Clark的Estate Surveyor致Wong & Ouyang，即architect on behalf of Woodhall Company Limited的函件，可以confirm劉慧卿議員的說法，這封函件是有副本交給Woodhall Company Limited的，我想政府也認為Woodhall Company Limited是有業權，否則他亦不會這樣做。

主席：

政府很清楚要Woodhall Company Limited的認可人士作為商討對象，但卻沒有清楚地確認Woodhall Company Limited有能力來履行承諾，我們先不去質疑Woodhall Company Limited有沒有這能力。我們質疑的是，當時政府為何不查清楚，該公司究竟有甚麼能力來履行承諾，為甚麼政府會與他們進行商討？因為從後來的集團報告來看，這兩間公司是同一集團的，亦有可能Woodhall Company Limited與這間公司有特別關係，例如子母公司等，他可能有權作為代表，但這是該公司內部的事，我們不清楚，這亦不是我們質疑的問題，我們質疑的是政府有沒有採取任何行動，來證實與政府進行商討的是正確的對象。Mr Pope.

D of L:

I have no idea, Mr Chairman. In retrospect now, they should have checked. Whether they did check, I have no idea.

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席：

劉江華議員。

劉江華議員：

主席。我不可以接受署長這樣的回應。他應該回應劉慧卿議員剛才的問題。他是否找錯談判對象？這只是一個簡單問題，請布培先生明確作答。

D of L:

It would appear at the time that the department was dealing with somebody who was not the owner of the mezzanine floor. If the AP wrote back and said on behalf of his clients Woodhall Company Limited, then Woodhall Company Limited was not the owner of the mezzanine floor, and that should have been checked at the time. I accept that.

Chairman:

There is no apparent evidence that that has been checked?

Miss Emily LAU:

If you look at File I, Appendix VII, you see a letter dated 27 August 1981 from Mr G.A. Clark. I hope he is still around. I am sure he can assist this Committee. The letter is written by Mr Clark on behalf of the Chief Estate Surveyor to Wong & Ouyang. The first sentence is:

“I believe you were the AP concerned with the redevelopment of the above building and I am therefore writing to advise you of certain Government proposals

So he believed. If you look at the subsequent pages in that file, Chairman, we have not got a confirmation from Wong & Ouyang saying that they were.

If you look at the letter we have referred to many times in Appendix X(a), the letter dated 28 January 82, we have a reply from Wong & Ouyang saying:

“On behalf of our client, Woodhall Company Limited, we wish to confirm that there is no objection in principle to the proposed footbridge and connections from China Building

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

If he is referring to something he doesn't own, of course he doesn't object. This is really too much, Chairman. It is so farcical.

I want to ask the Director of Audit whether he can throw some light on this discussion. Probably he has seen more documents than we have. Is he aware that the Administration at that time wasn't aware whom they were negotiating with?

主席：

審計署署長。

D of A:

I just want to make one comment. This Leslie Ouyang may well be the representative or the agent of the whole group, so he may be acting properly.

Chairman:

He may be acting properly but, for a legal document, I think Miss LAU is absolutely right to question it. If we pursue this line, even if we get to some legally binding agreement at the end of the day, we are entering into a contract with the wrong person. It is so easy for the owner to get away. I think all the effort would be wasted. It will probably work in a different scenario, but it shows there is perhaps something to reflect on, that there should be a more legally or commercially minded approach in dealing with the commercial sector.

D of A:

Chairman, I agree entirely that they should check.

Miss Emily LAU:

May I ask Mr Pope whether it is quite usual, if you refer to the letter of 27 August 81, to say "I believe you were that person, now please respond". Is that normal?

D of L:

Mr Chairman, at that time I think the Chief Estate Surveyor/Valuation, Mr Clark, was trying to get the footbridge built and from the correspondence it would appear that

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Mr Leslie Ouyang was the AP and he wrote to the AP and said “I believe you were the AP” or “You are the AP”. He was trying to get the footbridge built. He should have checked when the letter came back that Woodhall Company Limited was not the owner. But I don’t believe using the term “I believe” was anything wrong. If he said “I can see from correspondence”, that would have been a better reflection of what it was, but I think we are just talking about a few words. He should have checked who the owner was when the letter came back. I accept that. There are instructions to my staff on all occasions to make sure we deal only with the registered owner. Why it wasn’t done at that time, I have no idea.

Miss Emily LAU:

Chairman, I want to ask whether Mr Clark is still around?

D of L:

I’m not sure whether he still is at the moment. I’m not 100 per cent sure. He is not in Government, that is for sure.

Miss Emily LAU:

I think if he is around, we should invite him to come to a hearing, Mr Chairman.

Chairman:

That is something we will decide after this hearing.

Miss Emily LAU:

Mr Pope is going to go back and confirm for us whether they have been talking to the wrong person at that stage?

Chairman:

I think Mr Pope has given a reply as part of the evidence. Unless Mr Pope corrects that subsequently and supplies us with different information or evidence, I will take what he has said in this meeting as correct. I think that is the only way I can treat evidence.

D of L:

Thank you, Mr Chairman.

主席：

我再就劉慧卿議員的問題跟進。我們收到的資料和審計署署長報告書均顯示，在96年、97年，政府仍然與該集團商討如何解決這個問題，雖然在80年初期停了一段時間；後來因為中西區區議會及其他人士對此事提出意見，加上發生了一次嚴重的交通意外而引致數人死亡，令政府與集團重新開始商討興建行人天橋的問題。從文件中得悉，雙方在97年8月還進行商討，但卻沒有結果。請問蕭局長，究竟政府現在與甚麼人進行商討？是否已確認該商討對象是有權力來處理這問題？商討是否已完結？我希望能得知最新的情況。因為此事已相隔頗長時間，但我們仍未放棄追查整件事的始末，政府有沒有爭取第3次的機會？蕭局長可否提供資料。

規劃環境地政局局長：

主席。各位剛才提出關於與所謂有關人士商討，而所指的有關人士是否可以代表該大廈的擁有者作出任何決定此問題，今天我只想說明政府的方向。我在會後會指令有關部門查清楚，他們現在與之商討的對象究竟有沒有實權和法律地位來進行商討。我答這問題時會小心地從這個角度出發。但從改善樓宇I附近的行人設施而言，政府的立場沒有改變。自上次開會至今，我與同事們作了幾方面的研究，第一，如果我們可以找到一個適當的代理人進行商討的話，首先要解決將一條行人天橋接駁至樓宇I的技術問題。剛才屋宇署署長已向議員作出報告，從地基的角度來說，研究的結果是地基應該可以承受多一種支架來接駁一條行人天橋，這方面是可以做到；第二，經過我們數個月的研究，在樓宇I我們找到最少兩個位置可以增加支柱直落至地基，應該在任何一個位置也可以接受一條接駁的行人天橋。

主席，我會請屋宇署署長稍後留下一份圖則給委員會，這是我們在這方面所作結構上有關支柱部分的構想簡圖；另外，我們要研究的是即使可以在樓宇I地基上增加一條支柱來接駁天橋，在一樓當然要拆除一些建築，但拆除這些建築會否影響一樓的結構，這方面尚懸而未決，屋宇署署長仍在進行研究。但從接駁天橋的技術來說，至少在地基方面是可以辦到的。這是我們完成了的第一項研究。

我們現正研究第二個問題，在現時的情況下，政府沒有任何法律權力要求現時樓宇I的業主接收這條天橋，我們批出的地契文件並沒有這項要求。這是否等於政府沒有辦法要求現時的物業擁有者接收這條天橋呢？這方面我們仍在研究。因這方面存有法律的責任問題。我們亦要研究代表前物業的認可人士向政府所作無論是書面或其他方面的承諾，除現行法例以外，在合約法或普通法方面，可否要求現時的擁有人履行他的責任？這事我們未有定論。

連接中區五座商業樓宇的行人天橋

主席：

我明白政府的立場，我想澄清一點後再讓劉江華議員跟進。政府現時是否仍與有關人士進行討論，只是未能確定他是否有權責的身份？

規劃環境地政局局長：

是。

主席：

仍有進行一些商討的。

規劃環境地政局局長：

是。我希望繼續陳述，讓各位能知悉現在的情況。第三個問題是，即使建造這幾條天橋，連接樓宇I和樓宇II，是否能真正解決在這個位置的行人和車輛的問題呢？我們對這一點存有疑問。從疏導部分行人的角度來說，一定要建造這幾條天橋，但建成了亦不表示完全解決那裏的問題。為甚麼？簡單舉例，如某人乘搭地鐵後，希望前往畢打街，會否在離開地鐵後，利用兩條電動樓梯至將來新的天橋，再步行至對面，乘電動樓梯回到地面前往其他地方？從人的流向角度來說，未必是這樣。就算建成天橋，亦只為部分人士提供方便。所以過去的幾個月，我們正研究另外一個平衡方案，現仍是構想階段，就部分人士在建成天橋後，仍未能得到方便，他們亦不希望橫過馬路，考慮是否有其他辦法？

現時我們正與地下鐵路公司研究在皇后大道中與畢打街交界的地面下，現時有一個地鐵站的伸延，範圍至樓宇I的地底，看看有沒有辦法在這個位置建造一條地下通道，貫穿畢打街、皇后大道中及連接樓宇I、樓宇II、樓宇III及樓宇IV，建造一個地下商場形式的設計。這方面工作，地鐵已有很多的經驗，這應是可行的方法。問題是建成後，如何從每幢大廈內把行人從地底帶出路面？這問題需要較長時間的商討和研究。問題是那些樓宇業主會否答允提供這種方便，因可能需要拆去一些商舖或走廊等。我們現正進行這方面的初步研究工作。我覺得若兩方面均能實行，即一方面繼續跟進天橋的建設，另一方面，可利用地下通道，乘搭地鐵的人士無需走上路面便可前往樓宇I、樓宇II、樓宇III及樓宇IV。這兩個方法加起來，應該可以減低附近路面行人和車輛的衝突。我們得小心，現在不單是樓宇I，無論是樓宇II、樓宇III、樓宇IV或樓宇V，也要清楚知道那位人士是否可以代表他們發言，我們正進行這方面的跟進工作。現時的構想是有兩個平衡的方案。

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席：

李華明議員。

李華明議員：

我想跟進政府與那些認可代表人士的事情，Woodhall Company Limited的問題。請參閱布培先生提供給我們文件Appendix X(b)，1991年2月19日鄭維達先生發出的文件，不知鄭維達先生是否仍在政府部門內。信件是發給Trillium Investment Limited，但接著舉行的會議有Zame Limited, Harley Development Incorporate, Trillium Investment Limited和Woodhall Company Limited 4個業主。接著胡關李羅律師樓代表Zame Limited作回應，而不是Trillium Investment Limited，接著便停下來，因胡關李羅律師樓代表Zame Limited認為政府既無法律依據不需跟進，亦無需要繼續商討，商討便停了下來。到97年、98年時的談判對象是和記黃埔。翻看88年2月的文件，因不同意設計，商談又再停下來，政府需要confirm是否找到真正的談判對象。

主席：

蕭局長已承諾翻查資料。蕭局長是否需要作補充？

規劃環境地政局局長：

我只能說鑑於從前出現剛才劉議員提出的問題，我今天所說對象的問題，便需要十分小心，我不希望浪費時間。

主席：

劉江華議員。

劉江華議員：

主席。我十分高興局長剛才全面講述他的構想，這是經過了全面的思考。行人的安全，亦是我們所關心的。在與發展商商討這事項時，我覺得局長需要有一個時限，不可能無了期作談判，若真的沒有辦法，就說沒有辦法。第二，請問局長，政府有沒有考慮其他法例上的可行方案，若有，這些是甚麼工作？有沒有把握？是否又在“煲無米粥”？

主席：

局長。

規劃環境地政局局長：

在找尋正確對象方面，純粹是法律上的資料調查，相信可以從現時擁有的資料可得知誰是擁有者，作出跟進。所以是無需要設時間限制，只要我們翻查現有的法律文件，便可與這些公司或代理人作跟進。所以這方面不需要有時間限制。關於法律權力方面，我們是從3個角度考慮，第一，現有的法律是否容許政府向任何大廈的擁有者提出改善行人設施的任何要求，我估計很快便能查出來，在法律上我們是沒有這種權力。第二，就是沒有法律上的權力，是否可以普通法或合約法的理由，因為某些前擁有者或代簽署文件的公司，曾作過承諾，因而可以根據這些承諾要求擁有者，在現階段作出某方面的承諾或付出。這一點我們需要繼續研究，我將會徵求法律意見，和盡快取得答案。主席。相信這方面不在乎時限，我們需要找到答案，究竟是有或是沒有，若是沒有，便要重新商討有關責任上的問題。

主席：

劉江華議員。

劉江華議員：

我認為時限是重要的，這事已拖延了數十年，第一，在找尋業權擁有者的商討對象方面，97年、98年的資料顯示尚在商討中。若對方說，你是找對了商討對象，但卻完全與我沒有關係，因並無法律文件迫使我要連接行人天橋，原則上我是不反對，但是無能為力。這事便應告一段落，你不可能無了期的糾纏下去。第二，在一些法例上若真的不可行，局長便會考慮普通法和合約法等，你亦需要有一個時限，半年或是一年。然後進入第三個方案，這個方案是否可行亦是未知之數，現時仍在構思階段，所以我覺得時限是比較重要。

主席：

蕭局長。

規劃環境地政局局長：

我看不到需要半年來作出判斷和提供答案，我現時正徵詢法律意見，應該在兩個月內可以取得正確的答案。

主席：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

剛才法律顧問向我提出，你所講述的法律意見，似乎報告書中提及92年已有提供，可能局長需要翻查。

規劃環境地政局局長：

我現時正徵詢second opinion。

主席：

Second opinion。那是不同的。劉慧卿議員。

劉慧卿議員：

多謝主席。討論到誰是業主的問題，文件第一冊X(f)內1993年7月29日的一封信，是運輸署致“長江”的，在說“長江”是樓宇I的業主。主席。但法律顧問提供給我們的列表，沒有包括93年的業主資料，或者法律顧問可作補充。或許“長江”是大業主，但公司名稱沒有列出。我們應該怎樣理解，我們身處法治地方，那一間公司是擁有這些物業，物業便是屬於他的或控股公司的，在列表中卻沒有敘述。這列表清楚說明了，誰是擁有樓宇I的歷史，我們需要確實知道對方有能力才可與之商討。當時曾與區議員討論有關事項。主席。我是希望澄清，不知法律顧問或局長可否提供協助，在93年，誰是樓宇I的業主？

主席：

請局長先作覆。

規劃環境地政局局長：

我沒有辦法答覆，因我尚在研究，先要查核清楚。

主席：

明白。法律顧問有沒有補充？似乎是不同部門的不同人員，與不同的公司接觸，雖然像是同一集團。

劉慧卿議員：

“長江”是否業主？這在法律上應是十分清楚的。

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席：

請法律顧問答覆，這是十分明顯的。

法律顧問：

主席。這列表是根據政府在土地註冊處取得的資料，然後以圖表表達出來，其中沒有看到劉議員所提述的公司名稱。

劉慧卿議員：

那是否表示圖表的資料是直至現在仍然如此？

法律顧問：

是。

劉慧卿議員：

但“長江”是完全沒有在圖表內出現。但她又說自己是業主。真是神奇。

法律顧問：

主席。這個圖表列出的是登記業主，但背後每間公司集團的架構方面，是無需要在土地註冊處登記的。

劉慧卿議員：

即法理上他是業主，但在文件中未能看到。

法律顧問：

主席。就業權的行使，她可能是有控制權的。

劉慧卿議員：

連接中區五座商業樓宇的行人天橋

那就讓局長一併調查好了，相信局長最關心的是，是否與正確的對象商討。

主席：

相信局長定可解決，問題是要澄清哪人是得到授權，但暫時我們未能得到任何資料。

劉慧卿議員：

主席。聽到局長的計劃，我們是歡迎有所進展，希望在局長統領下，在6個月內能與業主達成興建行人天橋的建議，但若業主不答允，政府又不能強迫，我們是明白的。但我們望向中環、灣仔，在大廈旁邊是有條橋的，若行人天橋不接駁進大廈內，只是由馬路的一邊建造至另一邊，因建橋的目的只是不希望行人橫過馬路出現阻礙。我翻閱過全部文件，從來沒有人作這樣的考慮，這方法是否可行，在門前建造一條橋，業主可能十分不高興，他能否提出反對？既然業主不答允建造，政府要疏導過路人士，局長會否考慮這方法？請問局長可否在大廈的門前建造天橋？

規劃環境地政局局長：

主席。我們作過研究，在皇后大道中行人路找一個位置承接建造的天橋，可能引出很大的困難。所以現時我們考慮若不能接駁樓宇I，有另一個可行方案，但尚要研究影響有多大，就是在戲院里那一邊作為落腳點。但這個構想要十分小心，因為戲院里是十分狹窄，在現階段，我沒有把握。所以現時的構想仍是希望在樓宇I的兩點作為承接。

劉慧卿議員：

主席。在樓宇I和樓宇II門前是有很多空位的。我們經常在那處籌款，所以知道。我覺得是可以考慮的。若他們不願意合作，便應在政府的權力範圍內進行。這工作已進行了24年，對任何一個國家或地方均是恥辱！24年的時間，一條橋也建造不成，那香港的公務員有甚麼高效率？所以，我覺得局長應考慮，業主若不答允建造行人天橋，便在門前建造，目的只為人群過路。況且路是可以重新規劃的，雖然路是較為狹窄，但很多路都是十分狹窄的，仍可在門前建造行人天橋。所以我相信這方面是可以考慮的。

主席：

在審計署署長報告書中文本第23頁第53和54段的方案D，似乎政府亦曾考慮類似的構思，而在第54段最後部分，說明政府雖然曾作研究，但最終有關方面仍未作

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

定論。在這問題上，局長可否向本委員會提供較為詳細的回覆，讓我們作為參考。我們知道今天你的證供所說的方案不一定落實和未有定論，但值得我們跟進這未完成的工作，讓我們考慮作出建議時多一個最新的資料。蕭局長。

規劃環境地政局局長：

好的。

主席：

各位議員是否已完成天橋A的討論，因這條天橋是最重要的。其餘尚有4條天橋需要討論，問題十分接近。若蕭局長完成政府方面的研究工作，知道現時哪一位是正式業主授權與政府進行商討的人士，可否通知我們？我們很希望盡快知道，若要了解這件事，向哪位人士了解最為適當？政府可否為我們辦這一件事？

規劃環境地政局局長：

可以。

主席：

多謝。暫時在這階段完成天橋A的問題，雖然時間十分緊迫，仍希望繼續聆訊，若各位容許，我們繼續詢問有關天橋B、C、D及E，4條天橋的問題。吳亮星議員請開始發問。

吳亮星議員：

多謝主席。由於樓宇I¹致天橋A處於不容易解決的情況下，首先要詢問政府，為何在樓宇I的問題未能解決下，仍然在92年根據《建築物條例》第123章第42條的規定，向樓宇II發出准許證，批出額外用地呢？當時作出了甚麼考慮呢？第二，政府在樓宇II的有關契約條款中，累積了75年至92年一段長時間的經驗，在92年有關樓宇II的契約條款內容是否足夠？若不足夠，是哪一方面？對於現時樓宇II的業主是否仍有約束力？

主席：

第一條問題請蔡署長作出回應。第二條問題請布培先生答覆。

屋宇署署長：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席先生。在樓宇II方面，我們與業主的商討，主要是基於城市設計的圖則提供這些天橋網絡，雖然與樓宇I的商討存有困難，但我們認為不應該因存在困難而停止其他的商討，目的是要確保每間樓宇在改建時，所有可以實施政府城市規劃的機會均不會喪失。故此，我們當時與有關人士進行商討。在商討的過程中，我們已汲取從前的經驗，明確要求樓宇II的業主負責興建天橋A，及明確要求樓宇II的業主提供天橋B的接駁安排。事實上，天橋B的圖則已獲批准，但施工的准許證仍未發出。這是有關樓宇II和天橋B的情況。

主席：

布培先生。

D of L:

Mr Chairman, we believe the legal documents for Building II fully cover the requirement for footbridges and, certainly, any subsequent owner is bound by those legal documents because they are the land grant and modifications thereto.

主席：

吳亮星議員？

吳亮星議員：

根據審計署署長報告書第39段第2小段，敘述“樓宇II地段的有關契諾條款訂明，樓宇II地段的業主須”興建一條行人天橋，連接這幢多層樓宇與當時稱為‘樓宇I’的樓宇”。上述的契諾條款的措辭，不夠確切，因其未能涵蓋在樓宇I地段上重建的新樓宇”。我希望聽取政府對這一點的看法。我希望稍作核證是否有關契約內的條款已是足夠確切，不會產生新的問題。

主席：

布培先生。

D of L:

I believe it is clear enough, Mr Chairman. I am not aware of any particular problem on Building II. The only problem we have on Building II is who receives a footbridge at the other end on Building I. That is the problem. As far as I am aware, the footbridge requirement in the lease of Building II is sufficient.

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席：

吳亮星議員。

吳亮星議員：

請問政府，若在下述問題出現時，有關的契約是否仍然生效。如樓宇I的業主不同意提供天橋接駁時，是否現時樓宇II的契約條款便失去約束力？其次是若樓宇I重建時，已是不同的樓宇，是重建後的樓宇。第三，若樓宇II進行重建，是否仍保留現時契約條款的約束力？

主席：

布培先生。

D of L:

Building II was redeveloped and this was at the time when the lease variation was made. I believe it is adequate to serve our purposes.

Chairman:

I think Mr NG's question is: if Building II is to be redeveloped again, not at that time but to be redeveloped in the future, then this agreement will not be binding on any future redevelopment. I think that is the question. I suspect that is why the Director of Audit was saying that the term was not precise enough on this point. I hope Mr CHAN can supplement my question, if I am mistaken. Mr CHAN, do you want to?

D of A:

Mr Chairman, I think it is the statement by LACO.

Chairman:

So, even within the department, they were having doubts? There were grey areas?

D of A:

Yes.

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席：

吳亮星議員。

吳亮星議員：

主席。由於樓宇I在75年在契約上沒有訂明這條款，拖延了20多年仍未實施。就算樓宇II的業主同意有關條款，恐怕仍有機會拖延至樓宇I再重建，問題又會產生，希望政府能對契約訂定明確的條文。

主席：

布培先生。我相信各位議員希望你能從這事件汲取教訓，將來有關條文的措辭能更清晰，地政總署的法律諮詢及田土轉易處的法律顧問和審計署署長均有同樣的意見。布培先生是否想作出回應？

D of L:

I bow to legal opinion, Mr Chairman. I am not a lawyer myself, and this is the legal advice. I will look further into it. I'm not particularly aware of any problem. As you know, Building II has only recently been developed. The question of a further redevelopment is many, many years away.

Chairman:

In fact, our Legal Adviser has been very helpful. From page 57, paragraph 133 of the same report, from the response of the Administration, it seems that the consolidated response from all departments seems to agree that there is something to be improved. I am sure you are not trying to contradict?

D of L:

No. I think we all learnt from this exercise, Mr Chairman. We certainly try and ensure that these problems don't arise in future in any buildings.

主席：

劉慧卿議員。

劉慧卿議員：

有關樓宇III的臨時入伙紙已3度延期，若翻看審計署署長報告書第89段，敘述由於擬訂法律文件需時甚久，最後延長至99年6月26日。我相信是十分不合理的，浪費了這麼多時間。有關的署長可否解釋，到今年6月會如何處理？發出臨時佔用許可證的權力是根據《建築物條例》第22條第6款，我們的法律顧問已提供了一份文件，那裏似乎沒有提及授權你們處理這些事？或者我先詢問第一條問題，即延期3次，是否有人嚴重失職？到6月將會怎樣處理？是否繼續延期？

主席：

是否有這項權力，亦是問題的中心。蔡署長。

屋宇署署長：

主席。關於臨時屋宇佔用證的問題，實際上樓宇已建成，但並未能完全符合有關的條款，特別是關於天橋和批地契據的條款，尚未全部完成，所以我們現時只能發臨時入伙紙給他們。

主席：

劉慧卿議員。

劉慧卿議員：

主席。未能完成是否政府的錯誤？審計署署長報告書第89段提及花了很多時間編寫法律條文、契約修訂、撥地契約、批約修訂書等。是否因為這個原因，抑或是業主本身的問題？責任是在哪方面？

主席：

蔡署長。

屋宇署署長：

以屋宇署的執法行為來說，業主是需要符合全部規定才能獲簽發入伙紙，這是我們管制的程序。

主席：

似乎業主亦十分著急，希望盡快處理。

劉慧卿議員：

或者審計署署長可否在這方面提供協助，講述清楚情況，實際上是誰的責任。是因業主拖延，又不斷申請延期，不能成功便申請臨時佔用許可證，抑或是有人拖延他們，令他們無法進行工作？

主席：

審計署署長。

審計署署長：

是雙方面的。但我相信最主要的責任在官方。兩方面均有責任，在這種情況下，很難說是誰的責任。

劉慧卿議員：

主席。布培先生亦承認編寫有關的法律文件花了很多年的時間。

主席：

布培先生。

D of L:

I believe, as the Director of Audit said, there was fault on both sides. There was delay by the applicant in agreeing to the documents and then the documents were varied. I am pleased to announce everything has now been agreed with the owners of Buildings II and III, the premium has been paid, and the document will be signed within a few days.

主席：

What a relief. 雖然是有了結果，我們怎樣下結論，還需要跟進一些事項，例如屋宇署有沒有一些發出臨時許可證的政策，似乎擁有的酌情權十分大，但法律的權力並不清晰，可否連續數次無限期地簽發這些臨時許可證？這方面的觀點是怎樣？若對方認為你是濫用權力，向你採取法律的挑戰，你們是否有足夠的理據這樣處理？蔡署長請答覆這問題。

屋宇署署長：

我們是根據每一個別個案的情況，檢討是否應該發出臨時入伙紙，抑或發出永久入伙紙。在這個案中，我們認為有充足的理據，只發出臨時入伙紙。

劉慧卿議員：

你沒有答覆當你執行這工作時，有甚麼指引？若你不發出入伙紙，你是否根據《建築物條例》第123章第21(6)條而不簽發入伙紙？對不起，署長現時是否沒有這條例？

主席：

這是他需要執行的法律，應可假設他是熟識的。當然可提供一份給他作參考。

劉慧卿議員：

請講述根據那一條文而不讓他們申請入伙紙？

主席：

這些法例是通過立法會訂立的，我們當然十分關心你如何引用這些權力。

劉慧卿議員：

主席。這裏有兩個問題，第一個問題是詢問署長引用哪一項法律條文。第二個問題是當時不斷簽發臨時入伙紙，是根據甚麼的指引。

主席：

蔡署長。

屋宇署署長：

主席。我需要作詳細的查核，但現時參看條例，我初步的記憶是根據第6A條。因我們每次批准圖則時，若有批地的額外優惠，我們會發出一些變通處理辦法，即

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

modification，便是根據《建築物條例》發出modification的，modification是一項條件，即圖則所進行的工作至最後完成興建，完全要符合modification的條件，我們才能發出入伙紙。

主席：

劉慧卿議員。

劉慧卿議員：

主席。根據第6A條，“建築工程的任何部分在違反本條例任何條文的情況下進行”。請問署長，現時是違反了甚麼條例？

主席：

蔡署長。

屋宇署署長：

若他未能完全符合modification時，便是未能完全達到，我們並不是拒絕發出入伙紙，只是未完全符合，所以我們發出臨時入伙紙，至完全符合時，才發出永久入伙紙。事實上，臨時入伙紙和永久入伙紙對安全等方面來說，應該是有同等效力的。

主席：

我們現時詢問的是有關法律的問題，我和委員會均理解，在未有充分準備前，你需要十分小心考慮怎樣作答，因這是涉及法律的觀點，我們會請立法會的法律顧問作研究，亦會仔細研究你如何引用這條法例。你今天的證供對我們將作出的建議是重要的，希望你能詳盡的答覆如何引用這條例。我相信你剛才的答覆對我的同事來說，仍存有十分多的疑問。希望你首先清楚查核事實，在你引用這些法例時，有沒有徵詢法律意見？若有，法律意見是甚麼？若沒有，在你們引用時，是採取甚麼理據？除了你今天的答覆外，希望你回去作詳細的研究。清楚講述你們是否有任何指引，將來會否作出任何指引，把這樣寬大的酌情權作適當和較公開的規範，讓我們能看到你們是公平地行使這項酌情權。蔡署長。

屋宇署署長：

多謝主席的建議，我會作出查核和向各位澄清這個問題。

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席：

吳亮星議員。

吳亮星議員：

主席。根據審計署署長報告書第73段，樓宇III的有關業主曾在95年簽署和提交承諾書。請問這類的承諾書，對業權以後的繼承人是否有同等的法律效力？請政府作答。

主席：

布培先生。

D of L:

I think that should be Director of Buildings, I am afraid.

主席：

Director of Buildings.

屋宇署署長：

主席。可否重複問題？

主席：

吳亮星議員。

吳亮星議員：

根據審計署署長報告書第73段，由於汲取樓宇I出現的業權繼承問題，樓宇III的業主在95年7月18日簽署了承諾書，請問在95年所簽署的承諾書對現時的業權繼承人是否具有延續的法律效力？

主席：

蔡署長。

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

屋宇署署長：

有關法律問題，我需要再次徵詢法律意見才作答。

主席：

布培先生。

D of L:

Mr Chairman, although this undertaking is obviously a matter of legal opinion, I can tell Members that, basically, that undertaking will be transferred into a Deed of Variation, which is what we basically have recently agreed with the owners. The effect of that undertaking will be transferred into a Deed of Variation and it will be binding on subsequent owners.

劉慧卿議員：

既然現在已有進展，究竟行人天橋何時才可建成？

主席：

布培先生。

D of L:

I'm not sure what the development period is, whether it is 12 months or 24 months? Offhand, I can't say.

Chairman:

It is likely to be within 24 months?

D of L:

Yes.

Miss Emily LAU:

Not longer?

D of L:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Hopefully not.

Miss Emily LAU:

Otherwise, you will have to come back again.

D of L:

Yes.

主席：

有關樓宇III的問題已詢問完畢，有些議員亦想跟進樓宇IV和樓宇V的問題。請劉慧卿議員開始。

劉慧卿議員：

樓宇V的業主曾向政府要求索取更多資料，他們認為政府所提供的資料並不足夠，尤其是有關行人流量的各種資料。請問這些資料是否已提供予樓宇V的業主？

主席：

我亦不清楚由政府哪個部門負責與他們商討這方面的事情，局長可否給予我一些啟示？請問由哪位政府官員作答？

SPEL：

Director of Lands.

D of L:

As far as Building V is concerned, I think we reported at the last meeting that there was nothing we could have done, or even do now, to impose a requirement on Building V to build the footbridge. I believe that building has been redeveloped and there isn't a footbridge and the Administration has no power whatsoever to force them to build a footbridge.

Miss Emily LAU:

Is the Administration trying or have you completely given up?

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

D of L:

We have given up. We approached them at the time of redevelopment and they told us quite clearly they weren't prepared to build it, and that was the end of it.

Miss Emily LAU:

Mr Chairman, from the policy point of view, there is no need to pursue the provision of a footbridge?

D of L:

We are not pursuing it at the moment, because we couldn't make it a requirement and, therefore, we cannot pursue it any more.

劉慧卿議員：

主席。其他幾座樓宇的業主初期亦不同意興建行人天橋連接各座樓宇，但政府仍與他們糾纏多年；但樓宇V業主表示不同意，政府便立即放棄。請問局長，我們應如何理解政府的政策？是否認為值得做便做，即使不成功，但仍繼續努力。在現階段政府仍然認為政策是對的，但因法理上無權要求樓宇V業主遵行，便放棄整體計劃。我們想了解為何之前那幾座樓宇，政府雖然遇到困難，卻仍繼續跟進，但這座樓宇的業主不肯做，政府便立即放棄？

主席：

局長。

規劃環境地政局局長：

從行人與交通的衝突角度而言，我稍後會與同事研討是否需要改以地下方案來跟進，而不是採用架空行人天橋。從位置來看，我極懷疑天橋的效應。故從需要的角度而言，我們認為建造行人天橋不值得跟進，但我們在研究將來的地下方案時會考慮是否可以一直連接到樓宇V。

劉慧卿議員：

主席。當時興建行人天橋的構想是否一個錯誤的決定？人流只會越來越多，我們看到當時政府作了這項決定，審計署署長亦有圖表說明，是否新局長上任後認為不應該興建這些行人天橋？當時決定在該處興建行人天橋是否不智呢，蕭局長？

規劃環境地政局局長：

不可以這樣說，這只是路面行人流量能獲改善的程度問題，興建多一條天橋必然會有改善，但是否值得投資又是另一回事；而現在我們有沒有權力再跟進又是另一個問題。因此，若有新方案能令路面的行人流量減低，是值得去做的，但我們懷疑在樓宇II和樓宇V之間以行人天橋連接是否最好的方案。

劉慧卿議員：

主席，請問局長認為本委員會應如何理解整件事？當我們撰寫結論時是否應假設政府已放棄了在樓宇II與樓宇V之間興建行人天橋？還是待你考慮後再向本委員會提交補充資料？

主席：

局長。

規劃環境地政局局長：

現在政府計劃不再跟進天橋E的興建，轉而考慮地下通道的方案是否能連接樓宇V。

劉慧卿議員：

主席。我希望局長的地下方案可以盡快落實。我們在撰寫結論時，明確知道政府是放棄興建行人天橋E，而另外4條行人天橋是否仍未放棄興建？仍積極考慮建造行人天橋A、B、C、D，是嗎？

規劃環境地政局局長：

行人天橋A、B、C完全沒有問題，我們正同時進行。請問布培先生，天橋D是否仍有其他技術性問題存在？

主席：

布培先生。

D of L:

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

Mr Chairman, on Footbridge D, we are having difficulty with Footbridge A connecting into Building I. There was no requirement back in the 70s for Footbridge D and I think the Administration's view is that we cannot insist on that footbridge being provided.

Miss Emily LAU:

My question is: whether you are going to pursue that or will you abandon that, just like you abandoned Footbridge E?

D of L:

I think in the event of Building I being redeveloped, we would certainly see whether Footbridge D is a possibility. At the moment, we do not see any point in pursuing it any further.

Miss Emily LAU:

Mainly because the owners of Building I do not want to receive the footbridge?

D of L:

I think so, yes.

Miss Emily LAU:

That is very strange, if they agree or if you can find a way of building one between Building I and Building II. Your understanding is that the owners of Building I would be agreeable to having one footbridge from Building II, but not to another one from Building IV?

D of L:

Whether he is agreeable to one, I am not sure. It certainly wasn't the intention when we originally put the pedestrian way in Building I in respect of Footbridge D. I think that Footbridge D was not considered at that time.

劉慧卿議員：

主席。其實行人天橋D的需要最大，因為行人流量最多，但該條天橋卻偏偏不能建造。

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

主席：

讓我從另一個角度來跟進。蕭局長最初表示政府在中區的行人規劃策略，是認為應興建行人天橋來連接區內主要的商業樓宇。但我翻查資料和在審計署署長報告書中，卻沒有提及有關政策究竟是在何時正式訂立和以甚麼方式公布等。請蕭局長稍後翻查歷史，究竟政府何時開始制定有關的政策。我們的工作是要認真研究政府如何落實和執行政策，但現在政府表示不再執行興建該行人天橋的政策，這會引起立法會和公眾懷疑這政策是否仍然有效？政府為何不再跟進既定的政策？這都需要向公眾交代。

規劃環境地政局局長：

主席。我會跟進這個“行人天橋網”的政策歷史。但一個政策中的每個細節如何實施，很多時要視乎當時的環境和實際設計時如何計劃，我會以政府宣布以行人天橋連接各主要商業樓宇的政策開始作跟進。並以書面作答。

主席：

因為天橋B、C、D及E這幾條天橋，如果按照常理推斷，政策已很清楚落實，而亦應已汲取了天橋A不成功的教訓，後來仍然出現類似的問題，本委員會會從該角度來考慮如何作出結論。劉慧卿議員。

Miss Emily LAU:

We can look forward to seeing Footbridge B and Footbridge C in the next 24 months?

D of L:

Yes.

Miss Emily LAU:

Those are the only two for sure?

D of L:

Yes.

主席：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

梁劉柔芬議員。

梁劉柔芬議員：

剛才主席詢問局長關於5條天橋的政策究竟是何時訂定和跟進，局長表示政策訂出以後，亦要視乎執行時的實際環境。審計署署長報告書第74段提及，1995年7月18日樓宇IV地段的業主向建築事務監督提交承諾書，在報告書中有幾個小段清楚說明天橋C的實際情況，但在最後一段提到“即使行人天橋D已列入有關發展大綱圖內，但承諾書沒有規定提供連接樓宇IV與樓宇I的行人天橋D”。剛才局長指要視乎當時的情況，但正如剛才有些議員指出，天橋D可能是最繁忙的一條行人天橋，請問為甚麼政府多個部門在1995年沒有考慮天橋D這個問題？

主席：

蕭局長。這個由你們部門政策科訂定的政策，為甚麼部門沒有跟進，以致後來未能落實？

規劃環境地政局局長：

主席。我需要翻查在這個區內興建行人天橋的政策，從70年代至90年代的發展過程，以及當時為何在發展大綱圖內刊登出來，卻又沒有在個別大廈的發展契約中跟進。

主席：

梁劉柔芬議員。

梁劉柔芬議員：

請問在1995年負責該項計劃的其他幾位局長，在承諾書上為何會放棄行人天橋D？他們考慮的因素是甚麼？天橋A已經轉接經歷十多二十年，做了那麼多事，為甚麼呢？

主席：

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋

這件事問局長較為適當，因為這是他們的政策。至於其他的署長為何如此，要待局長與他們商討後再向我們交代。

規劃環境地政局局長：

我會在解釋政策之後再跟進此點。

主席：

劉議員。

劉慧卿議員：

主席。請問局長是否需要修訂有關法例，因為《城市規劃條例草案》將會提交立法會審議，是否有甚麼需要修訂，以免你們再重蹈覆轍，亦毋須我們浪費那麼多時間來討論這些問題？

主席：

有關的事務委員會亦提過一些將要提交的法例，在這裏或可略作探討，蕭局長。

規劃環境地政局局長：

正在起草的《城市規劃條例》中有一條款，是要求將來根據《城市規劃法例》第16段的申請人，要求其實行或履行某一方面將要履行的責任，第16段獲通過後，申請人在發展時，我們會要求申請人跟進這部分，這是保障根據《城市規劃條例》第16段申請人將來履行法律責任時的跟進。

劉慧卿議員：

局長指的是甚麼，你是否說保證金？

規劃環境地政局局長：

保證金是我們現在考慮的其中一個方案，申請人可能要存放一筆錢，或提供銀行擔保，以保證將來他們在發展時會履行對公共利益有關的設施。

劉慧卿議員：

連接中區五座商業樓宇的行人天橋

主席。局長說有很多方法，保證金是其中一項，今天未必是最佳時機來討論這問題，但包括保證金在內的方法可令申請人必須履行承諾。我們關心的是，某些條例現在是否已作修改，使這些事情將來不再發生。我希望在我們撰寫報告時能掌握一些實質資料，請問局長，在現階段尚未清晰，是否有些機制已經存在？我們應如何理解，還是要待你所指的草案落實？

主席：

若你能盡快提供有關保證金運用等資料，對我們撰寫報告會有幫助。

規劃環境地政局局長：

我可以提供一份將來城市規劃條款如何撰寫和實際跟進方法的文件予委員會，但我想指出城市規劃只是其中一個，因為有其他的發展未必根據城市規劃申請的，例如在地契中增加條件或其他屋契方面，政府仍然有一系列具法律效力的文件，我們要從經驗中得到教訓，我們要在其他與發展有關的法律文件，去保證將來發展者會履行對公眾利益的責任。我會在提供予委員會的報告中說明城市規劃之後，再說明地契等文件如何跟進發展者應履行的責任。

主席：

吳亮星議員。

吳亮星議員：

多謝主席。審計署署長報告書第133段指出，分區計劃大綱圖是有法定效力的，發展大綱圖是沒有法律效力的。在此情況下，政府會否考慮把行人天橋部分納入分區計劃大綱圖內，使今後在法律上有更大優先權執行；第二，汲取今次的教訓，公眾很關注政府提供了那麼多豁免和優惠予某一、兩座樓宇，這些豁免和優惠按當時的市值已達數以億元，其中一座樓宇的豁免地方的價值已超過7億元。政府有關部門應該考慮，在批出豁免面積以後，卻又未能達成建設行人天橋的目的，應如何追究責任和向公眾交代？亦應製訂有關指引和方法，減少類似情況出現，和一旦出現又如何處理。

主席：

有關吳議員的問題，第一，本委員會稍後會撰寫報告；第二，在座各位都理解我們會就這事與有關當局商討，因此這點我們一定會考慮。我認為不需要官員作答。梁劉柔芬議員。

梁劉柔芬議員：

今天的研訊，我們發現很多在第一次研訊時沒有提出的事項。請局長考慮後再答覆，是否需要作出一些適當的改進。在第一次研訊時，我們認為有些建築商在會議上所作的承諾，雖然沒有記載在法定文件上，但亦可以社會輿論來壓迫建築商等；但今天我們才明白政府所面對的建築商，未必是法定人或業權擁有者，好像很模糊。局長會否檢討究竟有甚麼需要改進。我們很擔心，尤其是現在，香港的營商環境是否妥善？

主席：

我們今天向局長和有關的署方提出了很多問題，兩位議員剛才的發言都很關心政府是否應該進行內部檢討。請各官員在回應時，能指出他們認為那些地方經檢討後應作出改善。兩位議員似乎希望在本委員會作出建議前，政府內部能先作檢討，我相信局長亦希望有這個機會，讓政府先作準備，我們在會後會整理今天的紀錄和曾作出的提問，然後交予政府，希望局長盡快回覆我們。我們會討論如何處理，但如何跟進此事，與局長的回覆有很大關係，從剛才議員所提出的問題，他們希望政府官員先作內部檢討。局長可能會感到時間略為緊迫，你是否想補充和略作回應？

規劃環境地政局局長：

我今天承諾提供的所有文件和資料、本人和同事會繼續跟進各樣課題，我希望能在一封信內全部解答，否則我至少會根據秘書的紀錄，視乎需要跟進多少事項而分期回覆。有些我可以很快回覆，但有些我需稍長時間來翻查資料。

主席：

多謝局長的協助，綜合的結論會對我們很有幫助。今天的討論到此為止，今天有很多新的問題是我們參閱過三、四疊文件後才能提出的，並不是我們存心拖延，而是我們要作出善後的工作，提出新問題是因為我們獲得更多新的資料。我希望局長可以回應得較為全面，使我們可以更快完成工作。多謝幾位證人出席。

Footbridge connections between five commercial buildings in the Central District

連接中區五座商業樓宇的行人天橋
