

Building Surveyors

建築測量



MESSAGE FROM THE EDITOR

By Edgar Li

Happy New Year! Our AGM was convened in December 2000 and new representatives in the BS Divisional Council were elected. For details, please see our announcement below. In this Newsletter, we publish a regular review on profile of employment and our updated Communication Network for BS. In addition, the Editorial Board wishes to give our thanks for the continuous supports from our members to contribute the invaluable articles relating to appointment of arbitrator under building contract.

The Editorial Board is calling for editorial contribution from our members in the coming publications. If you wish to submit your article, please contact the editor directly.

Editorial Board

Edgar Li	Editor
Kenneth Chan	Member
Nelson Ho	Member
Gordon Wong	Member
Wong Kin Yip, Andy	Member

ANNOUNCEMENT

The AGM of the Building Surveying Division.....

If you missed to join the BS annual dinner 2000, you may share the joyful occasion by the following photos:



The award of Distinguished Building Surveyor to four senior members (Mr Samson Wong, Mr David Chan, Mr Kenneth Chan and Mr Richard Cheung) by HKIS President Mr Francis Ng



Could you guess what they were playing?



They enjoyed themselves at the dinner.



Who does this tie belong to? The winner of lucky draw!

The AGM of the Building Surveying Division was held on 1st December, 2000 in the Happy Valley Stand of the Jockey Club. The AGM was attended by 39 members with 5 student members in attendance. In the meeting, the new council was elected and the list of new council members is as follows. Please feel free to contact the council members for your ideas or suggestion regarding the Building Surveying Division.

Chairman:	Mr Richard Cheung richardcheung@quintalinux.com
Vice Chairman:	Dr Chan Man Wai chanmw@ied.edu.hk
Hon. Treasurer:	Ms Catherine Yiu catyoyo@ctimail.com
Hon. Secretary:	Mr Nelson Ho nelsonho@hkapa.edu
Council Members:	Mr Kenneth Chan kjkchan@dtz.com.hk
	Mr Edwin Tang ehktang@bd.gov.hk
	Mr Ben W. H. Chong bwhchong@bd.gov.hk
	Mr Kenneth Yun yunyk@archsd.gov.hk
	Mr Alex Wong alex.wong@hld.com
	Mr Edgar Li edgar@hkhs.com
	Mr Andrew Ip ackip@hotmail.com
	Mr Bishop Chung
	Mr Philip Tse philip.tse@hld.com
	Mr Raymond Chan rcsl@netnavigator.com

In addition, three representatives from the BS division were elected to represent our division to the General Council of HKIS. They are :

Mr Richard Cheung
Dr Chan Man Wai
Mr Edwin Tang

The Building Surveyors' Annual Dinner was held after the AGM there were over 50 members and guests attended the dinner. We also presented the award of Distinguished Building Surveyor to 5 senior members by HKIS President Mr Francis Ng. These distinguished members were credited for their service to the BS profession and they are :

Mr Eddie Lee
Mr Samson Wong
Mr Kenneth Chan
Mr David Chan
Mr Richard Cheung

On the other hand, the new BSD Council had nominated the chairman of the skills panels as follows. Members interested to join the respective panels, please contact the chairman directly. We need your support.

Skills Panels	Chairman
Corporate Development Panel	Mr Raymond Chan
CPD Panel	Mr Gary Yeung
Facilities Management Panel	Mr Philip Tse
Editorial Board	Mr Edgar Li
Research & Technical Publication Panel	Dr S.M. Lo
Social Function & Communication Panel	Ms Catherine Yiu
Technical Advisory Panel	Mr C.K. Lau



Feature

BUILDING SURVEYORS PROFILE 2000

By Kenneth Chan

The Building Surveying Division experienced a moderate increase of 6.2% in the corporate membership in the year 2000 as against the phenomenal increase of 18% in 1999. The net addition is 33 (82 in 1999). The major growth areas are in the Management Companies (55%) and Construction Companies (31%) and Public Corporations (21%) sectors. It is obvious that students employed in these sectors have undergone primary training and qualified in them.

The Government sector was employing 273 professional building surveyors as at the end of 2000. This accounted for 48% of all corporate members in the Building Surveying Division of the Institute. The net increase of 3 over the total number of professional building surveyors employed in Government in 1999 contrast significantly with the net addition of 37 in 1999. This was the first time that professional building surveyors in Government dropped below 50%. (Table 1)

Table 1 - Employment of Professional Building Surveyors in Hong Kong

Employers	2000		1999		Growth/ Decline
Government	273	48%	270	50%	1.1%
Surveying Firms	98	17%	90	17%	8.9%
Developers	72	13%	65	12%	10.8%
Management Companies	31	5%	20	4%	55.0%
Public Corporations	23	4%	19	4%	21.1%
Others	21	4%	25	5%	-16.0%
Universities	18	3%	17	3%	5.9%
Construction Companies	17	3%	13	2%	30.8%
Architectural Firms	7	1%	9	2%	-22.2%
Hospitals	9	2%	8	1%	12.5%
Total	569		536		6.2%

Decline in the employment of qualified building surveyors were noted in the Architectural Firms and Others sectors.

The employment of student building surveyors in the traditional sectors did not have significant growth. A major decline was in the Surveying Firms sector. There share of the employment of students had continued to dropped and is now a mere 28%. Whilst at the same time, there were more new organisations that have never employed students were now employing student building surveyors. (Table 2 & 3)

Table 2 - Employment of Student Building Surveyors in Hong Kong

Employers	2000		1999		Growth/ Decline
Government	88	18%	84	18%	4.8%
Surveying Firms	138	28%	153	32%	-9.8%
Developers	46	9%	44	9%	4.5%
Others	44	9%	21	4%	109.5%
Management Companies	60	12%	56	12%	7.1%
Public Corporations	29	6%	28	6%	3.6%
Universities	9	2%	8	2%	12.5%
Construction Companies	42	9%	46	10%	-8.7%
Architectural Firms	33	7%	35	7%	-5.7%
Hospitals	1	0%	1	0%	0.0%
Total	490		476		2.9%

The total number of firms or organisations employing building surveyors stood at 205 (204 in 1999). There were 21 organisations that employed more than 10 building surveyors. 67% (70% in 1999) of the professional building surveyors and 58% (57% in 1999) of students were employed in these organisations that accounted for 63% (64% in 1999) of all those employed. 109 (118 in 1999) numbers of all firms or organisations employed only 1 building surveyor and 109 (72 in 1999) of which employed qualified building surveyors. There were a total of 77 (85 in 1999) organisations employing 109 (104 in 1999) students that did not have qualified building surveyors. It was also noted that there were a total of 66 employers that only employed qualified building surveyors.

Table 3 - Employment of all classes of building surveyors in Hong Kong

Employers	2000		1999		Growth/ Decline
Government (8/9)	361	34%	354	35%	2.0%
Surveying Firms (32/35)	236	22%	243	24%	-2.9%
Developers (34/37)	118	11%	109	11%	8.3%
Others (17/10)	65	6%	46	5%	41.3%
Management Companies (30/25)	91	9%	76	8%	19.7%
Public Corporations (12/17)	52	5%	47	5%	10.6%
Universities (8/7)	27	3%	25	2%	8.0%
Construction Companies (44/44)	59	6%	59	6%	0.0%
Architectural Firms (17/17)	40	4%	44	4%	-9.1%
Hospitals (3/3)	10	1%	9	1%	11.1%
Total	1059		1012		4.6%

The employment profile and trend of all building surveyors and professional building surveyors from 1997 to 2000 are provided in Table 4 and 5.

Table 4 - Profile and Trend of Employment of Building Surveyors 1997 - 2000

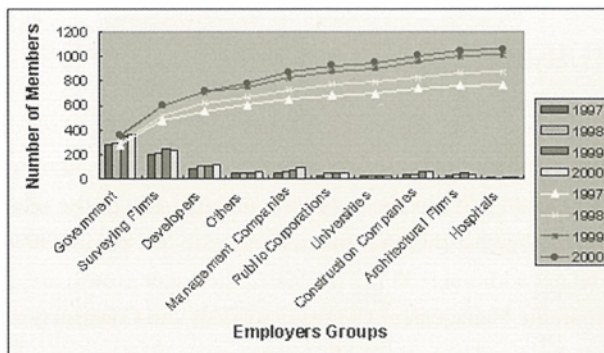
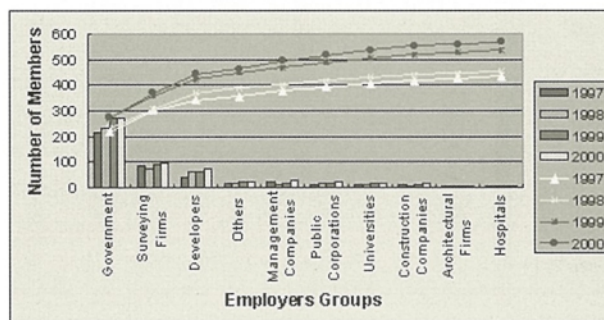


Table 5 - Profile and Trend of Employment of Professional Building Surveyors 1997 - 2000



Feature

BUILDING SURVEYORS' BULLETIN

It is high time for the HKIS to amend Clause 35 of the standard form of Building Contract

A recent decision of the High Court of Hong Kong in December 2000 should draw the attention of the HKIS. It involved 3 separate arbitration cases which all addressed to the validity of the appointment, and thus the jurisdiction, of the arbitrator.

The three cases are Weltime Hong Kong Limited v Ken Forward Engineering Limited (HCCT 73/2000), Healthy Sun Limited v Ken Forward Engineering Limited (HCCT 97/

2000) and Weltime Hong Kong Limited v Ken Forward Engineering Limited (HCCT 108/2000).

The issue concerns whether or not the arbitrators have been validly appointed under the provisions of the arbitration clause in the Standard Form of Building Contract - Clause 35. The relevant part of Clause 35 reads as follows :-

"..... such dispute or difference shall be and is hereby referred to the arbitration and final decision of a person to be agreed between the parties, or, failing agreement within fourteen days after either party has given to the other a written request to concur in the appointment of an Arbitrator, a person to be appointed on the request of either

party by the President or Vice-President for the time being of the Hong Kong Institute of Architects co-jointly with the Chairman or Vice Chairman for the time being of the Royal Institute of Chartered Surveyors (Hong Kong Branch)."

Thus the contract provides for the appointment of an arbitrator :-

- (a) By consent; and
- (b) If not by consent, by the Hong Kong Institute of Architects' President or Vice-President ("HKIA") co-jointly with the Royal Institute of Chartered Surveyors' (Hong Kong Branch) Chairman or Vice Chairman; and
- (c) Failing an appointment by (a) or (b) above, then the provision of Section 12 of the Arbitration Ordinance Cap. 341 would be applicable.

The problem emanated because on 1st September 1997, the Royal Institute of Chartered Surveyors ("the RICS HK") ceased to exist. The Hong Kong Institute of Surveyors ("the HKIS") which had been in existence since 1993 took over its functions.

The "Helathy Sun" contract

This was entered into in 1995 using a standard form of contract which referred to the RICS HK. The arbitral issues arose in 1998 when the RICS HK had ceased to exist. The claimant failed to get the respondent's consent to the appointment of an arbitrator [(a) above] and ignored (b) above because there was no such body as the RICS HK at the time. It therefore went to the Hong Kong International Arbitration Centre ("HKIAC") under Section 12 of Cap. 341 and an arbitrator was appointed.

The respondent submitted to the arbitrator that he had not been validly appointed because the claimant should have applied to the HKIA co-jointly with the HKIS, as successor to the RICS HK before resorting to Section 12. The learned arbitrator disagreed.

The "Welltime" contract

This was entered into in about November 1997 after the RICS HK had ceased to exist. Nonetheless the standard form of contract which the parties used and which they both signed was a pre-1997 out of date form which did refer to the RICS HK in clause 35. Again, when the arbitral issues arose in 1998, the claimant went straight to the HKIAC for the appointment of an arbitrator, having failed to appoint one by consent under (a) above. (b) was again passed over because the claimant could not apply to a non-existent body.

When asked to rule on the matter, the learned arbitrator came to the same conclusion, namely that her appointment was valid.

The awards were challenged before the Court of First Instance. The Court laid down the following tests to be applied in application for leave to appeal such arbitrators' awards :-

"In order to obtain leave, the plaintiff/respondent in arbitration must show :-

- (1) *In all the circumstances, the determination of the question of law could substantially affect the rights of either of the parties [Section 23 (4), Cap. 341].*
- (2) *If it is at the top of the scale or spectrum, namely a "one-off" case or "one-off" event, then leave will only be granted if the arbitrator is so obviously wrong as to preclude the possibility that he might be right; or if he is "plainly wrong".*
- (3) *If it is at the bottom of the scale (such as in a commonly used standard form in regular use or a clause or circumstance which often arises), then it is still necessary to show a strong prima facie case of error."*

The Judge further asserted that the fundamental principle that the onus was on the plaintiff to show at least a strong prima facie case that the arbitrator had been wrong still applied.

To this the Judge ruled : *"The issue before me is neither at the top nor the bottom of that scale. It is not at the bottom of the scale because it does not concern the interpretation of a clause which regulates the conduct of the parties which will regularly arise and be of importance to the industry generally. Neither is it at the top because it may not be a one-off situation which only concerns these parties. It is possible that the same situation will arise again where an arbitration issue post-1997 which contains a reference to the pre-1997 RICS HK. However, such a situation has not occurred in this court before and the likelihood of it arising again diminishes with the effluxion of time. I therefore judge the point to be towards the top of the scale. The plaintiff must, therefore, reach a threshold which is close to demonstrating that the arbitrators, both of them, could not possibly have been right.*

*..... That threshold has not been reached. Both arbitrators found favour with the tenable argument that as the RICS HK did not exist at the material time, the second limb of Clause 35 [i.e. (b) above] could not be performed. **In support of this approach, it is emphasized that the change from RICS HK to HKIS in September 1997 was not a change in name only in the sense that the same body carried on***

albeit under a different name. The HKIS was a different body which had co-existed with the RICSHK for four years prior to 1997. HKIS was patently not the body which the parties had agreed to approach in trying to appoint an arbitrator.

..... The plaintiff's submission is premised on the contention that the parties must have intended to have the arbitrator selected by the HKIA and the successor to the RICSHK. This is an assumption which cannot be made.

..... Finally the submission that the claimant should first of all have attempted to perform the contract by applying to a non-existent body is without merit. It is not possible to apply to a body which does not exist. ... Here, however, the parties have Section 12 of the Arbitration Ordinance, the application of which does result in the appointment of an arbitrator, where limb (b) of clause 35 does not. The parties chose to arbitrate their differences. In order to give effect to that choice, Section 12 of Cap. 341 has been applied properly."

In the premises, if the HKIS would like to maintain its privilege in co-jointly with HKIA to appoint arbitrators in case of dispute in relation to a Standard Form of Building Contract, the RICSHK in Clause 35 must be substituted by HKIS. Otherwise, the role in the appointment of arbitrator will be shifted to the HKIAC as a fall back position.

James Kenneth Pong

BSc., MSc., LLB., PCLL., PCEd., DipArb.,
FHKIS, FCI Arb., ARICS., MAIBS., F. PFM.,

Authorized Person

Barrister-at-Law

30th December 2000



Update

A BRIEF SUMMARY TO PRACTICE NOTES FOR AP AND RSE FROM SEPTEMBER 2000 TO DECEMBER 2000

Wong Kin Yip, Andy

PRACTICE NOTES FOR AP AND RSE BUILDINGS DEPARTMENT

30 Centralized Processing of Building Plans

This revision September 2000

In order to double-check the number of sets of plans and the documents required for submission, this revision include a new form for APs to complete prior to submission of general building plans. Also, APs and RSEs may discuss with BD staff in specific issue prior to formal submission or make a presentation of his case for complicated issues after the submission of plans. The format of Form BA16 has been revised also.

53 Application for Occupation Permit (OP) and Submission of Record Plans and Information

This revision November 2000

This practice note specifies the detail procedures for submission of latest approved plans in electronic format with the application for Occupation Permit.

98 Refuse Storage and Collection Building (Refuse Storage and Material Recovery Chambers and Refuse

Chutes) Regulations

This revision September 2000

This practice note states the new provision of Refuse Storage and Material Recovery Chambers and requirement on mechanical ventilation and air-purifying facilities for material recovery chamber, refuse storage and material recovery chamber and room.

111 Hotel Development

This revision August 2000

This practice note sets out the criteria that the Building Authority will take into consideration, for purpose of Building (Planning) Regulation 23A, in deciding whether a hotel building can be treated as a non-domestic building for site coverage as well as plot ratio purposes and to disregard certain supporting facilities together with the setting down and picking up areas for hotel users from gross floor area calculations.

116 Amenity Features

This revision September 2000

This practice note adds the Miniature Logistic Service Room as an example of amenity features. Such facility in a multi-storey residential building allows the temporary storage of delivered goods under the custody of the management staff while the occupants are out.

201 Access Facilities for Telecommunications and Broadcasting Services*This revision September 2000*

To enable the networks operators to accommodate their equipment and wiring in buildings, Regulation 28A of the Building (Planning) Regulations have been enacted and will come in operation on 1 November 2000, requiring every commercial building, industrial building, residential building and hotel building to be provided with access facilities for telecommunication and broadcasting services in accordance with the design requirements specified by the Building Authority. This practice note specifies the Building Authority's requirement on the design of such facilities.

207 Provision of Better Lift Service*This revision September 2000*

This revision introduces guidelines on the provision of lifts in building not only for domestic use but also for office use with a view to enhancing standards of lift services, thereby improving the quality of life for the occupants. The Building Authority will allow the GFA of lift shafts provided over and above the average standard of those currently provided in buildings to be excluded from GFA calculations.

229 Exclusion of Floor Areas for Recreational Use*This revision September 2000*

This revision adds more examples for recreational facilities commonly accepted for exclusion from GFA calculations. The Building Authority would not, however, expect that the gross floor area of such facilities to be too excessive, guidelines are stated in this respect.

235 Protective Barriers*First Issue September 2000*

This practice note provides guidance on structural design requirements of protective barriers. Recommendations on the salient aspects of the design and construction of protective barriers involving the use of glass and typical clamping detail for free-standing glass protective barriers are also included.

239 Window and Window Wall*First Issue September 2000*

This practice note outlines the requirements on the design and material for large windows and window walls which are becoming more popular in high rise buildings where they are often subject to strong wind forces especially during typhoon season.



Communication Network and Job Movement

HONG KONG BUILDING SURVEYORS COMMUNICATION NETWORK

ORGANIZATION	CONTACT PERSON	TEL	FAX
ACADEMIC			
City University	S.M. LO	2788 7683	2788 7612
HK Academy for Performing Arts	Nelson S. L. HO	2584 8690	2824 2651
HK Institute of Education	CHAN Man Wai	2948 6838	2948 6839
HK Polytechnic University	K.K. LO	2766 5878	2764 5131
HK University	Daniel HO	2859 2128	2559 9457
HK University of Science & Technology	Roger DAVIES	2358 6431	2358 1450
FIRMS PROVIDING BS SERVICES			
Calibre Consulting	Gordon ROBINSON	2861 1689	2841 8890
Chesterton Petty	David CONNELL	2377 7004	2317 5533
Crafer Dillon	Sean DILLON	2866 6460	2866 1948
Crow Maunsell Surveyors	Malcolm PEARSON	2317 5911	2317 5901
Danny Kwok & Associates	Danny KWOK	9026 5008	2512 8415
David C Lee Surveyors	David LEE/ Vincent HO	2802 8336	2802 8270
DCL	Daniel LAM/ Kenny KONG	2516 7868	2565 9890
DTZ Debenham Tie Leung Project Services	Kenneth CHAN	2250 8888	2147 3859
John Y.H. Hsi & Associates	John HSI	2311 2389	2525 4407
Jones Lang LaSalle	Samson CHAN/ Kevin CHUNG	2846 5000	2968 1133

ORGANIZATION	CONTACT PERSON	TEL	FAX
FIRMS PROVIDING BS SERVICES			
L C Surveyors	Eddie LEE/Albert CHAN	2882 7100	2881 5905
Lee Mark & Associates	LEE Chun Fat	2827 8222	2827 8773
Multiple Surveyors	Benson WONG	2840 1022	2877 2811
Prudential Surveyors International	Dennis WONG	2507 8303	2598 6576
Raymond Chan Surveyors	Raymond CHAN	2722 7270	2311 3436
Raymond Cheng Property Consultants	Raymond CHENG	2610 0626	2610 0779
Samson WONG & Associates	Samson WONG	2881 6166	2890 5469
SLJV	Samson WONG	2577 0503	2890 5469
Spence Robinson	Francis CLEARY	2544 7007	2543 9975
TMK & Associates	TANG Hau Ki	2377 1970	2377 1625
Vigers Hong Kong	Kenny SUEN	2377 1234	2377 3166
Wellgo Archdecor Consultancy	David CHAN	2865 3128	2865 3100
DEVELOPERS & PROPERTY MANAGEMENT COMPANIES			
Asia Build Ltd	Kawrence LAI	2866 1198	2865 3173
Cheung Kong	Willie TSE	2526 6911	2845 1641
H.K. Land	Albert FONG	2842 8157	2845 9226
Henderson	C.K. LAU	2525 5902	2521 7913
Hong Yip	Dominic CHAU	2828 0810	2828 0868
Kai Shing	Gordon LEE	2828 5133	2827 1702
MTRC Ltd	CHAU Sai Hung	2529 9136	2557 7507
Shui on Properties Mgt Ltd	Gary YEUNG	2879 1800	2511 3532
Sino Base	Barry TSE	2588 1802	2511 7331
Sun Hung Kai	Mike WONG	2832 5221	2838 4085
Swire Properties	Jim DALE	2535 1400	2590 7502
GOVERNMENT			
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Buildings Department	Edwin TANG	2626 1052	2626 1764
GPA	C.C. LAU	2123 8303	2596 0859
Housing Department	Gordon WONG	2761 5066	2714 3328
PUBLIC COMPANIES			
HK Telecom	Alan GRANT	2888 6145	2962 5477
Housing Society	Augustine CHOW	2839 7608	2882 2432
KCRC	Patrick MAN	2688 1262	2688 0314
LDC	Chris CHEUNG	2588 2839	2827 0176
Salvation Amy	Daniel W. L. HUI	2783 2250	2385 4500
Tung Wah Groups of Hospitals	Cheuky CHEUK	2859 7753	2548 5710
OTHERS			
Andrew Lee KF & Associates	Joy LEUNG	2525 0008	2868 5371
Judia Construction Co., Ltd.	John CHUNG	2854 0608	2543 3630
Tactful	Boris YEUNG	2381 5098	2381 0019

Please notify Edgar Li of any changes or your e-mail address for publication
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December 2000

Editorial Contributions

"Building Surveyors" encourages article queries and submission. Article submissions should include both hard (printed) copy and a diskette in word format. Contributors should contact the editor, Mr. Edgar Li at Tel. 2839 7606 or Fax. 2882 2432

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