

SURVEYING

VOLUME 5, ISSUE 4, MAY 1995

FROM THE EDITOR

As you doubtless know, the Committee proposals for subscription increase were rejected by the recent EGM. As already notified to you, there will now be another EGM for a similar purpose. I am informed that the Officers will circulate a full information pack to members this time, and so I do not propose to say much about the detail; that I leave to those more versed in the matter.

There has been, it seems, much criticism of the Committee's previous proposals; some, doubtless, fully justified but a great deal not so. It seems appropriate to cover a few of those areas. It is, of course, for the Committee to answer most of the criticisms, and this column is not intended as a mouthpiece for the Committee. But in some respects, my concern is that certain of the criticisms and, possibly, the responses to them may not really serve the Institute's real interests.

Policy - a policy to improve the image of the profession by augmenting its staff - is, indeed a matter for members. I was under the impression myself that this policy had been demanded at recent AGM's, but it is the membership's right to change its mind (if indeed that is what has happened). While I have my own view, that is personal and not a matter for this journal. Up to a point, the general strategy for implementation of a policy is also a matter for members. There is a full and undeniable right to a voice and a vote on matters which directly affect the interests of members.

In my view, however, some details of the implementation cannot be a matter on which all members should be consulted. In terms, for example, of appointment of staff, it is simply not a practical proposition to have a selection committee of over two thousand. The committees are elected to run this Institute (I am looking particularly, here, at the HKIS). Having elected the committees, the members must permit them a reasonable freedom to carry out their responsibility. Similarly, with salaries and terms, that simply is not really a matter for public

debate. I agree, of course, that government indicates its scale levels, and that public companies report the broad remuneration of their most senior executives. That is proper. But the public (with respect to Government) and the shareholders (with respect to public companies) do not have any significant input into those scales and executive salaries. And individuals' specific remuneration is rarely directly divulged. There should be some faith in the committee that appropriate packages will be negotiated.

There has also been comment on the qualifications required for the post created. The questions asked scarcely do justice to an average sixth form student. Yes, the committee would prefer a Cantonese speaker. Members may not have noticed, but the executive post was advertised, after consultation with personnel selection professionals. The interviewers and the committee which endorsed the selection included Cantonese speakers and I am sure the value of language ability is not lost on them. But I am equally confident that they made the selection based on the various talents of the candidates who came forward. All of the Committee are reasonably senior professionals who do have some idea of how to run businesses. It wholly escapes me why there should be an assumption that, on just this one occasion, they should have become utterly irrational in personnel selection.

I simply do not understand why (other than, of course, personal motivations) senior members who accepted, without demur, the election of this committee and the policies discussed in AGMs should now adopt such simplistic (and quite unjustified) criticisms. You may not agree with what the committee has tried to do, and it is your right to disagree and have your own policies implemented if you carry the vote. But to assume that the Committee does not know what it is doing or is unaware of the snags and the pitfalls is to reveal your own inability to think the matter through. By all means, disagree; but do not imagine for a moment that those with whom you disagree are less informed or less clever than yourself. Those who underestimate their opposition are those who usually fail.

Hong Kong Institute of Surveyors
President : Michael Mann, FRICS,
FHKIS

Royal Institution of Chartered Surveyors
Hong Kong Branch
Chairman : Michael Mann, FRICS,
FHKIS

SURVEYING is the monthly newsletter of the Hong Kong Institute of Surveyors and the Royal Institution of Chartered Surveyors, Hong Kong Branch. It is distributed to members, students and friends of the surveying profession. Should you know of anyone not on the mailing list who would be interested in receiving a copy, please contact Surveyors Services Limited.

Members are invited to contribute to "Surveying". Articles, letters or notices should be received by the Editor by the 18th of each month for publication the following month.

The views expressed in this newsletter do not necessarily reflect the views of the HKIS or the RICS HKB. The Editor, Bruce Humphrey, reserves the right to edit any article received.

The Editor can be contacted through Surveyors Services Limited.

All advertisements and small ads are welcome. The income provided by advertisements contributes towards the printing cost of SURVEYING.

Further details and information on rates for other advertising may be obtained from the Administration Officer, Surveyors Services Ltd, 1934 Swire House, Chater Road, Hong Kong (Tel : 2526 3679 Fax : 2868 4612)



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DIVISIONS

ASSESSMENT OF PROFESSIONAL COMPETENCE - 1995 SESSIONS OF FINAL ASSESSMENTS

Building Surveying Division : 1995 Assessments

The 1995 session of Practical Task and Final Assessments will be held during the week beginning 6th November 1995. The application period is from 1st to 15th August 1995. Application forms will be available from the Administration Office from 1st June 1995.

General Practice Division : Autumn Assessments

The Autumn sessions of the GP APC Final Assessments will be held in October 1995. The application period is from 15th to 31st July 1995. Application forms will be available from the Administration Office from 1st June 1995.

Quantity Surveying Division : 1995 Assessments

The 1995 sessions of Final Assessments will be held on 18th and 19th September 1995. The application period is from 1st to 15th June 1995. Application forms will be available from the Administration Office from 1st June 1995.

The Preliminary Test for candidates taking Final Assessment for the first time only will be held on the morning of Saturday 22nd July at the Hong Kong Polytechnic, and candidates who expect to take the Preliminary Test are asked to put this date in their diaries now. It may be an appropriate opportunity to remind prospective candidates that the Preliminary Test is a paper designed to test the candidates' knowledge of the basics of the profession in the areas of Technology, Measurement, Contract and QS practice.

It is intended that the up-to-date Hong Kong edition of the APC Rules and Guides for the Building Surveying, General Practice and Quantity Surveying Divisions will be published and available from 1st June 1995.

LAND SURVEYING DIVISION BY WONG CHUNG HANG

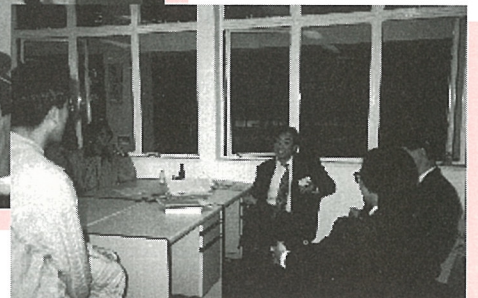
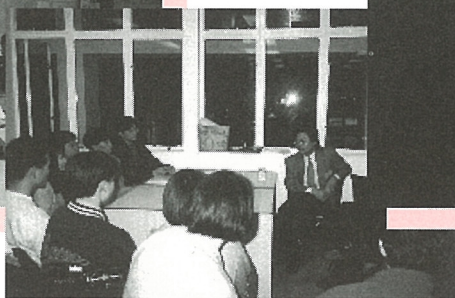
From time to time, a private practising land surveyor may disagree with another land surveyor's work. This happens occasionally when two parties have discovered different facts regarding lot boundaries, so that the common boundary will be different depending on what information has been received. If the two land surveyors in such cases could meet to exchange information received, then any dispute may be avoided, and the position of the common boundary agreed.

The LSD Council is now considering a possible role for the Institute in arbitrating boundary disputes. It proposes the setting up of a Special Interest Group to provide a forum for private practising land surveyors to exchange information and foster goodwill. The LSD Council would welcome any views and suggestions from members. Please contact any LSD Council member or the LSD Hon. Secretary who may be contacted through the Administration Office.

Quantity Surveying Division - CPD Event - Site Visit to Tsing Ma Bridge, Saturday 1st April



Junior Organisation once again organised a term visit to talk to surveying students at the tertiary institutions - Hong Kong University, Hong Kong Polytechnic University and the City University. The photos show Eric Au, (Chairman, QSD), Stephen Yip (Chairman, GPD) and Phillip Kam (Chairman, JO) advising the students on "what it's all about"!



SURVEYING

EXTRAORDINARY GENERAL MEETINGS

An EGM of the Hong Kong Institute of Surveyors held on 11th April, a Resolution was put to members for an increase in the level of Annual Subscription Fees. The Resolution was not passed. Members present requested further explanatory and background information to allow them to support the increase. A further EGM would then be convened. A full package of explanatory information and related material has now been prepared and all Fellow and Associate members of the Institute will have received this.

The Extraordinary General Meeting of the Institute has now been reconvened,

and all members will have received the Notice and other relevant documents. Full details are further given below.

Immediately following the EGM of the HKIS on 11th April and Extraordinary General Meeting of the RICS Hong Kong Branch was held. Two Resolutions were proposed to members. The first Resolution was:-

“That attached classes, i.e. Probationers and Students of the Institution shall pay by way of Annual Subscription to the Hong Kong Branch such amount as may from time to time be determined by resolution of the members of the Branch at a general meeting called for that purpose and approved by General Council.”

This Resolution was adopted by the Meeting.

The second Resolution, to fix the amount of Annual Subscription Fees payable by members of the Hong Kong Branch was withdrawn in the light of the result of the previous HKIS EGM.

The Extraordinary General Meeting of the RICS Hong Kong Branch has now been reconvened, and all members will have received the Notice and other relevant documents. Full details are further given below.

EXTRAORDINARY GENERAL MEETINGS THE HONG KONG INSTITUTE OF SURVEYORS

Notice is hereby given that an Extraordinary General Meeting of the Hong Kong Institute of Surveyors will be held on Thursday 8th June 1995 at The Chater Rooms, Royal Hong Kong Jockey Club, Shan Kwong Road, Happy Valley at 6.00 p.m.

The purpose of the Meeting is, in accordance with the Constitution and Bye Laws of the Hong Kong Institute of Surveyors, to consider and if thought fit adopt a Resolution to set the levels of Annual Subscription and Entrance Fees payable by Corporate Members and Students with effect from 1st April 1995.

THE ROYAL INSTITUTION OF CHARTERED SURVEYORS, HONG KONG BRANCH

Notice is hereby given that an Extraordinary General Meeting of the RICS Hong Kong Branch will be held on Thursday 8th June 1995 at The Chater Rooms, Royal Hong Kong Jockey Club, Shan Kwong Road, Happy Valley at 6.45 p.m.

The purpose of the Meeting is, in accordance with the Constitution and Regulations of the RICS Hong Kong Branch, to consider and if thought fit adopt a Resolution to set the levels of Annual Subscription and Entrance Fees payable by Corporate Members and Attached Classes with effect from 1st January 1995.

University of Reading MBA in Construction and Real Estate by distance learning

Prepared jointly by The College of Estate Management and the University of Reading, this distance learning course has been designed for those who are directly involved in or associated with the property and construction industry and wish to study corporate business administration at the highest level.

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OPEN MEETING

Visit us at our Open Meeting at the Park Lane Hotel, Gloucester Road, Hong Kong, on Wednesday 14 June 1995 at 6.00-7.30 pm.

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PUBLICATIONS RECEIVED

Copies of the following publications are available from the Administration Office on request (call Conita Mak), except those marked "for reference only" which indicates that these publications are available for reference in the Administration Office.

Works Digest - Issue No. 20, March 1995 (for reference only)

Works Branch Technical Circular No. 6/95 - "Incorporation of Amendments into Contract Documentation".

Works Branch Technical Circular No. 2/94B - "Regulating Action on Contractors Convicted of Site Safety Related Offences - Composition of Panel of Enquiry".

Lands Tribunal - Judgments and Decisions - list of recent cases, further information on which can be obtained from the Lands Tribunal on HKIS request.

Land Registry Circular Memorandum No. 5/95 - "Search of Lot Land Registers in Tuen Mun and Yuen Long New Territories Land Registries"

Environmental Protection Department - ProPECC Practice Notes 3/94 - "Contaminated Land Assessment and Remediation"; and 4/94 - "Air Conditioning Refrigerants - a Time for Change".

Planning, Environment & Lands Branch - Information Paper - "Charging for Disposal of Waste at Landfills by Private Waste Collectors".

Survey & Mapping Office - Updated facts sheet on Mapping dated December 1994.

Land Registry Statistics - (i) Consolidated Monthly Statistics in respect of deeds received for registration in the Urban and NT Land Registries for March 1995; (ii) Comparison of the statistics of March 1995 with the statistics for February 1995 and March 1994; (iii) Number of Sale and Purchase Agreements received from March 1994 to March 1995; and (iv) Year-on-year rate of change in the number of Sale and Purchase Agreements.



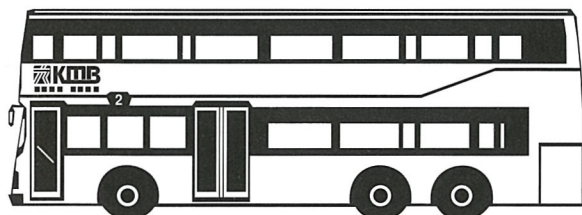
The Kowloon Motor Bus Co, (1933) Ltd, invites applications for the post of

Technical Officer (Ref:TCO)

- Higher Diploma in Building Services Engineering, Electrical Engineering, Mechanical Engineering, or Higher Diploma in Building Studies, Building Surveying, Building Technology and Management
- 1 year's relevant experience.
- Knowledge of AutoCAD and possession of driving licence will be an advantage.

- Duties:
1. Formulate proposals on design, installation, maintenance and improvement of electrical and mechanical facilities, or formulate proposals on alteration, maintenance, improvement and addition of building fabrics.
 2. Take measurements at sites.
 3. Prepare drawings and contracts.
 4. Monitor the building works carried out by contractors.

Please apply in own handwriting with detailed resume, contact tel. no., present and expected salary, a recent photo and mark reference on the envelope to : **THE HUMAN RESOURCES MANAGER, THE KOWLOON MOTOR BUS CO. (1933) LTD., NO. 1 PO LUN STREET, LAI CHI KOK, KOWLOON.**
Applicants not interviewed by 15/6/95, may consider their applications unsuccessful.



SURVEYING

LETTER TO THE EDITOR

Dear Sir

The Professional Taboo

This is an echo to the Editor's comments appearing in the February 1995 issue of "Surveying".

To quote and unquote the Editor's Statement, we, as professionals, should be, and in fact must be, concerned about professional standards; the standards, the morals and ethics, and the idea of right and wrong professional conduct. But try to recollect, fellow members acting as Supervisors of graduate surveyors, how often the subject of professional ethics are being delivered to the youngsters?

In my opinion, there is neither absolutely right nor absolutely wrong professional conduct; there merely exists as appropriate or inappropriate deeds and decisions in respect of the carrying out of professional practices. But how often are the "why" and "why not's" in this respect hereof being injected into the minds of the professionals-to-be? Only on rare occasions, I would think!

"Self-regulation" is one of the golden trade marks of all professions, of which the surveying profession is no exception. But what are these self-regulatory measures, and should/could members balance between the constant conflicts between professionalism and commercialism? It is all very well claiming that we, the Professional Surveyor, is performing our duties within the ambit of the comprehensive (!) Code of Conduct laid down by the Institute. But try to search, fellow members, in your glossy library, whether you are in possession of a copy of the Institute's Constitution, the Bye Laws and/or the Code of Conduct? Try to recall when was the last time you have attended a CPD event and whether you are keeping a proper record of CPD attendance in order to demonstrate, on a self-regulating basis, your compliance of the requirements laid down by the Institutions?

From my limited knowledge about the syllabus and training mode adopted by the Polytechnics and Universities producing graduate surveyors, the terms professional conduct, professional ethics and like wordings are merely phrases written into the teaching handbook.

From my day-to-day contact with fellow members supervising graduate surveyors as well as the hundreds of TPC candidates I have seen over the past few years, the subject of professional conduct and ethics was seldom touched upon during the period of TPC training.

According to the Declaration appearing in the membership application form, applicants undertake, in the event of being elected, to abide by the Constitution and Bye Laws (from which the Code of Conduct obtained its mandate) of the Institute. But how many (or how few) of the applicants making such a Declaration and Undertaking are aware of, or at least have sighted, the Institute's bible documents?

I quite agree with Professor Walker's message appearing in the February issue of the newsletter that more research activities by the surveying profession is required in order to keep us at the forefront of the industry and maintain the long-term credibility of the Institute. Meanwhile and in order that we, as a client based profession within the commercial world, need to uphold our public image of being an esteemed professional so that we could maintain our competitiveness amongst our peer/allied professionals. Tracing our existence as a profession down the road, we need to maintain and enhance the quality and standards of graduates being produced by the tertiary institutions and all the way through the TPC/APC period.

The subject of Conduct, Ethics and Morals relating to Professionals at large has remained a difficult topic to handle, and hence has stood aloof as the taboo of the respective groups of elite. To modify one of the famous quotations by

J F Kennedy, I hereby request members at large, including members-to-be, to "..... ask not how the Code of Conduct can meritize you; ask how you can meritize the Code of Conduct....."!!

Yours faithfully

David W W Chan, FRICS, FHKIS

GENERAL PRACTICE DIVISION

The GP Division have prepared a list of firms providing professional services for GP surveying in Hong Kong. The particulars in the list are based on the information by various firms on a questionnaire issued by the Administration Office. Copies of this list will be kept in the Office and given to the public on request. For firms whose names do not appear in this list and wish to have their names included, please send particulars to the Office before 23 May 1995. This information shall be incorporated in the revised list in July 1995.

WORKS BRANCH

Quality Assurance:

Recognition of Certifying Bodies

Copy correspondence has been received from the Secretary of Works addressed to various Selection Boards and Approved Specialist Contractors.

The Secretary for Works, in his letters, wishes to clarify the following, to avoid possible misunderstandings. The following is a copy of the text of the second paragraph of the Secretary's letter:-

"Recently, we have received enquiries regarding the acceptability of companies offering certification services to [approved contractors/consultants]. To avoid misunderstanding, [contractors/consultants] must be certified by the Hong Kong Quality Assurance Agency (HKQAA), or by an accredited certifying body operating under an implementation agreement of a memorandum of understanding (MOU) with HKQAA for the purposes of our quality policy."

SURVEYING

LANDS DEPARTMENT AUCTION OF VACANT FLATS

This article highlights some of the lesser known aspects of the Government's (Lands Department) disposal programme!!

While Lands Department's Land Auction Sales programmes receives a high degree of media exposure, another, lesser known, disposal programme quietly continues.

On the 29th March, five vacant residential flats in Kowloon were auctioned off by Herbert Leung (Government Land Agent) and Tony Ostheimer (Chief Estate Surveyor) of the Lands Department's Estate Management Section.

The auction attracted a good response with all five flats being sold at higher than expected prices, the highlight being the sale of a 47.3 sq m flat on the 8th floor of 81 Chatham Road South in Tsim Sha Tsui for \$2,460,000.

The results are tabulated below and the photographs show Herbert Leung, Tony Ostheimer and Angela Lam extracting bids from the floor.

| Property | Area | User in sq m | Realised Price | Realised Price per sq m | Purchaser |
|---|------|-----------------|-------------------|-------------------------------|--------------------------|
| 4/F, Front Portion, 103 Tai Nan Street | 60.4 | Residential | \$950,000 | \$15,728 | Yau Man Investment Ltd |
| Flat C, 8/F 81 Chatham Road South | 47.3 | Residential | \$2,460,000 | \$52,008 | High Roller Co Ltd |
| 2/F, Hai Tan Street | 71.3 | Residential | \$920,000 | \$12,903 | Mr Cheung Sing Chau |
| 4/F, 135 Tai Nan Street | 52.6 | Residential | \$800,000 | \$15,209 | Yau Man Investment Ltd |
| 3/F, 10A Cheung Fat Street | 46.6 | Residential | \$980,000 | \$21,030 | Hoi Suen Enterprises Ltd |



LEGAL

BY C. J. WILSON
BAKER & MCKENZIE

The focus of this month's article is a subject which always creates excitement and debate among the construction community, namely that of global claims.

A global claim is one which relies upon a series of interrelated events to establish rights to time or money where the entitlements are not broken down and linked causally to the individual events giving rise to them.

The claimant simply asserts that his losses or the delays etc were caused by the totality of the events.

Pleading and proving a claim in this way is obviously much simpler than relating individual events to their effects and in turn to the losses, although there are certain risks as will be explained below. Critics of global claims say that they are frequently exaggerated, impossible to deal with and effectively reverse the usual onus of proof - i.e. so that the onus is on the respondent to show why the claimant should not be compensated.

Prior to 1991, contractors had, for years, advanced delay and disruption claims formulated on a global basis. Those presenting cases in this way relied on the principle set forth in the well known decisions of J. Crosby & Sons v. Portland UDC and Merton v. Leach. That principle was that where a claim for time or money relies on various events whose consequences have a complex interaction which renders specific relation between the event and the time/money consequences impossible or impracticable, it is permissible to maintain a composite claim provided there is no duplication and any preconditions that apply are satisfied in relation to all causative events.

However, in the 1991 case of Wharf v. Cumine (No.2) the Privy Council made statements which could be interpreted as restricting the application of these principles to dealing with the formulation of financial awards, so that claimants would still be required to plead in a detailed way delaying and disruptive events and the nexus with the delay or financial loss caused. This was potentially good news for respondents.

Contractors' concerns that the Privy Council's comments might be used in subsequent decisions to restrict the pleading of global claims appear now to have been unfounded as there have been a number of subsequent decisions which reinforce the traditional approach.

Two of the most recent decisions are GMTC Tools and Equipment Ltd. v. Yuasa Warwick Machinery Ltd. and British Airways Pension Trustees Ltd. v. Sir Robert McAlpine & Sons Ltd. and Others.

In GMTC the plaintiff was claiming for breaches of contract in relation to a computer controlled lathe and was complaining of breakdowns and resulting losses.

In the course of the proceedings the Judge had ordered the plaintiff to set out its case in the form of a particular schedule which related the breakdowns and complaints to individual amounts of loss.

When the plaintiff was unable to do this the Judge struck out its pleadings.

The Court of Appeal held that the Judge had been incorrect to force the plaintiff to set out its claim in a particular way.

They said that the plaintiff was entitled to formulate its claim for damages as it wished and should not be forced into a straight-jacket of the Judge's or his opponent's choosing. Since the plaintiff was saying not only that it did not allege a direct link between the individual breakdowns and particular items of loss, but that such a direct link could not be established, the Court should allow them to proceed with the claim as they wished to present it.

In British Airways the claim was the reverse of the normal global claim. In this case the former owner of a building was suing the contractors and architects for damages caused by defects in the building. They alleged a large number of defects and said that they had lost a global sum of money on the sale of the building as a result of its condition. The defendants said that they were embarrassed by this pleading in that they were not each responsible for all the alleged defects and no apportionment of the damages among the defects had been made.

They applied for an order preventing the plaintiff from proceeding with the claim in this form.

The Court rejected the application. The basic purpose of pleadings is to enable the opposing party to know what case is being made in sufficient detail to enable that party properly to answer it. The Court said that in recent years there had been a tendency to forget this basic purpose and to seek further particulars even when they were not really required.

"This is not only costly in itself, but is calculated to lead to delay and to interlocutory battles in which the parties and the Court pore over endless pages of pleadings to see whether or not some particular point has been raised or answered when in truth each party knows perfectly well what case is made by the other and is able properly to prepare to deal with it. Pleadings are not a game to be played at the expense of the litigants, nor an end in themselves, but a means to an end, and that end is to give the parties a fair hearing."

The Court said that general statements in a recent edition of a well known textbook (to the effect that global or composite claims were embarrassing and justified striking out) were not applicable to every case. This was not a case in which the defendants were under any unfair disadvantage as a result of the pleadings being put forward in a global way.

In summary, it is clear that the tide is well and truly flowing in favour of global claims where at least some logical reason can be advanced for presenting the causal events as an interrelated whole.

The risk in such a case is that some part of the claim fails leaving the arbitrator or Court with no way of arriving at any apportionment. In theory the claimant should fail altogether in these circumstances on the basis that it has not established its case to the required standard of proof. Whilst this risk is frequently referred to, most arbitrators at least are unlikely to wish to see a claim defeated altogether on this ground and are likely to attempt some form of apportionment where this can be done with a semblance of respectability.

SURVEYING

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Senior Quantity Surveyor

The incumbent will be responsible for pre and post contract administration and monitoring including scrutiny/preparation of cost estimates, tenders, contracts and subcontract documents; budgetary control; evaluation of VO and payment claims; preparation of financial reports and settlement of final accounts.

Candidates should be qualified members of HKIS/RICS with a minimum of 3 years post-qualification experience in similar capacity preferably gained in large development projects. He should possess effective communication skills and be able to demonstrate initiative and work under pressure.

Quantity Surveyors/ Assistant Quantity Surveyors

The incumbent will be responsible for providing general QS services for pre and post contract which include taking off of quantities from drawings; scrutiny/preparation of cost estimates, tenders, contracts and subcontract documents; evaluation of VO and payment claims and settlement of final accounts. Travelling to PRC is required.

Candidates should be post secondary graduates with at least 4 years QS working experience preferably gained in large development companies with exposure in PRC projects. They should be able to work under pressure and communicate effectively and fluently in English, Chinese and Putonghua. Candidates with less experience will be considered for the positions of Assistant Quantity Surveyors.

Please apply with resume, stating contact telephone number, date available, present and expected salaries together with a recent photo to **GPO Box 760, Hong Kong** (please quote REF: PER on envelope).

(Applicants not being invited for interview within one month may consider their applications filed for future reference.)