Minutes of the Meeting of the Housing Authority BUILDING COMMITTEE held on Thursday, 23 March 2000

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PRESENT

Mr Daniel LAM Chun, JP (Chairman)
Dr the Hon Rosanna WONG Yick-ming, JP
The Hon LEE Wing-tat
Mr Raymond CHOW Wai-kam, JP
Mr WAN Man-yee, JP
Mr Philip NUNN
Mr IP Kwok-him, JP
Mr J A MILLER, JP (Director of Housing)
Professor Patrick LAU Sau-shing
Dr Sarah LIAO Sau-tung, JP
Mr Andrew CHAN Ping-chiu
Mr Hardy LOK Kung-chin
Ms Anna KWONG Sum-yee
Mr Helius NG (Chief Assistant Secretary/
Professional Services, Works Bureau)
Mr T C YUEN, JP (Deputy Director/Works)(Ag.)

ABSENT WITH APOLOGY

Mr Mike WONG Chik-wing
IN ATTENDANCE

Mr Marco WU, JP (Deputy Director/Management)
Mr John CHIU (Business Director/Development)(Ag.)
Mr R J AVON, JP (Finance Director)
Mr Joseph KONG (Project Director/Central)
Mr Simon LEE (Assistant Director/Legal Advice)
Mr David LEE (Project Director/West)
Ms Ada FUNG (Assistant Director/Quality Task Force)
Mr WONG Bay (Assistant Director/Management 2)
Mr Daniel LEE (Assistant Director/Development)(Ag.)
Mr Johnson YUEN (Chief Quantity Surveyor/Construction Services)
Mr Gilbert HO (Assistant Committees’ Secretary/6)

SECRETARY

PRESENTERS

Mrs Katherine YAU (Chief Publicity Officer/Corporate & Community Relations)
Mr C W KO (Chief Architect/1)
Mr Chris GABRIEL (Chief Architect/Design & Standards)
Mr I A GALLOWAY (Senior Manager/Audit)
Mr Edwin LAU (Financial Controller/Development & Construction)
Mr A P PITT-JONES (Senior Civil Engineer/Contract Dispute Adviser)
Mr R PANKHANIA (Senior Structural Engineer/Legal Advice)
Mr Vincent M P LOH (Manager 1/Counterparty List Management)
Mr N M CHAN (Project Manager/1)
Ms Polly YOUNG (Deputy Project Manager/A1)

PRESENT BY INVITATION

Strategic Design Centre Ltd. - Mr Tony SIN
Bridgewater & Coulton Ltd. - Mr Daniel TSOI
## INDEX

### PARAGRAPH

<table>
<thead>
<tr>
<th>Page</th>
<th>Description</th>
</tr>
</thead>
</table>
| 2    | CONFIRMATION OF THE MINUTES OF THE PREVIOUS MEETING HELD ON 24 FEBRUARY 2000  
(Paper No. BC 27/2000) |
| 3 - 11 | MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING HELD ON 24 FEBRUARY 2000 |
| 12 - 45 | ITEMS FOR DISCUSSION |
| 12 - 45 | Part I : Discussion Papers |
| 12 - 16 | General |
| 12 - 16 | New Exhibition Centre at Homantin South (HMTS)  
Phase 4 - Outline Design Brief  
(Paper No. BC 33/2000) |
| 17 - 20 | Building |
| 17 - 20 | Tender for Construction of Cheung Chau Second Rural Housing Estate  
(Paper No. BCT 7/2000) |
| 21 - 39 | General |
| 21 - 23 | Revision of Model Client Brief for Small Households Development  
(Paper No. BC 30/2000) |
| 24 - 30 | Home Ownership Scheme Blocks - Public Consultation on Purchasers' Choice on Standard of Fittings and Provisions  
(Paper No. BC 34/2000) |
Half Yearly Report on New Development Project Audits
(Paper No. BC 23/2000)

Supplementary Provision for Construction Expenditure
Budget 1999/2000
(Paper No. BC 32/2000)

Report

Monthly Progress Report - February 2000
(Paper No. BC 29/2000)

Part II : Straightforward Papers

Maintenance/Improvement

Tender for Improvement Works to On Ting Shopping Centre (Phase II)
(Paper No. BCT 10/2000)

Legal action arising from discovery of sub-standard foundation works
(Paper No. BC 31/2000)
Action

The Chairman opened the meeting at 8:48 a.m. Apology of absence was received from Mr Mike WONG Chik-wing. Members noted that proceedings of the meeting would be broadcast for viewing by departmental staff except the items under Any Other Business.

CONFIRMATION OF THE MINUTES OF THE PREVIOUS MEETING HELD ON 24 FEBRUARY 2000

2. Minutes of the meeting held on 24 February 2000 were confirmed subject to the following amendments –

(a) A sub-paragraph (d) be added to paragraph 33 as follows -

(d) There would be an RSE report after completion of the piling but before the construction of the pile caps so that at the end of the day there would be two RSE reports for this part of the construction works.

(b) On the last line of sub-paragraph 83(d), 'and independent critical review ….' should read 'an independent critical review ….'.

MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING HELD ON 24 FEBRUARY 2000

Proposed Master Layout Plan and Project Development Budget for Redevelopment of Kwai Chung Estate Phase 5
(Paper No. BC 215/99)

3. The two remaining options of noise mitigation measures had been further explored by the Department since the last meeting with the following findings -

Option (1) - Erection of noise barrier walls at the toe of the slope beneath Phase 5 and at the road divider along Castle Peak Road. Further discussions and meetings with the concern Departments had been held, but their response remained negative. Given the complex nature of the technical issues and the significant cost of $104M to be borne by the Authority, this option was considered unjustifiable.
Action

Option (2) - Transfer of the three domestic blocks affected by traffic noise to Buy or Rent Option (BRO) with provision of air conditioning to all the 2,400 flats regardless of their fronting the road or not. The financial implication here was $19M and this option was considered the most cost-effective mitigation measure recommended by the Department.

4. Recalling that similar cases in the past few years had not been dealt with by the authorities in a consistent manner resulting in Housing Department having to enter into the otherwise avoidable protracted ad hoc discussions/negotiations with the contractors each time, the Director suggested that this generic problem be resolved by the relevant Departments with some guidelines as to when and whether noise pollution should be tackled at source or simply mitigated. Members noted the suggestion and agreed to Option (2).

Proposed Master Layout Plan, Scheme Design and Project Development Budget for Redevelopment of Tai Wo Hau Estate Phase 6
(Paper No. BC 8/2000)

5. The Department advised that for drawing up cost comparisons between Tai Wo Hau Estate Phase 6 Redevelopment and a private-sector scheme, the information kindly supplied by Mr Mike WONG Chik-wing would be incorporated into a paper for Members' discussion in due course.

6. Omission of part of the transfer structure (the hybrid scheme) had been checked and was found feasible, and this would be adopted for the Tai Wo Hau Estate Phase 6 project.

Tender for the Construction of Po Lam Road Housing Development Phase 1 (Piling and Building Combined Contract)
(Paper No. BCT 1/2000)

7. The maintenance period for building contracts had now been extended from one to two years for tenders to be returned in March 2000 and thereafter. The Hong Kong Construction Association was aware of this new requirement.
8. Subsequent to the briefing of Members of the HA and this Committee on 16 March 2000 on the progress of the various quality initiatives (which were the subject of a public consultation exercise "Quality Housing - Partnering for Change" to expire by 31 March 2000), some of these initiatives such as lengthening of Maintenance Period (MP), extension of the construction period and the use of sonic tubes in piling works had been implemented.

9. In updating Members on these matters, Ms Ada FUNG explained that implementation of the initiatives would necessitate amendments, in the form of addendum, to the building contracts not yet returned. She then elaborated on the existing position and the four options (that the Department had proposed for Members' consideration) concerning the level of the retention money for building contracts and the mode of its release in relation to the 2-year MP. Having gauged the pros and cons of these options, Members endorsed Option 3 where 1% of the retention money would be released at the end of the first year and the remaining 1% at the end of the second year. Under this Option, there would be more time for the defects to manifest themselves and a greater degree of incentives to the contractors in attending to the defects swiftly in the face of a heavier opportunity cost for defaults. Members noted that the necessary changes would be introduced to the associated nominated sub-contracts. Other contract types were not affected e.g. piling should remain status quo on the current MP of six months and the current level of retention money.

10. Members further noted that an information paper would be submitted to this committee in due course on the whole package of changes.

**Proposed Outsourcing of Commissions to Consultant Quantity Surveyors in 2000/2001**
(Paper No. BC 20/2000)

11. The Department confirmed that in the Annex to the paper, Item 7 (Lam Tin Phase 7) and Item 8 (Lam Tin Phase 8) were two distinct building projects whereas Item 13 (Road Works for Lam Tin Phases 7 & 8) was a civil engineering contract of its own, outside the boundary of Lam Tin Phases 7 & 8. As the three projects had different development programmes, their QS commissioning was kept separate.
ITEMS FOR DISCUSSION

General

(Item 1) **New Exhibition Centre at Homantin South (HMTS) Phase 4 - Outline Design Brief**
(Paper No. BC 33/2000)

(Mr Tony SIN of Strategic Design Centre Limited joined the meeting at this juncture.)

12. **Mrs Katherine YAU** introduced the paper which covered the first stage of the entire work programme. The other two stages were the Design and Build (2nd to 3rd quarters, 2000) and Fabrication and Fitting-out (4th quarter 2000 to 1st quarter 2001). She said that among other things, Members were requested to consider a suitable name for the centre which, it was proposed, could be called the Housing Authority Education and Exhibition Centre. 'Education' because experience and statistics showed that the majority of the visitors to such centres were students, academics, politicians, interest groups and potential tenants.

13. In his video presentation, **Mr Tony SIN** explained that the primary objective of the present outline design brief was to define the parameters within which intending exhibit designers could see their best way to satisfy the design requirements prescribed by the HA. The meeting was advised that on its completion by early 2001, this 920 sq m complex promised to be an inspiring and informative centre with the aim of delivering to its visitors something different from what could be found in the Wang Tau Hom Customer Service Centre or other centres of the HA. There would be standing exhibitions as well as exhibitions on topical subjects that could be updated or replaced quickly.

14. In response to a Member, **Mr Sin** confirmed that while his company would assist in pre-qualifying the six or seven design-and-build contractors for the second and third stages of the work programme, final acceptance of their appointment would rest with this Committee.

15. On how the centre should be properly and veritibly referred to, Members generally considered the proposed name 'Education and Exhibition Centre' a misnomer for want of sufficient educational element/content in the activities that the centre was expected to organise. In this connection, a Member suggested that education should include training but the centre would not involve itself in this. Another Member opined that it would be in order to
Action

simply call it an Exhibition Centre as exhibition contained educational value. In the light of the diverse views, it was agreed that Mrs Yau should later come back to this Committee with a range of proposed names of the centre for Members' re-consideration. At the suggestion of the Chairman, Mrs Yau would contact Mr WAN Man-yee after the meeting to clarify certain points of detail of the project.

16. With the above comments, Members endorsed the outline design brief as presented by Strategic Design Centre Limited.

(Mr Tony SIN left the meeting at this juncture.)

Building

(Item 2) Tender for Construction of Cheung Chau Second Rural Housing Estate
(Contract No. 106 of 1999)
(Paper No. BCT 7/2000)

(Mr Daniel TSOI of Bridgewater & Coulton Ltd. joined the meeting at this juncture.)

17. In bringing Members through the paper, Mr C.W. KO highlighted the following-

(a) This was a re-tender of the building contract.

(b) Application of the Preferential Tender Award System (PTAS) had swapped positions between the 2nd and the 4th lowest tenderers.

(c) Originally the lowest tenderer was opposed to a two-year DLP. They had however subsequently written in to signify acceptance.

18. Referring to paragraph10(a)(iii) of the paper, a Member was astonished to find an almost 300% increase in superstructure cost over a period of six years on comparing a 1993 project in Peng Chau with the present one in Cheung Chau, both outlying islands in the same administrative district. Mr Daniel TSOI said that this was largely attributable to the increase in tender price over that period. Mr Johnson YUEN informed the meeting that the tender price was about double from 1993 to 2000. Mr Ko supplemented that the Cheung Chau project adopted an upgraded standard which was more costly.
Action

The meeting understood that the local characteristics peculiar to Cheung Chau also had a part to play.

(Mr Raymond CHOW Wai-kam, JP joined the meeting at this juncture.)

19. On the '80 financial' and '20 technical' preferential scores as tabulated in Annex B1, the Chairman and a Member questioned the performance scores since it appeared that the best performing tenderer could not get the maximum of 20 points. The Department explained that what the tenderers had been awarded here were in fact adjusted scores (with the detailed computations omitted) which had taken account of the tenderers' past records.

20. Members then approved the recommendations in paragraph 9 of the paper.

(Mr Daniel TSOI left the meeting at this juncture.)

General

(Item 3) Revision to Model Client Brief for Small Households Development
(Paper No. BC 30/2000)

21. In presenting the paper, Mr Chris GABRIEL explained that the brief was first approved by this Committee in 1995 and subsequently in January 1997 under its revised form. The Model Client Brief had to be reviewed again in the wake of the feedback received, the changes in legislative requirements and the waiting-list demand as well as the findings from the Risk Assessment Study. While small households development was a relatively expensive and small-scale way to provide accommodation for those in need, there were at present 15 such projects under construction and 6 in the planning stage, primarily intended but not exclusively for the elderly. Mr Gabriel said that to these projects, the changes would be applied as far as possible.

22. Citing the recent strong attack levelled by concern groups and the Equal Opportunities Commission at what was described as appalling living conditions of two elderly people sharing the same cramped small flat in the Harmony Blocks elsewhere, a Member wondered whether the design and standards of the small households under discussion had addressed the concern. Replying in the affirmative, Mr Gabriel said that the criticisms in the past had been mainly on the 1P/2P standard flats in the Harmany Blocks and some
Action

changes had been made to this in response to the concerns. The Small Households Development were designed with the specific needs of the elderly in mind and this was reflected in things such as furniture layout, proprietary drying racks and the relatively spacious toilet/bathroom in anticipation of the occupants developing mobility problems in the future. For Members to see it with their own eyes, Mr Gabriel would arrange visits to a variety of these types of flats.

23. Members approved the recommendations in paragraph 11 of the paper.

(Item 4) Home Ownership Scheme Blocks - Public Consultation on Purchasers' Choice of Standard of Fittings and Provisions
(Paper No. BC 34/2000)

24. Mr Chris Gabriel introduced the paper which aimed at minimising the fitting-out works of the HOS flat purchasers on their moving in with choices on the standard of fittings and provisions catering to different needs. The underlying idea was to improve quality and reduce waste, thereby contributing to environmental conservation. These choices, namely the Basic Shell Option, the Standard Option and the Upgraded Option were the subject of a public consultation at the Wang Tau Hom Customer Service Centre, the findings of which were the subject of the paper.

25. A short video was then played to demonstrate what the three packages were all about. Mr Gabriel said that the survey result showed that 98% of the respondents welcomed the proposal of having three different choices in the standard of fittings and provisions during HOS sale, 59% preferred the Upgraded Option in one form or the other and 19% favoured the Basic Shell Option. Having appraised these findings, the Department proposed that only two options were to be offered: the Basic Shell Option and the "Fully-fitted" Option without household electrical appliances (except the built-in gas hob). This was in keeping with HA's continuous drive to improve design and standards of provision in response to customers' preference.

26. The meeting noted that choices of the two revised Options as highlighted above would be implemented on three to four selected HOS Concord Blocks and New Cruciform Blocks pilot contracts in the Urban and New Territories areas for tendering out on or after 1 June 2000.

(The Chairman of the Housing Authority joined the meeting at this juncture.)
27. In response to a Member, Mr Gabriel confirmed that the price differentials of the Options were indicative at this stage but had been made known to the respondents in the survey. On the effectiveness of the scheme, Mr Gabriel observed that operational experience so far did indicate that on the pilot scheme for purchasers choice of colour, the purchasers satisfaction at the time of that sale was high. The completed project was shortly to be occupied and would be reviewed when occupation was complete.

(Dr Sarah LIAO Sau-tung left the meeting at this juncture.)

28. In response to another Member, Mr Gabriel thought that the survey sample of 672 in the present case was not a small one. He suggested that the consultation be seen as an on-going exercise with input expected from various other avenues in the coming months, including that selection on pilot schemes, further consultation at the Mock-up flats at Fat Kwong Street and polling of some purchasers after their moving in as what the Department had done before. That way, the Department would be kept abreast of the changing needs of its customers in this respect.

29. On a Member's suggestion that the success or otherwise of the scheme be reported to this committee at the first available opportunity, Mr Gabriel envisaged that this could be done at the end of 2001 when the flats would have been sold assuming plain sailing.

30. Members then endorsed and noted the recommendations at paragraphs 23 and 24 of the paper respectively.

(Item 5) Half Yearly Report on New Development Project Audits
(Paper No. BC 23/2000)

31. Mr I A GALLOWAY presented the paper. He stated that the audits were introduced in April 1999 and this was the first half-yearly report spanning the period from April to December 1999. He pointed out that these were technical audits on the performance of the project teams, and not the contractors, in areas including quality, budget, progress and safety which had a direct effect on the finished products. The audits were carried out on site as well as in the office of the project teams. Matters of purely procedural nature such as maintenance of records were outside the remit of the audit teams. The audits had now been extended to in-house projects which were currently subject to a less frequent check than the consultant projects except where piling works were involved. The Department would ensure that all deficiencies identified in
these audits were rectified. **Mr Galloway** considered the audits a very effective means in monitoring and improving the performance of the project teams as evidenced from the significant drop in the kind of problems spotted in the very first audits.

32. In response to a Member, **Mr Galloway** said that scoring of the consultants in these audit exercises would affect their future tendering eligibility for HA's projects and in that sense the system served as a useful quality assurance tool.

33. Members **noted** the half-yearly report as presented in the paper.

**(Item 6) Supplementary Provision for Construction Expenditure Budget 1999/2000**
(Paper No. BC 32/2000)

34. This paper was jointly presented by Messrs Edwin LAU and Johnson YUEN.

35. Retracing the developments leading to the present submission, **Mr Lau** said that by reviewing based on the actual cumulative spending of $21,844M at the end of January 2000, the HA Construction Expenditure Budget 1999/2000 had been upward adjusted to $29,910.2M, against the original estimate of $25,865.9M, and a supplementary provision of $4,044.3M therefore had to be sought.

36. Paragraphs 7 and 8 of the paper set out the reasons why the spending would ultimately exceed the original estimate by as much as 16%. In the main, this was due to the budget reduction based on the historical records of under-spending in the past few years with a view to forestalling an over-estimate this time. However, current-year spending turned out to be over and above the original estimate, the conscious budget reduction could no longer cope with the actual expenditure.

37. In response to a Member, the Department said that on the new procedures to strengthen the accountability of project managers in expenditure control (Paragraph 9 of the paper), a submission would be made to this Committee in three months' time.
38. The meeting noted that subject to this Committee's endorsement, HA and Finance Committee Members would be circularized a joint presumption paper for approval of the supplementary provision.

39. Members **endorsed** the recommendation in paragraph 11 of the paper.

**Report**

**(Item 7) Monthly Progress Report - February 2000**
(Paper No. BC 29/2000)

40. In briefly taking Members through the report, **Mr John CHIU** said that the forecast production of the first two years in the five-year period remained virtually the same since the last meeting. There would however be a reduction in production in the years 2002-03 and 2003-04 owing in part to the extended contract period as a quality assurance initiative. Revisions to the layout and piling problems in some cases had also affected the production programme.

41. Concerning the actual production for the current year, **Mr Chiu** reported that as only 930 flats were completed in February 2000, about 11,000 flats had to be completed in March 2000 if the original production target was to be adhered to.

42. Referring to the Workload and Performance Summary - New Works Contract as at 23 March 2000, a Member was worried that out of the 23 NW2-group contractors, only 11 were now eligible to tender, which would make competitive tendering so much more difficult to attain. The Department remarked that this number was actually even smaller as the eligible contractors in the lowest quartile would have been excluded. To address this anomaly, the Department would review the existing capping requirements towards the injection of some flexibility in the case of good performers and would come back with a discussion paper.

43. **The Chairman of the Housing Authority** expressed that the Member's concern fitted in with the recent reforms on the practices and systems within the Department which would take a more definite shape upon conclusion of the present consultation on quality housing by the end of March 2000. She asked the Department to provide Members with a holistic view supported by concrete proposals in this reform exercise.
44. With the above comments, Members noted the report.

Part II : Straightforward Papers

Maintenance/Improvement

(Item 1) Tender for Improvement Works to On Ting Shopping Centre (Phase II)
(Contract No. 98 of 1999)
(Paper No. BCT 10/2000)

45. Members approved the recommendation in paragraph 9 of the paper.

ANY OTHER BUSINESS

(Item 1) Legal action arising from discovery of sub-standard foundation works
(Paper No. BC 31/2000)

46. Mr Philip NUNN declared interest as his company was one of the four legal firms providing preliminary advice to the Housing Authority on the contractual liability of the parties involved in the litigation.

47. Introducing the paper, Mr A P PITT-JONES said that the solicitors appointed by the HA had advised, in their respective preliminary reports, that breach of contract of the parties involved in the seven building contracts (Paragraphs 6-8 of the paper) was established whereby HA should be able to recover damages and costs, the scale of which had yet to be calculated. It was noted that these contractors were liable for one or more of the following breaches-

(a) presence of sediment at the pile base;
(b) rocks on which the bored piles were founded were below the quality specified;
(c) short piles;
(d) sub-standard steel reinforcement;
Action

(e) foundation settlement exceeding the specification; and

(f) non-compliance with the requirements of the piling formula.

48. Mr Pitt-Jones explained that legal action on the first six cases listed in paragraphs 6 and 7 of the paper would commence first while the seventh one would be proceeded with after completion of disciplinary actions. Members would be kept informed of progress on a regular basis.

49. Quoting the recommendations on page 44 of the full investigation report of the Tin Chung Court Investigation Panel, a Member asked to know why JMK Consulting Engineers (JMK) was also sued. He noted that this company was not mentioned in the 'legal action' paragraph of the report, and neither was it included in paragraph 7 of the present paper.

50. Mr Simon LEE advised Members that JMK was the geotechnical sub-consultant to the Contract Manager of the project, and had an important professional role. JMK would therefore be legally responsible to the Authority. On the basis of the evidence to hand and in a bid to best pursue HA’s interest, Mr Lee had commenced legal action against JMK founded on the tort of negligence. Mr Lee advised Members the contractor, the consultant and sub-consultant were separately and individually responsible to the Authority from the legal viewpoint. Three separate writs of summons were therefore issued by the Court.

51. The Member commented that, in effect, the Department had bypassed the Committee and the action against JMK seemed contrary to the view given to the LegCo Housing Panel by the Director of Housing that the recommendations of the Tin Chung Court Investigation Report would be accepted without reservation. In response, Mr Lee advised Members that the Department had not acted against the recommendations but had taken one step further to those recommendations.

52. Members had an exchange of views on the need of the Department to have the endorsement of the Committee before commencing legal actions in general, and in the commencement of legal action against JMK in particular. Following the discussion, Members accepted the fact that the legal team was following the established practice that allowed the Department to act on legal advice in handling the present case. Whether this established practice should be reviewed was a separate issue. Members also noted the importance to act on impartial and objective legal opinion even though other relevant considerations should not be brushed aside lightly.
Action

53. After lengthy discussion, Members **approved** the recommendations in paragraph 15 of the paper subject to the second line of sub-paragraph 15(a) being amended to read ‘…involved in the projects as listed at paragraphs 6 and 7; and', as it could be the case that in addition to the main contractors, other parties might be subject to legal action should there be evidence that they were separately and legally liable for the losses and damages suffered by the Authority.

54. There being no other business, the meeting closed at 11:55 a.m.

**CONFIRMED** on

Mr Daniel LAM, JP  
(Chairman)

Gilbert HO  
(Secretary)

File Ref. : HA/COM/4/2 XI  
Date : 15 April 2000