

## General Practice Division Chairman's Message



*Francis Ng GPD Council Chairman*

### Report from our representative on CEPA matters

A meeting was held with the Development Bureau (DEVB) on 13 June 2011. HKIS CEPA Committee (GPD representative is Mr. K K Chiu) had raised the current status between CIREA and HKIS particularly the hurdles that HKIS members encountered when they wished to practice in the mainland. We had also expressed our concern on the difficulties for international valuation firms to open their business in the mainland.

On the other hand, CEPA Committee intends to visit the respective ministries and regulatory authorities in the latter part of this year. As GPD is discussing with the CIREA on diploma presentation/a seminar in Beijing in October (see below), CEPA Committee is considering joining the event at the same time.

### CIREA Affairs

Following on the CIREA training session and assessment earlier this year; a Valuation Forum cum CIREA Diploma Presentation Ceremony in Beijing is tentatively scheduled on 21 Oct 2011. GPD has set up a Working Group (convened by Mr. Edward AU) to coordinate on the logistic arrangement for this forum and ceremony. Details will be announced later. Members who had passed the CIREA assessment through the second batch reciprocity arrangement are encouraged to join this forum and diploma presentation ceremony.

As members are aware, HKIS Membership Subscriptions were revised with effect from 1 April 2011. Correspondingly, CIREA would also adjust the fee for its HKIS members who obtained the CIREA qualification under the reciprocity arrangement. Members will receive the new demand notes soon.

### IVSC in Hong Kong

International Valuation Standard Council (IVSC) will hold its Annual General Meeting on 5 November 2011 (Wednesday) in Hong Kong, immediately after meetings of the International Valuation Professional Board and International Valuation Standards Board in the two preceding days. HKIS will arrange a CPD event for IVSC Board members to introduce the updated International Valuation Standards. The seminar will be organized by GPD in the morning of 2 November. Details will be announced in due course.

### Undivided Shares under the DMC

HKIS noted that there has been recent situation as brought up by surveyor members that the allocation of undivided shares and management shares under the Deed of Mutual Covenant of a building (DMC) is based on property value instead of the gross floor area. The "Allocation of undivided shares and management shares" under the Circular Memorandum No.56 Paragraph 6 (which is a government document guideline for preparation of Deed of Mutual Covenant of a building (DMC)) stipulates that "the allocation of undivided shares and management shares will be calculated by reference to the gross floor area of a unit in proportion to the gross floor area of the development as certified by the Authorized Person." However, the guideline also provides that "If any other basis is proposed for the allocation of undivided shares and management shares, full justification for the proposal must be produced" This recent case has brought up the issue on who should be the authority to certify property values for this purpose.

GPD Council is of the view that it would also be possible for the allocation of undivided shares and management shares to be based on property value but such property value shall be valued by qualified valuers. Therefore, we would suggest

to the Government that if allocation of undivided shares is on the basis of property value, then such allocation should be certified by a Registered Professional Surveyor who is registered in the General Practice Division.

### APC Reform

Afterdue consideration, the Board of Education, Divisional Councils and General Council have reviewed the existing APC procedures and formats. One of the proposed APC reforms intends to open a way for non-cognate degree holders working in the property industry, with appropriate training arrangement, to become full members of the HKIS.

On the GPD Final Assessment, GPD Working Group on APC reform (convened by Mr. Louie CHAN) has come up with a preliminary framework. In brief, the APC Final Assessment would be splitted into two stages, namely, Part 1 which is

written test (this will supersede the existing APC Written Test) and Part 2 is interview. Each candidate should have undergone and passed both Tests before becoming a full corporate member of the HKIS, GPD. Graduates can sit for the Part I written test in their first year training while the Part 2 interview shall be attended at the end of the two years APC training.

Primarily, Part 1 APC test for General Practice surveying consists of those key subjects relating to valuation, agency, estate management, land administration and resumption (subjects are still under review). The test papers are at degree level and on principles only (in local practice). Study guide may be provided in respect of these subjects. We hope to implement the proposed arrangement in 2013.

Members will be kept informed of the progress on the APC review. Views from members are welcome. 🇭🇰

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# The Appointment Services Of Independent Valuation Expert by the President of the HKIS

By **C K Lau** International Director of Jones Lang Lasalle Limited

The appointment of “Independent Valuation Experts” (IVEs) by the President of the HKIS to deal with rental and capital value determinations is an important service of the Institute. IVE determination is a quick and reasonably inexpensive process for dispute settlement. The rental determination could relate to a lease contract for rent review or lease renewal. Whereas capital value determination could relate to joint development agreements and other contractual arrangements.

For the purpose of providing guidance to users who wish to make use of the services of the HKIS, the “*Practical Guide for the Application to the President of the Hong Kong Institute of Surveyors for the Appointment of an Independent Valuation Expert*” (“Practical Guide”) has been published and become effective. It is also available on the HKIS website, together with a list of IVEs. Both documents can be downloaded free of charge. It should be noted that the Practical Guide is not a legal document. Parties making use of the HKIS appointment service must agree their terms of engagement with the IVEs.

## The Working Group

The publication of the Practical Guide was initiated by the GPD Council and a working group was formed in early 2010 with the following terms of reference: -

- (a) to review current appointment process;
- (b) to review promotion materials for appointment services;
- (c) to review rental review guidance notes;
- (d) to gather relevant statistics and to make observations;
- (e) to identify scope of services and difficulties; and
- (f) to report to the GPD Council and to make recommendation.

The working group members include C K Lau (as convenor), Charles Chan, K K Chiu, Joseph Ho and T C Wong.

The working group had arranged for a survey amongst the IVEs and subsequent discussions to identify issues

and difficulties encountered in the appointment process. Recommendations were then made to the Institute.

## Identified Issues

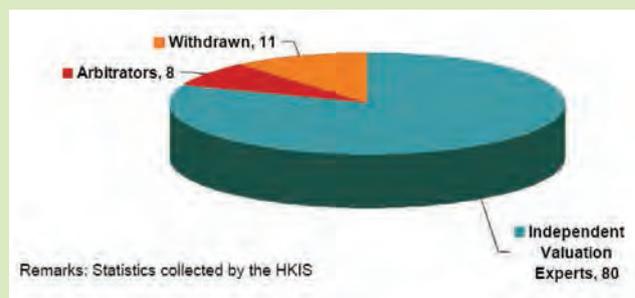
The following are some of the issues identified in the study.

### 1) *No information on the appointment process available on HKIS website*

The Guidance Notes for rent review, list of IVEs and the Application Form were not available on HKIS website. Members of HKIS and intended users did not have easy access to the information. Usage of the services was restricted.

### 2) *Cases became abortive after appointment and reimbursement of fees*

According to the statistics collected by HKIS about IVEs appointment cases from 2007 to 2009, there were totally 99 applications submitted to the HKIS President to request for nomination of IVEs. Appointments of IVEs were made in 80 cases and another eight cases had gone for arbitration. Remaining eleven cases had been withdrawn (see pie chart below).



*No. of cases appointed and withdrawn from 2007 to 2009*

Another survey amongst the IVEs in the discussion sessions revealed that about half of the appointed cases had proceeded to determination whilst the remaining half had not. The reasons for the abortive cases could include: the parties couldn't agree the fee and terms

of engagement with IVEs or they settled the disputes before agreeing the fee and terms of engagement with IVEs or before determination by IVEs.

IVEs pointed out that they spent significant time in dealing with HKIS Secretariat, reviewing documents, making declaration of conflict of interest and relevant expertise, dealing with the applicants and their advisors, submitting terms of engagement and directions and attending preliminary meetings before agreeing on terms of engagement with applicants. It was difficult for IVEs to get compensation for the efforts spent on abortive cases.

### 3) Contractual Relationship

Some IVEs considered themselves bound by the appointments by the President to conduct valuation without agreed terms of engagement with the applicants. Some IVEs needed to seek legal advice on how to break that form of logjam.

### 4) Feedbacks on Application Forms

There were requests on IVEs to have both Chinese and English language skills. In some occasions, representing valuer acting for a party had signed the Application Form without producing authorization from that client. Requests for exclusion of certain IVEs were also encountered.

### 5) Fee Scale

Disagreement on fee was a major cause for abortive cases. Fees could not be agreed for a variety of reasons including but not limited to: cases involving small lump sums, disparity of perception on the complexity of the cases between IVEs and the applicants or the applicants considered the fee quotes by IVEs were excessive.

### Outcomes

After the identification of the issues, consultations and discussions, the following recommendations were made and endorsed by the Institute.

#### (i) Promotion Materials for Appointment Services

The Practical Guide has been published. The new Appointment Process of IVEs is set out in the Practical Guide (see flow chart below).

### Process of Appointments of IVEs

#### STEP 1

The applicant(s) shall submit an application for appointment (Form IV1) to the President of HKIS together with payment of the non-refundable administration fee and a copy of the tenancy (for rental determination) or other document which authorizes the appointment of an IVEs.



#### STEP 2

The HKIS Secretariat acknowledges receipt of the application.



#### STEP 3

The President of HKIS selects proposed appointee from the List of IVEs and seeks confirmation of eligibility to act from the proposed appointee.



#### STEP 4

Proposed appointee is to confirm eligibility to act within 7 working days. If proposed appointee cannot reply in writing within 7 working days or there is actual or perceived conflict of interest, return to step 3.



#### STEP 5

The HKIS Secretariat informs the applicant(s) and other party of the name of proposed appointee in writing. Where the applicant or other party considers the proposed appointee has a conflict or is unsuitable, then a written objection with reasons shall be sent to the HKIS Secretariat within 7 working days of the date of the written notification. The President will consider the merits of any objections to the proposed appointee, and if upheld, return to Step 3.



#### STEP 6

Upon receipt of confirmation by applicant(s), or no objections/comments received within the above specified time, or any objection is over-ruled, an appointment letter will be issued by the President of HKIS to the IVEs and the applicant, with a copy to the other party or to the joint applicants.



#### STEP 7

It is important for the applicants to settle the terms of the engagement with the appointed IVEs before starting the expert determination procedure. The IVEs will conduct the process as he considers appropriate. He may seek the applicants' comments on the process and his decision on such will generally be final subject to it not being contrary to the terms of the contract leading to the determination. Determination can be made with or without reasoning subject to the terms of engagement agreed between the parties and the IVEs.

**(ii) Reimbursement of Fees for Abortive Cases after Appointment**

Non-refundable application fee is raised from HK\$2,000 to HK\$10,000 per application. Where a case has become abortive, part of the application fee not exceeding HK\$8,000 could be paid to IVE. The IVEs need to make such application and advise on work done and time spent by filling in a specified form.

**(iii) Contractual Relationship**

Applicants should settle terms of engagement with IVEs before starting the expert determination procedure.

**(iv) Amended Application Form**

The Application Form (*Form IV1*) has been amended to address the identified concerns and the form is set out in the Practical Guide.

**(v) Fee Scale**

IVEs will provide a fee quote and terms of engagement to the applicants after the appointment by the President of HKIS. The service fee quotation will hinge upon various factors including but not limited to time expected to be spent on procedure and actual valuation work, resources that IVE needs to employ, complexity of assignment and risk profile etc. IVEs should set out in the fee quotation an indication of the number of hours expected to be spent in the light of the information provided.

If cases turn out to require IVEs to input more time than indicated in the engagement letter (e.g. due to legal issues), then IVEs may reserve a right to charge extra fee for extra time spent. A time log may be requested from IVEs for such additional works. Indicative fee for each assignment, normally, would be not less than HK\$75,000.

**(vi) Reasoned Determination**

Normally determination will be given without the expert's reasoning or calculations. In case the relevant tenancy and/or contract stipulates that a reasoned determination is to be made by the IVE or that both parties specifically request

for a reasoned determination, this will be given by the IVE. Due to substantial additional work, fees charged for reasoned determination will be significantly higher.

Should a reasoned determination be required, this shall convey a logical explanation for the IVE's reasons for his conclusions on key or substantial points raised, so that a reasonable person having all background knowledge, which might have been available to the parties, may understand the reasons for the determination.

**Further work to be done**

Further work has been identified in this area of practice including the revision of the "Guidance Notes for Surveyors acting as Independent Experts in commercial property rent reviews" and the publication of sample rules of engagement. A separate working group has been formed under the GPD Council to carry out such work.

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**Information sessions will be held on**  
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## Land Surveying Division Chairman's Message



*Koo Tak Ming LSD Council Chairman*

### International Federation of Surveyors (FIG) Working Week 2011

Simon Kwok and Conrad Tang, together with the HKIS delegation, attended the FIG Working Week 2011 at Marrakech, Morocco on 18 to 22 May 2011. They presented papers on “Professional Surveyors in Hong Kong” and “Benchmarking Spatial Data Infrastructure Development in Hong Kong”. At the FIG General Assembly, the 2010-2014 Work Plan of the FIG Commissions was approved. Simon Kwok is a working group member of the working group 5.2 of Commission 5 (Positioning and Measurement). The work plan of Commission 5 covers development, use and integration of technologies for positioning and measurement. It involves standardization, best practices and fundamental reference frame issues. The work of working group 5.2 include, inter alia, (1) development and implementation of 4-dimensional datums that incorporate the regional effects of plate tectonic due to earthquakes or local effect such as landslides; (2) examination of how surveying practitioners can access the reference frame easily; and (3) provision of information on maintenance of Continuously Operating Reference Station (CORS) networks so as to ensure long term stability of the system. In the area of spatial data infrastructure (SDI), the work plan of Commission 3 (Spatial Information Management) is very relevant to our work for

developing the SDI of Hong Kong. Commission 3 will be working on the guidelines for establishing an efficient spatial information management infrastructure in urban areas addressing the legal, institutional and technical issues.

### Surveyors in Heritage Conservation

In the 2011 Mainland and Hong Kong Construction Industry Forum “Sustainable Urban Form: Preservation and Development of Historical & Cultural Cities” held from 27 to 30 May 2011 in Luoyang, Henan Province, the mainland officials were surprised to learn from Mrs Laura Aron, Commissioner for Heritage, that graded historical buildings in Hong Kong prior to 1960 would be considered into the preservation scheme. I believe the Heritage Conservation Policy in Hong Kong is on the right track and deserve our input to strike a balance between sustainable development and heritage conservation. This is conducive to the sustainability principle of enhancing the vibrancy of Hong Kong’s cultural diversity and historical assets.



*Simon Kwok introducing the systems of professional surveying qualification in Hong Kong*

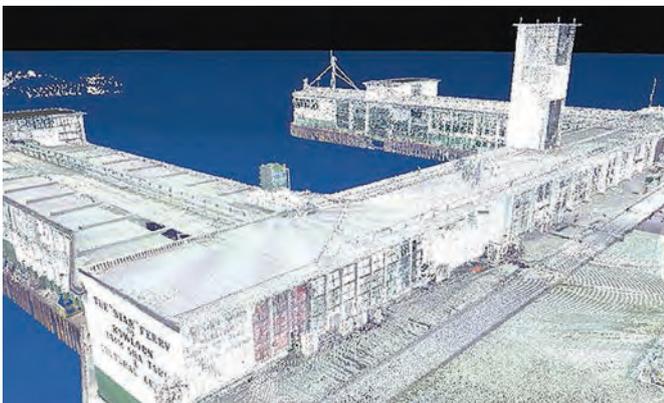




I am proud that we, land surveyors, have the vision and professional competence to help in the preservation of these historical buildings/features in Hong Kong. Since the public is getting more concerned about preservation of historical features, it is foreseeable that more preservation elements would be introduced to the future infrastructure projects. With comprehensive surveying technology, urban and rural planning can be more flexible and more diversified to meet the community needs. For each historical feature, be it preserved or demolished, the feature and the vicinity have to be recorded for consideration of what approach to take.



*Survey of the Old Star Ferry Pier (upper)*



*3D Model of the Old Star Ferry Pier (lower)*

## Regulations of Registration Surveyors System in Mainland

A forum with the Mainland delegates was held on 16 June 2011 in Guang Zhou to exchange views on the registration system of professional surveyors in Mainland and Hong Kong. We acquired the latest updates on the regulation and implementation details of the registered surveyor for mainland candidates. The discussion is very useful and paved way for our Beijing visit in Oct 2011 for registration of surveyor for Hong Kong candidates under the scheme.



### South East Asian Survey Congress 2011

The 11th South East Asian Survey Congress (11th SEASC 2011), was held from 22 to 24 June 2011 in Kuala Lumpur, Malaysia with the theme “INNOVATION TOWARDS SUSTAINABILITY”. The Congress highlighted its initiatives aimed at encouraging the convergence, sharing and use of innovative technologies and knowledge as well as other initiatives to forge new collaborations and identify potential avenues for research, development and innovation across all related disciplines for the benefit of the profession and the community towards sustainable development.



The 3-day Conference commenced after the Official Opening Ceremony on 22 June 2011. Keynote Session and Parallel Technical Sessions were undertaken in the following days.

#### Keynote Session:

- (1) Dr Keith Clifford Bell, The World Bank  
Focusing on Innovation and Sustainability in Rural and Urban Land Development: Experiences from World Bank Development Support for Land Reform
- (2) Professor Ian Williamson, The University of Melbourne  
Lessons for Federal Countries that have State Land Registries - The Australian Experience
- (3) Mr Brent Jones, ESRI's Industry Manager for Survey, Cadastre & Engineering GIS, Sustainability, and the Surveyor
- (4) Mr Goh Cheok Weng, Managing Director of ICI Paints (M) Sdn Bhd

#### Plenary Session:

- (1) Dr Abbas Rajabifard, President of the Global Spatial Data Infrastructure (GSDI) Association Spatially Enabled Societies - the Global Perspective and the Role of Surveyors Property and Valuation Management Practices Ensuring Sustainability
- (2) Professor Chris Rizos, Vice President International Association of Geodesy “Out with the Old, in with the New”: Geodesy as an Earth Observation Discipline Supporting Environmental Monitoring and Sustainability Agendas

- (3) Mr Christiaan Lemmen, Director, International Office for Cadastre and Land Records – FIG Society Driven Innovations in Land Administration
- (4) Professor William Cartwright, President International Cartographic Association Collaborative, Crowd-Sourced and Self-Generated Maps: Opportunities, Issues and Challenges for the Cartography / Giscience Community
- (5) Professor Roger Flanagan, Professor of Construction Management, University of Reading Technology Innovation for a Sustainable Business Designing and Implementing Systems
- (6) Ing. Robert Šinkner, Chair Commission 10 (Construction), FIG Sustainable Development in using of Maps and Geospatial Data for GIS/MIS Systems in comparison with availability of Graphical Data in the last centuries in the Czech Republic and in Europe
- (7) Dr Ann Heywood, Principal, The College of Estate Management, United Kingdom Encouraging the Green Occupier
- (8) Sr Elvin Fernandez, President of Institution of Surveyors Malaysia Innovation Towards Sustainability in the Surveying Discipline of Valuation
- (9) Sr Ong See Lian, President-Elect Royal Institution of Chartered Surveyors (RICS) Imagineering the Built Environment Industry and Profession
- (10) Mr Heera Singh, HEERA Training and Management Consultancy Managing Innovation and Change
- (11) Dr Michael Sutherland, Chair Commission 4 (Hydrography), FIG Implementing a Marine Cadastre
- (12) Professor Michael L. Riley, Director School of Built Environment, Liverpool John Moores University, UK Sustainable Property Management Good Practice: lessons to Learn
- (13) Mr Chris Gibson, Vice President & Executive Committee Member TRIMBLE Enabling Productivity and Sustainability through Innovation

As a forum for exchange of information and experience, the event provides participants a window of opportunity to meet fellow professionals from other parts of the world, to hear issues first hand and to reflect on solutions proposed or implemented by others.



## LSD Contact Points

If you have any views on the Council's work, please feel free to send them to the Hon Secretary at [lsd@hkis.org,hk](mailto:lsd@hkis.org,hk) or to me at [lsdchairman@hkis.org,hk](mailto:lsdchairman@hkis.org,hk).