

**Fourth Meeting of
the Business Facilitation Advisory Committee**

Agenda Item 4: Private Certification of Building Submissions

Purpose

This paper reports on the conclusion reached by the Task Force to Review the Construction Stage of the Development Process on private certification of building submissions.

Background

2. The Subgroup on Business Facilitation was established under the former Economic and Employment Council (EEC) in March 2004 to facilitate business development and job creation through identifying and eliminating outdated, excessive, repetitive or unnecessary government regulations. The Subgroup had embarked on a comprehensive review of the entire property development process and requested the former Provisional Construction Industry Co-ordination Board (PCICB) to make recommendations for speeding up the construction cycle and reducing the cost of complying with existing statutory requirements. The Task Force to Review the Construction Stage of the Development Process (the Task Force) was formed under PCICB in late 2004 to undertake this assignment.

3. Private certification of building submissions was one of the improvement measures considered by the Task Force. As consultation with various industry stakeholders on the initiative had revealed several fundamental issues requiring in-depth examination, the Task Force commissioned Babtie Asia Limited (the Consultant) to undertake the Study on Private Certification of Building Submissions in February 2006 to examine the subject holistically before making recommendations on whether private certification would be worthy of further consideration.

Discussion of the Way Forward on Private Certification

4. The Task Force discussed the way forward on private certification at the meeting held on 23 October 2006 by making reference to the Final Report of the Study.

(A) Final Report

5. As documented in the Final Report, interviews with industry stakeholders revealed that the main concerns of the industry on the existing building approval process were the large number of submissions required for typical building projects and the rigid timeframe for their approval. Private certification could help in tackling these problems through bringing greater flexibility to the submission process, reducing the turnaround time for checking and minimizing disruptions to construction programmes.

6. Despite the anticipated benefits, industry stakeholders considered that the following issues had to be addressed in implementing private certification –

- (a) Buildings Department's (BD) role in assuring building safety under a private certification system;
- (b) independence of private certifiers;
- (c) unique topographical, building and market characteristics of Hong Kong;
- (d) consistency in applying building standards by private certifiers;
- (e) private certifiers' lack of holistic view of building developments;
- (f) capability of private certifiers in coping with advancement in technology;
- (g) possible lack of resources in implementing BD's three-tier checking system in the private sector;
- (h) commercial viability of private certification;
- (i) availability of professional indemnity insurance to private certifiers; and
- (j) public confidence on private certification.

7. To facilitate the assessment of the benefits of private certification and devise solution for the implementation issues, the Consultant had formulated an implementation framework by making reference to the experience of five economies which had adopted such systems, including Australia, the Mainland (Shanghai and Shenzhen), Japan, Singapore and United Kingdom.

8. By analyzing the programme of typical projects involving different combinations of works, the Consultant found that the shorter turnaround time for approving initial building design could reduce the construction cycle by 4% to 14% and the interest cost by 0.7% to 2.7%. The Consultant had also assessed the implementation issues and suggested solutions on the basis of experience of the economies studied. These include assuring the independence of private certifiers through rules for avoiding conflicts of interest, criminal sanctions against breaches of these rules and auditing of work done by private certifiers by BD to assure the quality of checking and consistency in applying building standards.

(B) Benefits of private certification

9. Task Force Members doubted whether the benefits of private certification could justify the efforts for introducing the system and overcoming the substantial implementation issues since the anticipated time and cost savings were relatively limited and could probably be achieved through improving existing procedures. Some Task Force Members also spotted irregularities in the assessment of time and cost savings including not taking into account the time required for seeking comments from other authorities on building plans checked by private certifiers and the cost of engaging private certifiers.

(C) Implementation issues

10. Most Task Force Members thought that the implementation issues were technical and procedural in nature and should not be insurmountable given that checking by independent checkers had been adopted in public works projects for scrutinizing design of buildings and infrastructures done by contractors under design and build contracts.

11. On the other hand, some Task Force Members doubted the effectiveness of the proposed solutions. BD opined that the four core issues of independence of private certifiers, commercial viability of private certification, insurance and public confidence had not been adequately addressed. In particular, the proposed measures for assuring the independence of private certifiers were based on the experience of the economies studied. However, even in these economies, the independence of private certifiers was a concern. Civil Engineering and Development Department cautioned that in the dense urban environment in Hong Kong, even problems on an individual site could have serious repercussion on its neighbourhood. As such, there was no justification for sacrificing the

existing safeguards on building safety simply for the sake of saving cost and time.

(D) Position of stakeholders

12. The Task Force attended the joint meeting of the Legislative Council (LegCo) Panel on Public Service (PS Panel) and Panel on Planning, Lands and Works (PLW Panel) on 17 July 2006 to discuss private certification with interested industry stakeholders and LegCo Members. A total of 12 deputations attended the meeting while 13 civil service staff associations and three professional institutions/associations made written submissions expressing their views.

13. Most LegCo Members and deputations attending the meeting had strong reservation against private certification because of concern on conflict of interest arising from the close relation between building professionals and property developers, anticipated difficulties in assuring independence and impartiality of private certifiers and consequential impact on health and safety of buildings. To assure building safety, it would be essential for Government to ensure that building plans were properly vetted. Hence, their certification should not be outsourced to the private sector.

(E) Improvements to existing approval procedures

14. BD has implemented various measures to streamline the building approval process including concurrent approval and consent for foundation works where prior compliance with imposed condition is not required, relaxation of the requirement for prior approval and consent for minor amendments of building works for which first consent has already been given, and concurrent approval and consent for simple alteration and addition works to existing buildings.

15. During the course of the Study, BD has reviewed its existing procedures and will consider processing the approval and consent for curtain walls concurrently to expedite the approval process. BD will also consider adopting the same arrangement for drainage plans, hoarding plans and ancillary structures to parent superstructures and will be open to other suggestions for improvements.

(F) Way forward

16. The Task Force felt that the Study was useful in analyzing the complex subject of private certification, solidifying thoughts which had been

loose before the Study and providing opportunities for all parties concerned to deliberate on what could be done to improve the situation.

17. While Task Force Members held different views on the effectiveness of the proposed solutions for the implementation issues, they agreed that, in view of the limited time and cost savings identified thus far, the possibility of achieving these savings through BD's on-going efforts in improving the existing procedures and the strong objection by a substantial number of stakeholders, private certification should not be further considered at this stage. This conclusion was endorsed by PCICB at the meeting on 17 November 2006 and will be conveyed to the PLW Panel and PS Panel subject to further endorsement by the Business Facilitation Advisory Committee.

Advise Sought

18. Members are requested to endorse the conclusion reached by the Task Force that private certification should not be further considered at this stage.

Construction Industry Council Secretariat
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