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HIGHLIGHTS

## SPM Honorary Fellowship Award 2003



SPM's 1<sup>st</sup> Honorary Fellowship being presented to Prof. Zhang Qing Lin

SPM conferred its first Honorary Fellowship at its Annual Dinner in October 2003. The award of Honorary Fellowship is in recognition of the recipient's contributions to the advancement of the profession and field of Project Management.

The Society was pleased to confer the first SPM Honorary Fellowship to Professor Zhang Qing Lin, Chairman of the Construction Project Management Committee of the Ministry of Construction, China. This is in recognition of his relentless drive and sterling contributions in the promotion of awareness, training and acceptance of the project management profession by the Building Construction Industry. [\[A\]](#)

see page 3 for citation

## SPM Annual Dinner 2003

The 8<sup>th</sup> Annual Dinner of the Society of Project Managers was held on 31 October 2003. This year we had about 600 members and guests dressed in their best dinner attire gathered at the Grand Ballroom of Grand Copthorne Waterfront Hotel for the occasion.

We were privileged to have Dr Teo Ho Pin, Mayor of North-West CDC and Chairman of Government Parliamentary Committee for National Development, as our Guest of Honour to grace the occasion.

After the formality of speeches by our President, Mr Chang Meng Teng and our Guest of Honour, Dr Teo Ho Pin, we saw many guests mingling around between dinner meal courses in a cordial and relax atmosphere. Yes, it was a great opportunity for everyone to catch up with one another and also to make new acquaintances.

Several awards were presented. They were the Honorary Fellowship, the PM of the Year and Book Prizes to the best post-graduate students from NUS and NTU. The members of the 5<sup>th</sup> Council of SPM (2003 – 2005) were also introduced at the Dinner.



Guest-of-Honour, Dr Teo Ho Pin making his address

### MESSAGE BY GUEST OF HONOUR

I am glad to have this opportunity to interact with project managers – one of the major parties in the construction industry. However, my gladness is tinged with some sadness.

Barely had the economy recovered from the shocks of the terrorist attack in Bali last year, when we were hit by the impact of the war in Iraq and the SARS epidemic. As a result of the global and regional economic sluggishness, our local construction industry has not been able to fully pull out of the trough that we have been in the past few years. The Building Construction Authority's second quarter review of the industry has indicated that the construction orders and the construction volume for the whole of 2003 will be lower than that for the last year. However, the bright spark is that the decline is at a slower rate. Labour productivity has also increased to positive 2.3% for second quarter compared to negative 2.0% over the first quarter, and tender prices have generally stabilized.

I am glad that the Minister for National Development has recently announced measures to help the industry. The initiatives to facilitate the cashflow for contractors undertaking public sector projects are indeed welcome – ensuring early assessment and settlement of payment claims. As the private sector accounts for almost half of the market, I urge the developers to do likewise.

While these measures would hopefully help in growth for the local market, we have to look beyond our borders for growth overseas. We are glad that the BCA and IE Singapore are actively assisting in this.

The Society of Project Managers plays an important role in helping to improve industry practices and professionalism. I congratulate the Society on its 8<sup>th</sup> anniversary and wish everyone an enjoyable evening. [\[A\]](#)

## Our New President Speaks...

To ensure their survival and growth, enterprises must change when the markets, customers and technologies change. Besides, facing increasing and intense competition, the building construction industry has also experienced tremendous changes, during the past decade, resulting from various new statutory regulations and rules introduced to enhance productivity, efficiency and quality of delivery of products in the industry. Faced with these changes, all the players in the supply-chain under the umbrella of the Construction Industry Joint Committee (CIJC) have to overcome the various challenges they posed to better realise these important objectives in any project.



President of SPM -  
Mr Chang Meng Teng

With this backdrop, the Society sees the vital role of the Project Manager in initiating the needed changes, proactively and responsively in the respective enterprises to collectively ensure the continued growth of the industry and to deliver even better products on a win-win basis for all players in the industry.

In this regard, we must therefore continue to update our skills and knowledge through structured learning, to enhance our core competencies of project management. We must also consistently achieve excellence in delivering projects with maximum benefits through our experience, and adopt good practices to compete with the best in the world. The industry must be convinced that we, the Project Managers, are capable of assuming the leadership role for a project, and are responsible to manage the delivery of good, quality products, perceived as value-for-money by our customers. The customers are entitled to expect their products to be delivered on time, within budget and with quality. As Project Managers we must be able to achieve these for the customers on a win-win basis for all parties, and thereby distinguish our services as the premium in the industry. Collectively, the 5<sup>th</sup> Council will endeavor to move in this direction for the benefits of our members and will help fill the gaps, wherever possible, to meet these challenges.

On behalf of the Council, I wish all members, readers and friends a great year ahead. ☒

## SPM 5th Council (2003 - 2005)



### 5<sup>th</sup> SPM Council

Standing (from left):

Mr Yip Kim Seng (Asst. Hon. Sec.), Mr Bernard Ho (Hon. Sec.), Dr David Chua, Mr John Ting, Mr Yuen Mun Wye, Mr Jimmy Loon, Ms Goh Swee Yee (Hon. Treasurer), Mr Lye Kuan Loy (3<sup>rd</sup> VP), Ms Pauline Sim, Mr Tan Kian Huay (2<sup>nd</sup> VP), Ms Ruby Lai, Ms Lee Pheok Yan (Asst. Hon. Treasurer), Mr Jimmy Koh Chin Eng, Mr Liam Wee Sin, Mr Leong Kok Hoong, Mr Edward D'Silva, Dr Christopher Leong

Sitting (from left):

Mr Lee Kut Cheung (1<sup>st</sup> VP), Mr Khor Poh Hwa (Immediate Past Pres.), Mr Chang Meng Teng (President), Mr Chow Kok Fong (Founding Pres.)

## Best Students—Book Prize Awards 2003

The awarding of the Book Prizes to the best students is to promote continuing professional education in Project Management. SPM has a long term commitment to show support for postgraduate project management programs offered by the National University of Singapore (NUS) and the Nanyang Technological University (NTU).

For the Master of Science (Project Management) course conducted by NUS, the book prize was awarded to **Miss Shashikala Ravi**.

Miss Shashi holds a Bachelor of Architecture from Amravathi University, India. She also won

the Gold Medal from NUS for being the Best student and has graduated from this Master program since May 2003. She has spent the last nine years in Singapore and now working as Senior Architect in SAA Architects Pte Ltd.

**Mr. Tong Tee Hui** from the NTU Master of Science (International Construction Management) program was the other winner.

Mr. Tong holds a Bachelor of Engineering (Civil) 2<sup>nd</sup> Upper Hons) from NTU. He is a Design Engineer in LTA and has been involved in road construction works and bridges with LTA for about three years. ☒

## Working Committees:

### Professional Practice & Education

Chairperson: Pauline Sim  
Vice Chair: Yuen Mun Wye

### Research & Development

Chairperson: Christopher Leong  
Vice Chair: John Ting

### Publications

Chairperson: David Chua  
Vice Chair: Yip Kim Seng

### International Linkages

Chairperson: Tan Kian Huay  
Vice Chair: Lye Kuan Loy

### Social Events

Chairperson: Jimmy Loon  
Vice Chair: Bernard Ho

### Membership & Accreditation

Chairperson: Khor Poh Hwa  
Vice Chair: Leong Kok Hoong

### Rules & Discipline

Chairperson: Ruby Lai  
Vice Chair: Jimmy Loon

### Special & Representations

Chairperson: Chang Meng Teng  
Vice Chair: Khor Poh Hwa



## First SPM Honorary Fellow Award

**Prof. Zhang Qing Lin**

— a citation —

Chairman, Construction Project Management Committee  
Ministry of Construction, China  
Graduate in engineering from the Industrial University  
of Harbin,  
Chairman, Chartered Institute of Building  
Professor of Industrial University of Harbin and  
University of Tien-sin

Prof. Zhang Qing Lin was responsible for the introduction of Construction Project Management in the Building Construction Industry in China some twenty years ago. In the past twenty years, he had relentlessly promoted the awareness and adoption of project management to improve the productivity and quality of delivery in the Building Construction Industry.

In 1984, Prof. Zhang, then the Director of the Construction Project Management Department, gained first hand experience in the Project Management of the Lu-pu-ge Hydro-Electric Power Station in Yunnan. The experience learned, and the enormous benefit brought to the project by project management, convinced Prof. Zhang of the need to promote the project management profession throughout the Building Construction Industry.

Prof. Zhang spearheaded this revolution to improve the quality and productivity of organizations within the industry, thereby propelling the industry from a planned economy to a market economy.

In the early 1990s, Prof. Zhang established the Centre to internationalize the training of project managers. He chaired the joint China-World Bank project managers training curriculum. He also represented China's Ministry of Construction to jointly organize and run an 18-month course for "Development of Senior

Project Managers in China's Building Construction Industry" with the then Singapore Construction Industry Development Board. A total of 8 such courses were conducted.

These training courses quickened the pace of adoption of international Project Management methods amongst project managers. The certification system established also elevated the training of project managers to international standards. Over the last 10 years, more than 100,000 project managers were trained and certified. This had helped China to nurture an enormous body of professional project managers.

In 2002, Prof. Zhang proposed and established the Cooperation Union of International Construction Project Management with 5 other organizations, including the Society of Project Managers Singapore. The union's aim is to promote international co-operation, raise awareness, exchange experiences and training, and continuously upgrade the quality and delivery of works in the building construction industry. ☒

## Outstanding Project Manager 2003 Award

The outstanding Project Manager Award is given out every two years. This Award aims to raise awareness of the Project Manager's significant contribution and value-add to infrastructure and real estate development.

This Award is conferred to a Project Manger who has made significant contribution in the construction industry over the past five years in the following areas:

- exceptional level of service provided in projects undertaken;
- project management expertise employed in projects that have made an impact on the built environment in Singapore;
- professional project management practices in leading a project team;
- innovative project management applications that promote the advancement for the profession or the industry.

The SPM Award Committee has conferred two awards — namely the Meritorious Award and the Winner of the Outstanding Project Manager.

### Winner of the Outstanding Project Manager

The winner of the OUTSTANDING PROJECT MANAGER 2003 AWARD is SIM WEE MENG.

**Sim Wee Meng** has almost 10 years of experience in delivering large and complex infrastructure projects with the Land Transport Authority.

His key achievements are in integrating the highly sophisticated electrical and mechanical systems for the Light Rail Transit at Bukit Panjang and the Mass Rapid Transit for the North East Line.

His most noteworthy contribution was in managing the integration of 30 contracts for rolling stock, signaling, communication, integrated supervisory control, high and low voltage electrical works, and environmental and air conditioning systems in the

North-East MRT line. The electrical and mechanical work was valued at S\$1.1 billion.

By far the most challenging phase of the project was to manage the testing, commissioning and operator training for the train system. During that phase, he managed a team of 250 staff comprising project managers, engineers and technical staff.

The thorough regime of testing procedures and training of operators resulted in a high degree of system availability for the North-East Line since its operation.

During the construction phase, he was able to convince contractors of each major package to buy-in to conflict resolution measures. This initiative led to the project team developing action plans that straddled a few contracts to overcome problems. The contractors were also encouraged to exchange information on software



Mr Chang Meng Teng, Mr Sim Wee Meng, Dr Teo Ho Pin, Mr Tan Choon Miang and Mr Koichi Sakaniwa

interfacing to facilitate system integration. Under his leadership, there was a strong commitment to build positive inter-personal relationship amongst the team.

### Meritorious Award

Two recipients of the Meritorious Award are KOICHI SAKANIWA from Obayashi Corporation and TAN CHOON MIANG from Defence Science & Technology Agency (DSTA).

**Koichi Sakaniwa** is the Project Director in-charge of the \$98 million PWC Building, utilising the BIG CANOPY method, and the \$174million AFPD (Toshiba) Factory.

**Tan Choon Miang** is the Division Manager for Construction Projects in DSTA. He is instrumental in pushing for DESIGN & BUILD concept in MINDEF/SAF which resulted in substantial cost and time savings. ☒

## 17<sup>th</sup> World Congress On Project Management Moscow 4-6 June 2003

**Theme — Project Oriented Business and Society.**

On 4<sup>th</sup> of June 03, project management (PM) practitioners and academics from IPMA, PMI, and AIPM member countries gathered at the 17<sup>th</sup> World Congress on Project Management in Moscow to update each other the status of PM developments. One crucial issue discussed was the need to unify the certification and education of PM. The PM practitioners and academics were encouraged to exercise whatever influence they have to change the educational programme in their respective countries to develop Project Management as a recognized course of study in the university.



Mr Mak Yew Cheong

At the Forum, more than 100 papers were presented over 3 days. Singapore Society of Project Managers (SPM) was represented by Mr Mak Yew Cheong who delivered a paper on 5<sup>th</sup> June 03, entitled, "The Singapore Experience – North-East Line (NEL) Chinatown Station Project and Singapore Management University (SMU) City Campus Project".

An extract of Mr Mak's paper, particularly the section on the role of project manager in society is presented here.

### The Role Of The Project Manager In Society

Implementation of large-scale projects in the heart busiest cities like Singapore needs to involve management of government authorities, management of the environment and management of technical and engineering needs of the projects. Efficient city planning by the Urban Redevelopment Authority has brought about a city that is modern while at the same time maintaining the dignity and charm of the "old world". Two projects used to illustrate the Project Management role in society are the Construction of the Chinatown MRT station and the Construction of the Singapore Management University City Campus at Bras Basah. These are high profile projects implemented in the city centre.

#### Managing The Environment

Environmental issues are growing concerns in developing and developed societies. Singapore is no exception. Very often protecting such concerns are carried out at great expense to the developers. The Project Manager has to manage environmental issues through sound advice from city planners and building designers, and deliberate selection of contractors who are environmentally sensitive and friendly. Criteria to select consultants should include the ability to produce environmentally sensitive and energy-efficient designs. The SMU is a good case study in this respect. The design uses sun-shading devices and "low-e" glass to reduce the thermal effect on internal air conditioning and less energy needed for artificial lighting for the interior as more daylight is introduced into the building. For construction, the deployment of appropriate machinery, like silent sheet pile drivers and high torque bore piling rigs, are some of the means to control noise and vibrations. These are requirements typical of construction in the Civic District. Cooperation with environmental health and pollution control agencies is necessary. Compliance with discharge of waste to storm water drainage system using sand traps and washing bays is mandatory. A strict code of practice for occupational health and safety requirements from the Ministry of Manpower ensures workers work in a safe environment.

Of particular challenge is the work in city centres where the image of the project is important. Protection hoardings were designed with cheerful colour. Green planter boxes were used and for the Chinatown project, artworks were displayed along the hoarding. These are some of the creative ways to address the dreary and unpleasant environment normally associated with construction sites.

As much of the trees and shrubs were kept, to keep the site looking pleasant. Public access ways were kept open. This was of particular challenge for the MRT station project, which potentially could have cut off pedestrian crossings over the busy main streets. The traffic along these streets was maintained partially with some of the traffic diverted to side roads. Careful planning with the authorities was essential for the successful implementation of the traffic diversions. Traffic count were carried out to justify reduction in the number of lanes along Eu Tong Sen St and North Bridge Road where the tender called for both the roads to be open, this was reduced to only Eu Tong Sen St, with the agreement of LTA, who is also the Client.

For the pedestrian crossing, all the existing pedestrian bridges were kept open. This called for underpinning of the Garden Bridge and final transfer of the foundation of this bridge to the station roof.

The other major challenge is to keep Eu Tong Sen canal flowing. The step-by-step transfer of water from the existing canal to the four 2.1m diameter steel pipes and associated side drains along the excavation area for almost a year. The programming and execution of work was tremendous and sound design and planning, and execution had minimized the risks. Execution was the most critical as in all construction works. The project team must be commended for the choice of a good and reliable sub-contractor team to do the job.

#### Managing the Authorities

Regulation by development and building control and urban planning authorities on construction developments and activities ensure the smooth running and operation of the city.

Pre-consultations were carried out to ensure that the major services, rail lines, and planning guidelines were complied with and where necessary, special approvals were to be obtained before construction starts.

Close collaborative relationship between client, consultants, contractors, and the various authorities is a critical. The project manager plays a key role in maintaining these relations. Often he gives the independent perspective that is much sought after by the Authorities, as he is seen as the most objective party in the team. He must have a good overview (holistic) of the whole development so that he is not partial to any party. This is very hard to achieve, as Clients will always expect his undivided loyalty to their cause. In effect, the Project Manager is to at least help each party to see the positive effects of a course of action or decision.

It may be relatively easy if the Authority sees the Project Manager as impartial. Often the Authority could be used to leverage decisions that may be unpalatable to the contractor or one of the parties. It is the job of the Project Manager to help the aggrieved party to see the 'bigger picture' and help him to buy-in. Therefore, it is ever so important that Project Managers must see the big picture all the time even though he sometimes has to look at the details and specifics of the project. The ability to zoom in and out of the project is essential for good input in the running of a project.

### Managing the Owner and Stakeholders

While project owners/developers come in all shapes and characters, they generally have one thing in common. They want the project to be delivered on Time, within Budget and of reasonable Quality. These are fundamentals of project manager's deliverables. However, we need to be aware that the Owners of today are more discerning of what they can get. The Project Manager has to meet all these requirements and more. He has to balance the competing demands of all the other stakeholders as well, so that the others can also be in a win-win situation. There is a need to help the owners and stakeholders to understand the complexities and constraints involved in the development of the project. This is particularly so for large-scale projects in the heart of the city. We have to manage the expectations of the Owners and help them to meet the requirements of the Authorities, and to accept the design by consultants and the finished building from the contractor. The Project Manager serves as an integrator among the different parties to facilitate decision making, and to give good and sound advice on the course of action for each issue that crops in the project.

### Public Relations and Perception Management

In order to manage public expectations of the project, the developer has to do the necessary groundwork of presenting the concept and ideas to the public. The seeds of benefit have to be sown to the people in the immediate vicinity affected by the construction activities.



**NEL Chinatown Station**  
Ground shot showing the Reconstructed Eu Tong Sen Canal and the Underpinned Garden Bridge. Note the close proximity of existing shop houses and buildings on either side of the traffic deck that used to be Eu Tong Sen Street on the left and New Bridge Road on the right of the canal.

For the MRT station project, LTA conduct consultation meetings with the community leaders and business owners and residents affected by the development. The benefits of first class transportation service at the door step of these people is an attractive selling point to garner their cooperation and support for the project. A lot of public relations work by the developer and the project manager is crucial in bringing about the successful delivery of the project.

For the SMU City Campus project, the approach was to address the public concerns about losing a city park. The idea of returning the public something more than a park was pivotal in garnering support and cooperation from the public. The potential increase in clientele of the students and staff in the vicinity is something the affected neighbouring businesses can look forward to. The youthful student population will add vibrancy to the civic district area, which used to be rather quiet and empty. The campus also is envisaged to be a continuous covered link from Raffles City to Orchard Area. All these are attractive propositions that the public would be pleased to see realised.

Meetings with interest groups for feedback and suggestions were also conducted.

### Managing the Consultants

The consultants in the design of a project are the key members of the project team, which includes the Project Manager, the Client, and the Consultants. They need to be motivated in order for the project to succeed.

Cost control is one of the main concerns of the Project Manager. Each time a cost review is made, inevitably the cost would go up. The Project Manager has to be knowledgeable in dealing with such consultants, and the approach would be one of professionalism and fairness to all the stakeholders. Money well spent is when we earn the trust and praise of our clients who appreciate the facilities we provide for them at a reasonable cost. If money spent results in something they have never asked for, it would be very bad for the consultants concerned. This has to be conveyed to them tactfully.

### Managing the Contractors

The contractor is the brick and mortar man that realizes the dream of the developer and the designers. They get things moving and done. A good contractor has to be proactive and solve problems in consultation with the rest of the project team.

Having the privilege to be on the Contractors' side for the Chinatown MRT project as their Technical and Design Manager, I can speak on behalf of a good contractor. His goal is to make sure that the project succeeds and all the stakeholders are happy with the process as well as the outcome. We always looked for a win-win outcome for all the stakeholders, from our Client the LTA and the public, which they represent, to the sub-contractors. Very often when we, the Contractor professional staff, met up with the Authorities, we were mistaken to be the Client in our conduct and concern for the project's success. Credit must be given to such contractors who represent the Client wholeheartedly and responsibly.

For the SMU project, I represented the Client in dealing with the Contractors for the piling and basement contract. As the Project Manager on this side of the fence, I had to help the contractor to progress smoothly in their work. The project has been very challenging with many difficulties, and as far as possible, I would advise and influence the contractor to take courses of action that would help them to proceed with their work, in particular, dealings with LTA.

### Managing the Technology and Resources at Hand

There is a need for balance between the use of technology and the use of human resources. The Project Manager has to weigh the task at hand to make appropriate choice of tools/equipment and resources to

be used to complete the job. The trade off is time and risk. Where time is less critical, a less advanced (lower technology) method may be used. "Necessity is the mother of invention." Appropriate, affordable technology has to be used wisely and not extravagantly. In slower economies, adaptation is necessary for the Project Manager to be relevant. Where time is of essence in modern advanced economy, the appropriate tool has to be used to complete the project on time, so that returns on investment can be achieved and stakeholders can be satisfied.

For both the Chinatown MRT station and SMU projects, timely completion is important. This is especially so for the affected shop owners in the vicinity of construction to resume business as usual, and the opening of the facilities to bring in increased flow of customers to



**SMU City Campus**  
Perspective View of the Green wall that blends with the civic district park view.

Chinatown and Bras Basah. For the SMU, timely completion of modern facilities will provide greater scope and opportunity in training programmes and also allowing its students to be closer to the "heart of action" of the business and financial centre.

**Managing the Fuzzy Boundaries and Interfaces**

With the improvement on communications and information technology, boundaries tend to be blurred and points of reference were also shifted to accommodate all these changes. The secure work structures were long gone, replaced by flat and nimbler organizational structures to take advantage of the shifting landscape and economies.

It is more challenging these days for the Project Manager. He has to hop from project to project, and be the organizer and leader of the team of consultants and contractors in the project. To manage the fuzzy boundaries, he must be adaptable and fleet footed to cross these boundaries with ease and comfort. Gone are the days where the rigid boundaries of cost, time and quality. Often they are mixed and mashed together and inter-related. A happy win-win scenario has to be strived for by all parties, led by the Project Manager. He has to win the confidence and trust of the client, the Authorities, the consultants, the contractor and the rest of the stakeholders to be effective in this role. This is a tough job.

The Project Manager has to be versatile in communication, leadership, vision, and sound in knowledge. Having to handle so many different interfaces, he needs more extensive experience and exposures to enable him to cope with the different, and often conflicting, demands in his role. His own pace cannot sustain him, but rather he has to manage by his passion for the work. He has to be self-driven and proactive, and a risk taker. ☒

By MAK YEW CHEONG (PM LINK PTE LTD)

**SPM Membership**

The Society of Project Managers welcomes professionals and practitioners in the Building Construction Industry to join the Society. In 2003, we welcomed 13 persons into the Society in the various categories of membership.

**Fellow Membership**

- Chionh Chye Khye                      Building & Construction Authority
- Low Tien Sio                              Land & Transport Authority

**Ordinary Membership**

- Ang Chiow Joo, Victor                  PM Link Pte Ltd
- Chong Chung Fat                        China Construction Dev Co Ltd
- Foo Sek Jau                                Housing & Development Board
- Goh Poh Kee                                CPG Consultants Pte Ltd
- Mak Yew Cheong                         PM Link Pte Ltd
- Peh Lian Chai                              Unity Management Services Pte Ltd
- Koichi Sakaniwa                         Obayashi Corporation
- Seah Kok Hong                            Surbana Consultants Pte Ltd
- Sim Wee Meng                            Land & Transport Authority
- Tan Choon Miang                        Defence & Science Technology Agency
- Toh Kim Sai                                Capitaland Commercial Pte Ltd
- Yap Eng Seng                              Housing & Development Board

In addition, the following Ordinary members were upgraded to Fellow members:

- |                          |   |
|--------------------------|---|
| Prof Cheong Hee Kiat     | Nanyang Technological University                |
| Ho Kim Sai, Bernard      | Davis Langdon & Seah Project Management Pte Ltd |
| Liam Wee Sin             | United Overseas Land Ltd                        |
| Loon Chue Che, Jimmy     | United Overseas Land Ltd                        |
| Lye Kuan Loy             | PM Link Pte Ltd                                 |
| James Clelland Pollock   | Davis Langdon & Seah (S) Pte Ltd                |
| Sim Pheck Siang, Pauline | V+Sim Consultants                               |
| Mayor Dr Teo Ho Pin      | North-West Community Development Council        |
| Ting Kang Chung, John    | AIM & Associates                                |

Readers who are interested to join the Society of Project Managers can access our website <http://www.sprojpm.org.sg/> for more information on membership information and application.

## Negotiating Construction Contracts – When And What?



### CHOW KOK FONG

LLB(Hons), BSc(Hons), MBA, FRICS, FCIArb, FCIS, FSProjM, FSIArb

Managing Director, Equitas Corporation and Associate Professor (Adj), National University of Singapore

E-mail: [kfchow@equitascorp.com](mailto:kfchow@equitascorp.com)

Mr Chow Kok Fong

The negotiation process leading to contract frequently takes a long time. Indeed, it is not uncommon for this process to stretch past the date of commencement of the works, particularly where the project entails a high degree of technical complexity. This throws up two inter-related issues which deserve careful consideration:

- 1 the determination of the date when the contract came into existence and
- 2 the determination of the documents which may be said to encompass the terms and conditions of the subject contract.

On the first of these issues, it would be facetious to argue that the contract only came into existence at the date when the formal documents were signed, not least because the formal documents themselves are usually only signed very late in the day. The fact is that somewhere along the course of discussions, meetings and exchanges of correspondence, documents and drafts, the contractors and other parties must have reached a sufficient degree of consensus on the key terms of the contract and decided to proceed with the works on that footing. In *Projection Pte Ltd v. Tai Ping Insurance Co Ltd* [2001] 2 SLR 399 (CA), the Court of Appeal in Singapore considered that where parties were involved in continuing negotiations over a contract, the traditional analysis of offer, counter-offer, rejection and acceptance are not helpful in determining the true position. The court decided that it is necessary to look at all the documents passing between the parties and glean from them, or from the conduct of the parties, whether they have reached agreement on all material points.

The facts in this case were quite complicated, but may be briefly stated as follows. The plaintiffs were contractors who claimed under a Contractors All Risks Policy for damage suffered by the collapse of a retaining wall. As a result of the claim, the defendant insurance company instructed their loss adjustors to assess the claim. The loss adjustors assessed the claim at \$679,065.

Following a course of negotiations between the parties, on 31<sup>st</sup> March 1999, the insurers wrote to the contractors to settle the claim at \$553,560. However, a short while later, the insurers decided that they were entitled to disclaim liability and stated that they were only prepared to a goodwill settlement at \$300,000. This was rejected by the plaintiffs. The insurers' case was that there has been no effective agreement between the parties to settle the claim at \$553,560 because there was a common fundamental mistake as to liability.

The trial judge decided for the defendants but the plaintiffs successfully appealed. The Court of Appeal ruled that when viewed against the relevant factual matrix, it was clear that by the letter of 31<sup>st</sup> March 1999, the insurers had agreed to settle the claim at \$553,560.98. In reaching this decision, the Court of Appeal applied the same test taken which it had taken a few years earlier in *Aircharter World v Kontena Nasional* [1999] 3 SLR 1. At ¶130 of that judgment, Karthigesu, JA described the test in the following terms:

***“Under this test, once the parties have to all outward appearances agreed in the same terms on the same subject-matter, then neither can, generally, rely on some unexpressed qualification or reservation to show that he had not in fact agreed to the terms to which he had appeared to agree.”***

The court also cited with approval the observations of Lord Denning MR in *Butler Machine Tool Co v Ex-Cell-O Corporation (England)* [1979] 1 All ER 965 where he said at 968:

***“The better way is to look at all the documents passing between the parties and glean from them, or from the conduct of the parties, whether they have reached agreement on all material points...”***

The position arising from the authorities therefore seems to be this. Where parties are engaged in a protracted course of negotiations, the courts will examine the trail of exchanges and other documents to determine whether they did reach agreement on all material points. Once the court is satisfied from this inquiry that the parties did agree to these material points, then neither party can rely on some “unexpressed qualification or reservation” to refute the existence of an agreement.

The second issue under this heading is frequently encountered with sub-contracts where the terms of the sub-contracts purport to incorporate terms found in the main contract or some other document. In *Shia Kian Eng (trading as Forest Contractors) v. Nakano Singapore (Pte) Ltd* [Suit No 600245 of 2000], the facts concern a sub-contract the terms of which were set out in purchase orders issued by the main contractors. The purchase orders mentioned requirements found in other documents and one of the issues before the High Court whether the documents referred to in these purchase orders form part of the sub-contract by incorporation. Judith Prakash, J ruled on this point as follows:

***“It is difficult to incorporate as part of a contract, documents which are not furnished (and not simply shown) by one party to the other either prior to or at the time of signing of the contract unless there is clear indication by that other party that he would accept documents subsequently given as part of the contract.”***

It is suggested therefore that mere reference in a contract to the document purported to be incorporated is insufficient if the document could not have been understood by one of the parties to form part of the contract documents. However, the ruling would appear to allow an exception for references to standard forms and other terms widely used in an industry given that experienced contractors, sub-contractors and specialists could be presumed to accept the incorporation of such terms by reference because they are extensively recognized as standard terms in the industry. Nevertheless, the inescapable lesson for architects, engineers and quantity surveyors must be this. If the contract contains references or purports to incorporate terms found in some other document, the terms of such incorporation must be clear and it is sound practice to state in the contract documents that a copy is available for inspection of potential bidders. Of course, it is important to ensure that a copy of the incorporated terms is in fact available for such inspection when potential bidders turn up to inspect them. ☒

## SPM Lunch-Time Talks

**Value Management is not a Hypothesis**  
7 July 2003

This talk was given over lunch time at the Singapore Recreation Club (SRC), attended by over 60 members. The speaker, Mr Goh Chok Sin from M/s Davis Langdon & Seah, gave an interesting account of how the value management techniques could be used to improve upon the agreed project objectives in a most cost effective way. DLS defines *value management* as a structured approach towards identifying what gives the best value for money within project constraints. It encourages team building and accomplishes far greater functional and financial benefits than the traditional cost control and cost reduction studies.

**Gaining Enthusiastic Cooperation**  
17 Sep 2003

Ms Olvy Hitanaya, a certified instructor from M/s Dale Carnegie, gave the lunch time talk to about 75 members at the SRC. With real life examples to liven the talk, she enthusiastically elucidated the following principles to achieve enthusiastic cooperation from your team members:

Don't criticize, condemn & complain;  
Give honest, sincere appreciation;  
Be a good listener - encourage others to talk about themselves;  
Talk in terms of the other person's interests;  
Make the other person feel important – and do it sincerely;  
Throw down a challenge; and  
Show respect for the other person's opinion - never tell a person he or she is wrong.

At the end, members were thrown a challenge to make a personal commitment to gain enthusiastic cooperation from their colleagues, and if members wish, she will follow up with them on their progress.

## SPM Annual Seminar

27 Oct 2003

This year's Annual Seminar was presented by Mr Adesh Jain, the President of PM Guru Inc of USA. The event was a 1/2 day affair held at a local hotel and attended by more than 75 members. Two papers were presented. The first, "New Horizons in Management of Projects", touched on the many changes taking place today such as the Internet age and globalization. The uncertainties resulting from the unprecedented rate of change can only be managed effectively only by using modern project management. Summarily, new horizons in management of projects depend heavily on the human factor in breaking down barriers and deriving implications and solutions for every component of change. In the second paper "Creating Competitiveness through Project Mindset", Mr Adesh Jain told the audience of the new frontiers in Project Management such as people having unlimited knowledge with freedom to innovate and the change in the role from project manager to project leader. He also deliberated on the challenges facing project managers of the 21<sup>st</sup> Century such as managing multiple projects and customers instead of the single project and single customer of the past. The new project manager will face intensive conflicts and has to deliver objectives instead of just controlling resources. He finished his talk with this line "In the human race, there is no finishing line; it keeps on moving".

Some details on the talk on "Alternative Dispute Resolution in the Region" that was presented by Mr Goh Phai Cheng, a Senior Counsel and the Vice President of the Singapore Institute of Arbitrators, will be given in the next issue. So watch for it.

Also look out for the announcements of coming lunch time talks. Come and join us, and benefit from the speakers.

Dear SPM Members,  
To facilitate the Secretariat to maintain contact with you, please keep us updated on any changes to your personal particulars: Company, Job Title, Office or Home address, email address. You can forward the information to email address: [sprojm@yahoo.com](mailto:sprojm@yahoo.com)

### Dear Members, Friends and Readers,

The new Editorial Committee is seeking ways to improve the Newsletter as a vehicle to promote the initiatives of the Society and interest of the Project Management profession. For a start we have two feature articles: the challenging role of the PM in society and the when and what of negotiating a contract, thanks to the contributions of Mr Y.C. Mak and Mr K.F. Chow.

We will continue to keep you informed of events and news of the Society. But our own challenge as the editorial committee is to get these feature articles streaming into the future issues so that the newsletter can also be a place of learning and finding out. We welcome your contributions in articles of research, case studies, and interesting PM issues. We will also be glad to publish your views and opinions that are relevant to and can promote the PM profession. So write to us.

The success of the Newsletter will greatly depend on our working together to produce a really news worthy publications. And I must not forget, we are looking for people to join our Committee because we have an exciting but challenging task ahead of us, and we need all the help we can get. Please contact us if you can join us or have interesting articles to contribute.

Happy Reading.

*David Chua*

#### SPM Newsletter Editorial Committee:

**David Chua** [cvedavid@nus.edu.sg](mailto:cvedavid@nus.edu.sg)

**Yip Kim Seng** [yip.kim.seng@pmlink.com.sg](mailto:yip.kim.seng@pmlink.com.sg)

**Felix Yeung** [yeung.hang.len@pmlink.com.sg](mailto:yeung.hang.len@pmlink.com.sg)

**Toh Kim Sai** [toh.kimsai@capitaland.com.sg](mailto:toh.kimsai@capitaland.com.sg)