

Sisv News

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Newsletter of the Singapore Institute of Surveyors & Valuers

RAISING THE BAR

WAVO
BOARD MEETING

8th SEA
SURVEY CONGRESS 2005

Singapore
Accredited
Estate Agencies
(SAEA)



PLUS // News from the Divisions // Features

SISVnews

SISV News is a quarterly newsletter of the Institute. It is distributed to members, students and friends of the surveying profession free of charge. Anyone wishing to receive a copy may contact the Secretariat.

22nd COUNCIL 2005 - 2007

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President (QS)

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All contributions of suitable articles are welcomed. Article submissions should include both hard (printed) copy and a softcopy (via email or diskette) in word format. Contributions should reach the Secretariat before 25 March, June, September and December.

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9.00am to 6.30pm

EDITORIAL & DESIGN CONSULTANT

Design Fusion

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Welcome to our SUNNY ISLAND!

SISV played host to a 10-member delegation from the Yunnan Association for Science and Technology (YAST) from 27 to 28 Nov 2005.

Led by Yang Jun-Dong, President of the Yunnan Association for Surveying and Mapping, the team was made up of officials from various local authorities and vice-professors from the Kunming Metallurgy College. The delegation team was given a guided tour at one of the local land-surveying firms to learn more about surveying methods here.

The team also attended a dialogue session, held at the Institute's premises, with land surveying council members.

During the session, the delegates expressed interest in sending an undergraduate to be attached to a local members' firm during their school vacation.

They also extended an invitation to SISV to visit Yunnan in Apr 2006 and LS division was given the responsibility to organize a technical visit in conjunction with the ASEAN Flag meeting.

SISV hosted a delicious lunch reception at a local restaurant, where members and delegates could mingle and interact. SISV definitely looks forward to hosting more of such visits from our regional neighbours.



CONGRATULATIONS TO THESE NEWLY-APPOINTED JUSTICE OF PEACE



Tan Kian Hoon
PBM
MSISV, QS Division



Ng Cheng Huat
BBM
MSISV, QS Division



Kong Mun Kwong
BBM (L)
FSISV, QS Division



Chia Aik Kok, Eric
PBM
FSISV, LS Division

CONFERENCE

REAL ESTATE INVESTMENT WORLD

27 - 30 Mar 2006
THE WESTIN SHANGHAI, CHINA
Email: www.Terrapin.com/2006/reiv_cn

10TH PACIFIC ASSOCIATION OF QUANTITY SURVEYORS (PAQS) CONGRESS

"Advancing New Frontiers"
21 - 24 May 2006
MARINA MANDARIN SINGAPORE
Congress Secretariat
Singapore Institute of Surveyors and Valuers
20 Maxwell Road #10-09B Maxwell House Singapore 069113
Tel: +65 6222-3030
Fax: +65 6225-2453
Email: paqs2006@siv.org.sg
Contact person: Ms Judy Poh
Website: www.siv.org.sg/10PAQS

FIABCI 57TH WORLD CONGRESS 2006

26 - 31 May 2006
BANGKOK, THAILAND
Email: www.fiabci-bangkok2006.com

14TH ASEAN VALUERS ASSOCIATION (AVA) CONGRESS 2006

"Valuation in Asia"
3 - 5 Jul 2006
MERITUS MANDARIN SINGAPORE
Congress Secretariat AVA Singapore
Singapore Institute of Surveyors and Valuers
20 Maxwell Road, #10-09B Maxwell House Singapore 069113
Tel: +65 6222-3030 Fax: +65 6225-2453
Email: ava2006@siv.org.sg
Website: <http://www.siv.org.sg/avacongress2006>

26TH PAN PACIFIC CONGRESS

16 - 19 Sep 2006
SAN FRANCISCO, USA
Email: www.appraisalinstitute.org/ppc/

1st WAVO VALUATION CONGRESS

"Valuation in the Globalised Economy"
27 - 29 Nov 2006
MERITUS MANDARIN SINGAPORE
Singapore Institute of Surveyors and Valuers
20 Maxwell Road #10-09B Maxwell House Singapore 069113
Tel: +65 6222-3030 Fax: +65 6225-2453
Email: wavo@siv.org.sg
Contact Persons: Ms Jean Lian / Ms Janet Han
Website: <http://www.wavoglobal.org>

LIBRARY SECTION

You can now browse for list of SISV Library collections from the web.

If you come across books or wish to donate books that are useful to the surveying profession, do call May Lam at 6222 3030 or e-mail to may_lam@siv.org.sg.

Conquas Enhancement Series:
Good Industry Practices

- (a) Timber Doors
- (b) Wardrobes & Kitchen Cabinets

FIG Commission 4 Hydrography Year 2004-5 CD-Rom.

FIG Commission 6 Engineering Surveys Year 2005 CD-Rom.

International Conference Valuation For Financial Statements
The Fair Value from Bucharest.

Realtor Magazine – Oct 2005

Spatial Sciences Institute Biennial Conference SSC2005:
Spatial Intelligence, Innovation and Praxis
(12 - 16 Sept 2005)
Final Program and Abstract Book.

Synthesis – Journal 2005

The Building Economist – Sep 2005 Journal of the Australian Institute of Quantity Surveyors

Valuation and Construction Issues in Real Estate Indices.

CIRCULARS

Contents of the circulars will be made available to FSISV and MSISV only. Please call Joe of Secretariat at Tel: 6222 3030 to request for a copy. For SISV Probationers and CREA, please contact the originator directly.

URA

Issued by Urban Redevelopment Authority (URA). These circulars are also available at <http://www.ura.gov.sg>

URA/PB/2005/25-CUDD

Revised boundary and change of use guidelines for Core Areas within the historic districts

URA/PB/2005/26-DCD

Guidelines for the residential with commercial at the 1st storey zone

URA/PB/2005/27-DCD

Lodgment scheme for strata subdivision in commercial, mixed commercial, non-landed residential, flattened factory and flattened warehouse developments

URA/PB/2005/28-DCD

Streetblock plans for house no. 1 to 73 (odd nos) and 2 to 24 (even nos) Watten Drive, house no. 2 to 28 (even nos) Watten Close and house no. 49 to 61 (odd nos) Watten Estate Road

URA/PB/2005/29-DCD

Planning (Declaration by Qualified Person) Rules 2005

URA/PB/2005/30-DCD

Clarifications on GFA treatment for planter boxes

FSSB

Issued by Fire Safety & Shelter Bureau. These circulars are also available at <http://www.scdf.gov.sg>

CD/FSSD/12/01/03/04

Circular on Naming of files for Corenet's E-submission

CD/FSSD/12/01/03/04

Standard for Fire Safety in Rapid Transit Systems (2005 Edition)

CD/FSSD/12/01/03/04

Revision to Technical Requirement for Storey Shelter – Setback Distance of Storey Shelter (SS) Walls

CD/FSSD/12/01/03/04

Revision to Technical Requirement for Household Shelter – Setback Distance of Household Shelter Walls

CD/FSSD/12/01/03/04

Fire Safety (Exemption) (Amendment) Order 2005

CONGRATULATIONS AND A WARM WELCOME TO OUR NEW MEMBERS/MEMBER FIRMS

MEMBER

Division	Name
LS	Ang Soo Cheng
LS	Ong Ban Soon
LS	Suey Hueh King
VGP	Ang Rina
VGP	Chan Chew Heng
VGP	Chan Lee Kian Jasmine
VGP	Cheng Wai Fun
VGP	Cheong Sue Ling Isabel
VGP	Chin Ming Eng Christine
VGP	Chong Nyuk Kay Rosalind
VGP	Ee Kong Han Daniel
VGP	Gan Lee Huang Ivy
VGP	Goh Gek Phuyay Florence
VGP	Gwee Chew Lee Emily
VGP	Hong Choon Learn Alan
VGP	Hwee Yew Leong Clarence
VGP	Kok Yin Fung Cecilia
VGP	Lee Chor Hiah Amy
VGP	Lee Siow Hui Rebecca
VGP	Lee Sock Ee Carine
VGP	Lee Wei Ling Michelle
VGP	Lee Yann Teng
VGP	Leong Hong Yew
VGP	Lim Hock Hai Anson
VGP	Lim Hui Swan
VGP	Lim Soh Hui
VGP	Lim Wee Nee
VGP	Loh Mei Fun Anne
VGP	Loy Yoke Ming
VGP	Mak Kah Woh Gary
VGP	Mok Sauk Soo Suzie
VGP	Ng Ai Hua
VGP	Ng Lee Pheng Rosalind
VGP	Ng Swee Koon Hazel
VGP	Ngeng Fung Chin Lena
VGP	Oh Wan Keong Marcus
VGP	Ong Siok Ling Jasmine
VGP	Ong Ai Ling Yvonne
VGP	Ong Poh Suan

MEMBER

Division	Name
VGP	Sim Kai Li
VGP	Sin Chong Meng
VGP	Soh Chor Yin
VGP	Tan Boon Chew Patrick
VGP	Tan Chun How
VGP	Tan Hong Chye Hendry
VGP	Tan Lay Tin
VGP	Tan Pui Siang Jayne
VGP	Tan Teck Moi
VGP	Tan Thiam Joo Steven
VGP	Tay Gek Hoon Ada
VGP	Tok Yee Fong Yvonne
VGP	Wong Yann Luk
VGP	Yeo Ai Lin Alison

PROBATIONER

Division	Name
QS	Childs David Peter
QS	Han Meiqi Joy
QS	Ho Ooi Howe Eric
QS	Koay Kean Tatt
QS	Sim Tze Kwan Sunny
QS	Tan Ai Nee Annie
QS	Wong Yick Meng
VGP	Fun Li-Ping Eileen
VGP	Ho Hui Ping Andrea
VGP	Lee Hwee Boo Conrad
VGP	Liow Pick Yuen
VGP	Ngo Sie Yin Jeanette
VGP	Tan Zai Ling Jacqueline
VGP	Tay Choon Kwan Richard

TECHMEMBER

Division	Name
VGP	Wong Shi Min
VGP	Ng Kiat Poh Vera

NOTICE

The following members have resigned from the Institute:

PROBATIONER

Division	Name
QS	Oon Tze Pong
VGP	Chong Teck Chin Shirley
VGP	Goh Duo Yang
VGP	Lee Poo Yoke
VGP	Chong Chew Yong
VGP	Hoo Tee Hui Serene

MEMBER

Division	Name
QS	Lim Tong Kay
QS	Tay Wei Loong Alan
VGP	Yao Yen Paul
VGP	Lam Siew Qu Alice

26th ASIAN CONFERENCE



Kwoh Leong Keong, representing SISV, attended the 26th Asian Conference on Remote Sensing, held in Hanoi (Vietnam) from 7 Nov to 11 Nov 2005. The conference was jointly organized by the Asian Association on Remote Sensing (AARS), the Vietnam Association of Geodesy, Cartography and Remote Sensing (VGCR) and the Association of Vietnamese Geographers (AVG). It was also supported by the Vietnamese Department of the Air Force, Cadastre and Engineering Survey Company, Aerial Photo-Topography Company, Remote Sensing Center, Ministry on Natural Resources and Environment, and Survey and Aerial Mapping Corporation.

The opening of the 5-day conference was officiated by the Honourable Prof Dr Sc Dang Hung Vo, Deputy Minister for Ministry on Natural Resources and Environment. The opening session was also addressed by Prof Shunji Murai (General Secretary of AARS), Prof Ian Dorman (President of ISPRS), Prof Dr Nuyen Thong Hung (Vice President and General Secretary of ACG), Dr Le Quy Thuc (President of VGCR) and Prof Wim Stokhof (Director of IIAS).

A total of 502 participants from 43 countries attended the conference, and a total of 232 papers were presented, as compared to 481 participants from 27 countries and 252 papers presented in 2001. Singapore had a total of 9 participants, 1 from SISV, 5 from NUS and 3 from the NTU. A total of 10 papers were presented by the Singapore team.

A total of 27 internationally renowned organizations participated in the exhibition, to showcase their latest remote sensing data, hardware and software, and application services.

The Conference Banquet for conference was held on 7 Nov 2005. The highlight of the dinner was the cultural show comprising of song and dance items from various participating countries. The best performers for this year's cultural show were from China, Japan, Thailand and Vietnam. As a token of encouragement, Prof Shunji Murai contributed 4 prizes to these top performing countries.

Next year's ACRS will be held in Ulumbatar, Mongolia, in mid-Oct, 2006.

8th SOUTH EAST ASIA SURVEY CONGRESS 2005 BANDAR SERI BEGAWAN, BRUNEI DARUSSALAM

This year, the 8th South East Asia Survey Congress (SEASC) was organized by Brunei Institution of Geomatics (BIG), Brunei's Survey Department, the ASEAN Federation of Land Surveying and Geomatics (ASEAN Flag) and supported by International Federation of Surveyors (FIG).

The 8th SEAC kicked off with the registration of the delegates and exhibitors at The MALL, Gadong, on 21 Nov 2005 and ended on 25 Nov 2005. Other events held in conjunction with SEAC are the ASEAN Flag AGM and its 24th Council Meeting (21 Nov), UNGEGN (22 Nov) and PCGIAP Meeting (26 Nov).

The SEAC 2005 was officially opened by Minister of Development, Yang Berhormat Pehin Orang Kaya Hamzah Pahlawan Dato' Paduka Awang Hj Abdullah Bin Pehin Begawan Mudin Dato' Paduka Hj Bakar.

Other VIP guests were the Deputy Minister of Development, Permanent Secretaries, Head of Departments under Ministry of Development, senior government officials, local and foreign delegates and exhibitors.

The opening address was given by the Chairman of the Organizing Committee, Pg Hj Matusin bin Pg Hj Matasan and President of International Federation of Surveyors (FIG), Prof Holger Magel.

Twelve members from Singapore attended the Congress and the 3 members from SISV are Christopher Chai, Kwoh Leong Keong and Wee Soon Kiang. Kwoh Leong Keong also represented SISV as a speaker.

The theme for the 8th SEASC Conference was "Geomatics and the Community: Spatial way to Sustainable Development". More than 70 papers were presented during the 4-day event, of which, 6 papers were represented by Singapore.

Some of the papers presented by our Singapore representatives are:

TOR YAM KHOON

Kalman Filter For Multi-Surveying Robot Deformation Monitoring Survey, A Prototype Strata Unit Management System Using 3DGIS,

KWOH LEONG KEONG

Satellite Remote Sensing In Monitoring Of The Environment by CRISP,

VICTOR KHOO

*Rapid Static Survey Using
The Singapore Integrated Multiple Reference Station Network,*

SOH KHENG PENG & VICTOR KHOO

Implementation Of A Modern Cadastral Survey System – SVY21 System.

The 9th SEASC Conference will be held in Christchurch, New Zealand from 29 Oct to 2 Nov 2007.



Get Your ACT Together!

Be aware of what the new Security of Payment Act entails and know how it can affect you



Informative and insightful, that summed up the sentiments of those who attended the seminar organised by SISV's Quantity Surveying Division at Furama City Centre on 23 Sep 2005. Titled "An overview of the Security of Payment Act & Amendments to the SIA Conditions of Contract", around 60 SISV members and non-members attended the seminar.

Returning for his second SISV seminar, guest speaker, Paul Sandosham, 35, is a partner in the Building & Construction and India Practices of Wong Partnership.

The seminar began at 2.15pm sharp, with the first half concentrating on the Security of Payment Act (SOP). Aimed to facilitate cash flow in the construction industry, the act was passed on October 2004 and was effective from 1 Apr 2005.

After the coffee break, the second half concentrated on amendments to the SIA (Singapore Institute of Architects) Conditions of Contract, an issue which many architects are concerned of. These involved progress payments and payment claims.

Finally, when it came round to the Q & A section, the questions came fast and furious. Most of the questions centred on the time lag, which can go up to 90 days and attendees were mostly concerned with the cash flow problems this might pose especially to the contractors and sub-contractors. Paul reassured them that the relevant authorities are trying to speed it up. When it was time to leave, there was no doubt that attendees gained more knowledge of the new SOP Act and how it would affect them.

Law and The Construction Industry

Updates on new cases and the legal implications...



Specially organised by Singapore Institute of Surveyors & Valuers and SISV Services Pte Ltd, the 3-hour session attracted more than 50 professionals from both within and outside the industry.

Raymond Lim Keat Heng, 37, an SISV QS division council member, and Assistant Manager (contracts) of Sembcorp Design and Construction Pte Ltd, was at the seminar specifically to get updates on the law of contracts in the industry while Chong Pui Chih, 30, an engineer from Jurong Town Corporation and a non-SISV member, was there to familiarise herself with current developments and aspects of the law related to her work.

Twelve cases were discussed at the "Construction Case Law Updates" seminar, held on 30 Sep at Hotel Novotel Clarke Quay. These included nine subjects on the various aspects of contracts and three on tort and negligence.

Citing several cases from the High Court and Court of Appeals – special guest speaker Dr Philip Chan Chuen Fye who teaches Construction Law and Arbitration at the Department of Building, School of Design and Environment, National University of Singapore explored and explained the many aspects of the cases cited and their legal implications to the industry.

Out Goes the OLD, in comes the NEW

That was certainly the case when the Construction Electronic Measurement Standards (CEMS) were introduced in Jan 2004, in place of the Singapore Standard of Measurement of Building Works (2nd Edition) (SMM2).

To enforce its implementation, CEMS was introduced in lectures at all the tertiary institutions, thus phasing out the SMM2. Besides catering to procurement systems, CEMS also serve as a "common language" to facilitate communication between quantity surveyors and engineers.

A seminar titled "Mechanical and Engineering (M&E) Quantity Surveying" was organised by SISV on 21 Oct 2005 to highlight the methods of measurement of mechanical and electrical works and builders' quantities with reference to CEMS. Kee Bee Kheng, a fellow SISV member and director of KBK Consultants Pte Ltd, shared her knowledge on M&E Quantity Surveying to an audience of 40 people.

Held at the PSB Academy in Toa Payoh, the fully comprehensive seminar covered all grounds and Bee Kheng used photographs, charts and drawings to support her presentation.

Catching up with her after the seminar, Bee Kheng was very forthcoming with her answers. When probed why the CEMS was introduced, she revealed that there is a shortage of quantity surveyors knowledgeable on M&E and M&E surveying is often left to engineering staff, who lacks the expertise of quantity surveyors and this might lead to errors during a pitch. CEMS was introduced to implement a standardised form of measurements, to ensure that both engineers and surveyors are on the same page, so to speak.

Hanizah, a quantity surveyor at Surbana Pte Ltd, who was at the seminar with her colleagues, lamented that the seminar was too short and suggested for it to be a series of seminar instead. She also pointed out that while most of the information presented were helpful, it was too basic for quantity surveyors like herself and would benefit the engineers more since they have to be aware of the terms and measurements used by quantity surveyors when drafting out their plans.

Industry professionals are hopeful that with the introduction of CEMS, engineers and surveyors alike will no longer have to face problems and disputes in future.



Seasons Park and The Independent Contractor Defence - What Next?

by Ms Eugenie Lip



INTRODUCTION

A decade or so ago, it was unthinkable for developers and architects in Singapore to be sued for building defects, let alone by a party with whom they have no contractual nexus. These people were respected in industry circles and held in high regard by property owners. Sentiments have changed somewhat today – not only because of growing affluence and higher expectations but also as consumers become more cognisant of their legal rights and entitlements to remedies when they suffer a loss having invested in what is probably the single most important and expensive asset in their lifetimes.

The wave of change started in the area of pure economic loss when the construction industry witnessed a far-reaching landmark ruling in *Ocean Front*. The Court of Appeal in *Ocean Front* affirmed that there was no bar to the imposition of a duty of care for pure economic loss owed by developers to management corporations in respect of defects in the property itself. This was later extended to architects and engineers in *Eastern Lagoon*. Whilst the ruling was significant in settling what the law is in Singapore on pure economic loss, one of the issues discussed in *obiter* in *Eastern Lagoon* was that the employer of an apparently competent independent contractor could not generally be held liable for their negligence in the course of carrying out the work.

THE INDEPENDENT CONTRACTOR DEFENCE - WHAT IS THIS RULE?

“It is trite law that the employer of an independent contractor is, in general, not liable for the negligence or other torts committed by the contractor in the course of the execution of the work.”

– Lord Bridge in *D&F Estates*

Unsurprisingly, this statement provoked strong criticisms from leading text commentators – not least, Ian Duncan Wallace who remarked that the court failed to appreciate the essential functions of a contractor in ‘the placing, coordination and supervision of all trades on the building site’.

The general principle is that an employer cannot be held liable for the negligent acts of an independent contractor. There are however exceptions to the rule where the employer could be liable – extra hazardous acts, working on highways, non-delegable duties, and duty to see that care is taken. The defence is not open to a party sued where it was aware that the design or work was carried out negligently and did nothing about it.

Thus, an employer sued for tort can successfully escape liability if he can show that he has relied upon the skill and expertise of an independent contractor. A developer can reject claims against him for a negligently designed or constructed building on the premise that by employing a reasonably competent contractor such as an architect, engineer or a contractor, he has discharged his duty to take care. This was one of the issues before the Court of Appeal in *Seasons Park* in relation to the claim in tort.

SEASONS PARK - SOME BRIEF FACTS

The plaintiffs, the management corporation (MCST) of a condominium known as ‘Seasons Park Condominium’ sued the defendant developer, Seasons Park Ltd, for defects in the common property. The action was in contract as well as in tort.

The claim in contract concerns whether or not the MCST could sue on behalf of all the subsidiary proprietors. The MCST represented 390 subsidiary proprietors, 71 of whom were sub-purchasers who had no contract with the developer. The court below ruled in the negative that the MCST had no authority to institute an action in contract and this was affirmed by the Court of Appeal.

In relation to the claim in tort by the MCST against the developer, it was alleged that it failed to exercise skill and care in the design, construction and supervision of the condominium, and in the rectification of the defects. The issue before the court was whether the developer could rely on the defence of independent contractor against the MCST’s claim. The trial judge’s ruling which the Court of Appeal affirmed was that such defence was available.

FROM EASTERN LAGOON - THE UNANSWERED QUESTION

In *Eastern Lagoon*, the independent contractor defence was raised by the third party contractor who asserted that he had hired specialist gangs to carry out bricklaying and tiling work. They were independent contractors to whom he relied on their skill and expertise, and therefore had no responsibility in tort for their action or inaction.

The trial judge was not persuaded by the architect’s argument that it was industry practice and also stipulated in standard forms for a contractor to be responsible under the contract for all work done whether by the contractor’s direct workmen or specialist subcontractors.

The judge distinguished the position in tort and declined to impose tortious liability based on a contractual term and succinctly said ‘*What the defendants would have me do is to find that a contract between A and B can impose a duty of care in tort on B owed to C*’.

The primary cause of failure of the external cladding was design inadequacies and not bad workmanship. The trial judge inferred as *obiter dictum* that had bad workmanship been the cause, the independent contractor defence would be available to the contractor.

The independent contractor defence was strongly challenged by the defendant architect before the Court of Appeal. By allowing such defence, it encourages contractors to subcontract all their works to various ‘independent’ persons to escape liability for shoddy workmanship. As the Court of Appeal upheld the High Court judgment that it was negligent design, not negligent construction, that caused the damage, it left this issue unanswered.

WHAT NEXT AFTER SEASONS PARK?

The availability of the independent contractor defence to a developer has now been authoritatively decided and affirmed by the Court of Appeal (Figure 1). The rule can equally apply to a contractor who can be exonerated from tortious liability through the mere appointment of competent subcontractors.

In *Eastern Lagoon*, the trial judge dealt in *obiter* with the independent contractor defence that a contractor is as a general rule not liable for the negligence of his apparently competent subcontractors.

The defendant architect's argument failed because the contractual term relied upon to impose a duty of care on the contractor did not amongst other things 'purport to create liability in tort'.

The language of the clauses in the standard forms currently in use is however different. There are express references in the standard forms to the contractor's responsibility for any work 'designed, specified or chosen' [SIA clause 3(1)] by any subcontractor and for their 'negligence' [SIA clause 18(2)], and the employer's reliance on the 'skill and judgment' [SIA clause 28(2)] of the subcontractor in the design and suitability of work and materials. Had the trial judge in *Eastern Lagoon* discussed the position in the light of the contractual terms found in contracts today, it raises the interesting point whether the defendant architect's argument could have found judicial support.

If the developer can succeed on the independent contractor defence, who then can the MCST sue? It is likely to be the contractor who will have to show that he has carried out the work with due care and skill and it was not negligently constructed. However, there is nothing to prevent the contractor to plead in defence that he has engaged competent subcontractors and therefore cannot be held liable for their negligent actions or inactions.

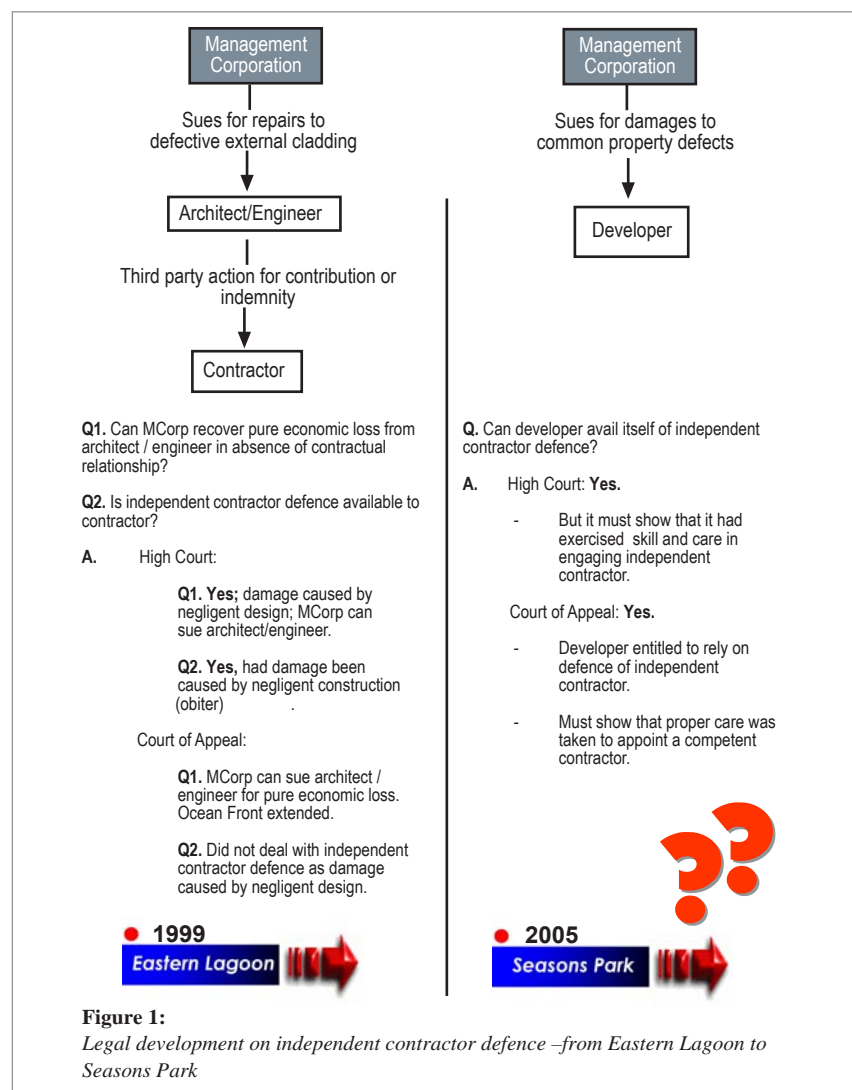


Figure 1:
Legal development on independent contractor defence –from *Eastern Lagoon* to *Seasons Park*

CONCLUSION

Quite understandably, the fact that the contractor can use the independent contractor defence has stirred up considerable debate and controversy given the realities of a contractor-subcontractor relationship under the nomination system. It further begs the question on who will be worth suing if the principal can simply 'pass' liability down to the next tier of the supply chain – the consultant, contractor, subcontractor or perhaps even the sub-subcontractor? How far downstream in the supply chain can the passing of the parcel of liability be tolerated and stretched?

This unsatisfactory situation runs counter to the realities and commercial necessity of getting a building built. It is typical for a developer-owner to procure the services, skill and expertise of competent contractors such as the architect, engineer and contractor to design, supervise and construct the building. These people in turn rely on the competence of subcontractors with whom the developer-owner has no control. The inappropriate 'transfer' of tortious liability from one party to the next down the supply chain or by a party who may seemingly be looking around for somewhere to park it, does not sit comfortably under the prevalent system of subcontracting and nomination in the industry.

Following the Court of Appeal's affirmation that the independent contractor argument is now a defence for developers in consequence of an action in negligence, it is likely to be relied upon in future cases. That the High Court had dealt with it albeit *obiter* in *Eastern Lagoon* and since then clarified and affirmed by the Court of Appeal in *Seasons Park*, suggests the availability of a defence worth pursuing. The dilemma is how it can hold a balance between allowing such defence to be used, and the implausible situation where a principal can simply avoid liability in tort by subcontracting all works to various independent contractors.

Given the contractual matrix in most procurement methods, clarification and perhaps a revisit of the principles in this defensible argument of independent contractor seems very desirable and appropriate in an industry where no single contracting outfit can claim to possess all manner of expertise in the design and construction of buildings and that it is a hallmark to subcontract almost all works. Not surprisingly, there are critical questions which may pose legal challenges and will continue to be a cause for controversy and significant practical difficulties.

*This article is adapted from Volume 1 Issue 1 of
“...@DLS Contract Advisory & Dispute
Management” Executive Summaries*

RAISING THE BAR

**With a new accreditation scheme in place, consumers
can be rest assured of a higher professional standard**

"Rogue" agents and unethical practices will soon be a thing of the past, thanks to the Singapore Accredited Estate Agencies (SAEA) scheme.



Aimed to raise the professional standards of housing agents and enforcing a strict code of conduct, the scheme will also mediate in disputes and take action against errant agents.

Initiated by the Singapore Institute of Surveyors and Valuers and the Institute of Estate Agents, the scheme is strongly supported by the Ministry of Finance, Housing and Development Board and the Inland Revenue Authority of Singapore.

Launched by Mrs Lim Hwee Hua, Minister of State for Finance and Transport on 11 Nov 2005, at the Urban Redevelopment Authority (URA) auditorium, the launch was attended by some 300 agents from the different agencies.

Dr Lim Lan Yuan, chairman of SAEA's accreditation board, said accredited agents are expected to pass at least the Common Examination for House Agents (CEHA). Through the scheme a higher level of professionalism will be attained. He urged the public to deal with only accredited agencies and agents.



WAVO Board Meeting

**Representatives from both East and West gathered at
Bucharest, Romania for the WAVO Board meeting**

Held on the 20 and 21 Oct 2005, at the swanky Crowne Plaza Hotel, the board meeting of WAVO (World Association of Valuation Organisations) was hosted by the National Association of Romanian Valuers.

Chaired by Dr Lim Lan Yuan, Chairman of WAVO, the meeting discussed issues such as strategic and business plans, the forthcoming WAVO Valuation Congress in Singapore, international workshops and talks, recruitment programme and shared news from the respective countries.

Happening simultaneously was the ANEVAR conference, which saw a Romanian version of IVS 2005 being launched. Close to 200 participants who attended the conference also had the opportunity to listen to three speakers, made up of WAVO members Dr Lim Lan Yuan, Chairman from Singapore, John Martin from Australia and Gary Taylor from United States, who shared their experience on valuation practices in their respective countries.

With new knowledge gained and friendships built, it was time well-spent in Bucharest.

**BOARD MEETING
FRIDAY, 21 OCTOBER 2005
2.00PM
CROWNE PLAZA HOTEL,**

