



SOCIETY OF CONSTRUCTION LAW HONG KONG

ANNUAL GENERAL MEETING 12 JUNE 2014

CHAIRMAN'S REPORT

Glenn Haley

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1 Introduction

1.1. 2013-2014 has been yet another busy and successful year for the Society of Construction Law Hong Kong ("SCLHK" or "the Society"). Since our last AGM in June 2013, the Society has consolidated upon having achieved exempt charitable body status under Section 88 of the Inland Revenue Ordinance, by finalizing our past tax dealings with IRD and receiving a part refund of taxes previously paid. As usual, we have conducted a busy calendar of well-attended seminars and other events. Productively, the year has seen a pleasing surplus and built upon and grown what was already a healthy bank balance, whilst continuing a steady membership. As discussed further in Section 8 below, we also have established construction law prizes with the four main tertiary teaching institutions in Hong Kong, thus furthering the Society's charitable objectives.

2 SCLHK Council

2.1 SCLHK's Council typically includes a mix of representatives from various sectors of the construction law field, including solicitors, the Bar, Government, consultancy firms and contractors. The Council for 2013-14 was no different, although we were without a contractor representative, which is being addressed. We had a full Council of 16 as allowed by the Constitution together with 4 further co-opted members of the Council during the year. The SCLHK Council for 2013-14, including co-opted members, was as follows:-

- Glenn Haley (Solicitor), Chairman
- Colin Dodd (Solicitor) - Vice-chairman since March 2014, and Publicity Coordinator
- Nicholas Cooney SC (Barrister) – Vice-chairman until March 2014
- Ian Pennicott QC (Barrister), Secretary
- Simon Wu (Consultant), Treasurer
- Christopher Short (Solicitor), Immediate Past Chairman
- Venna Cheng (Solicitor), Assistant Secretary, (co-opted Council Member)
- Nicholas Turner (Solicitor), Assistant Treasurer
- James Longbottom (Consultant), Membership Secretary
- Doug Wardale (Consultant), Events Coordinator
- Malcolm Chin (Solicitor), Website Administrator



- John Cock (Consultant), International Liaison
 - Ian Cocking (Solicitor), Council Member
 - Thomas Lee (Barrister), Council Member
 - Graham McNeill (Consultant), Council Member
 - Ken Somerville (Solicitor), Council Member
 - Keith Wingrad (Solicitor), Council Member
 - Kim Barton (Solicitor) (co-opted Council Member)
 - Edmund Wan (Solicitor) (co-opted Council Member)
 - Tony Kwok (Consultant) (co-opted Council Member)
- 2.2 The Council met on 12 occasions during the year and the meetings were well attended.
- 2.3 In accordance with the Constitution of the SCLHK, one third of the Council is required to retire each year. As we have a full Council of 16 members that means 5 members have to retire from the Council. This year 3 members resigned (Glenn Haley, Chris Short and Malcolm Chin) and 5 members of the Council (Colin Dodd, James Longbottom, Graham McNeill, Ian Pennicott and Doug Wardale) have stood down but are deemed to have put themselves up for nomination and thus 8 places on Council are available for 2014-2015.
- 2.4 In addition to the 5 members deemed to have placed themselves up for nomination (in paragraph 2.3 above), 3 further nominations have been received for election to the 2014-2015 Council from Kim Barton, Venna Cheng and Edmund Wan who have been valuable co-optees during this Council year. This means that 8 nominees are available for 8 vacant places.
- 2.5 Based on the vacancies left on the Council and the above nominations, a vote for the 2014-15 Council can be done on block.
- 2.6 The Council welcomes members to volunteer as co-optees. In practical terms, co-optees are as important and as valuable as elected Council members and, as has been said before, every additional pair of willing hands is appreciated.
- 2.7 This year we bid farewell to my predecessor, Chris Short, Malcolm Chin and myself. We have decided to make way for new blood. I also instigated a Vision and Strategy Sub-Committee this year, with one of their tasks being to find new faces to join the Council, and also to ensure that we have a wide and healthy cross section of membership



from the industry. I would like to take this opportunity to thank both Chris and Malcolm for their valuable contributions.

3 Charitable Status

- 3.1 As reported at last year's AGM, IRD has recognised the Society as an exempt charitable body under Section 88 of the Inland Revenue Ordinance and therefore exempt from all taxes payable under the Ordinance, thus allowing the Society to apply all of its resources in pursuit of its objectives under the Constitution.
- 3.2 We have built on this milestone in two ways. First, by finalising our past tax dealings with IRD and receiving a part refund of taxes previously paid. My thanks to both Nicholas Turner and Ian Pennicott in relation to this. Secondly, by putting in place with the University of Hong Kong, the City University and the Hong Kong Polytechnic arrangements for each of them to offer student prizes in the Society's name. My thanks to both Ken Somerville and Thomas Lee for their efforts in getting this initiative over the line this year.

4 Events & Meetings

- 4.1 Not including this evening's AGM, we have held 13 events under the current Council. A complete list of these events is attached at Annex A. It goes without saying that we are indebted to all our speakers for taking the time and trouble to share their thoughts with us and for preparing such outstanding papers and talks. We are aware of the time and effort that goes into this activity and are grateful for all of their contributions. Papers, where provided by speakers, have been placed on our website in the special member's area and hard copies will, as usual, be distributed to members.
- 4.2 I would like to express my thanks to Doug Wardale and Kim Barton for their considerable contributions as Events Co-ordinator this year. The Events Co-ordinator is fundamental to the objectives of the SCLHK and the number and variety of speakers this year has been a testament to Doug's capability and persuasiveness in attracting speakers, with Kim's very able and efficient assistance.



- 4.3 Our 2013 International Conference was held on 1st November 2013 at the Hong Kong Football Club. This year saw a change in format, moving away from the tradition papers-style to a focus on panel discussions and debates. The conference was a sell-out. The pre-event cocktails were held at the China Club, and again were sponsored jointly by Atkin Chambers, 39 Essex Street, Keating Chambers and 4 Pump Court, to whom the Society expresses its gratitude for their ongoing support not only for this pre-event but also for sponsoring the keynote speaker.
- 4.4 We were very honoured at this conference to have the Honourable Justice Mimmie Chan, the judge in charge of the Hong Kong court construction list, to provide the opening address and we were delighted that Her Honour Frances Kirkham, a past TCC judge in the UK and now appointed as a Justice of the Qatar International Court and Dispute Resolution Centre, accepted to deliver the keynote address. The format moved away from the traditional format to more of a debating style dealing with various topics such as Forms of Contracts, dealing with Special Condition of Contract, Contract Administration and Dispute Resolution. The audience contained persons from all sections of the construction community.
- 4.5 Our regular evening talks were a pleasing (and customary) mixture of international and domestic speakers and topics as listed in Annex A. Our speakers included Christopher To, three local counsel and seven visiting QCs and counsel.
- 4.6 Finally, we also held an annual Christmas cocktails event on Wednesday 11th December 2013 held at the Foreign Correspondents' Club (FCC) at which members and guests were entertained by middle of the road music. I would like to thank the sponsors below (in no particular order), as without their assistance the event would not have been possible:
1. Clayton Utz/Haley & Co;
 2. Holman Fenwick;
 3. Mayer Brown JSM;
 4. Clyde & Co;
 5. Jones Day;
 6. Minter Ellison;
 7. Deacons;
 8. King & Wood Mallesons;
 9. Pinsent Masons;
 10. Fried Frank;
 11. Li & Partners;
 12. Stephenson Harwood;
 13. Hogan Lovells
- 4.7 Following tradition, the Lighthouse Club collected funds from those attending the cocktail event and I am pleased to report that HK\$15,061 was raised by the Lighthouse Club on the evening which will be used to help the families of workers killed or injured in construction accidents in Hong Kong.



5 Membership

- 5.1 Membership seems to have remained steady at around 250 members for most of the past decade. We had been hoping for a rise in membership to around the 300 mark, but the year-on-year renewals and new members for the current year (as at the end of May 2014) stands at 234. This will continue to be monitored by the incoming Council, and also will be one of the key areas of focus for the newly formed Vision and Strategy Sub-Committee referred to in para 2.7 above.
- 5.2 I would like specifically to thank Membership Secretary, James Longbottom, for his contribution during the current Council year, with valuable guidance and assistance from Nicholas Cooney.

6 Finance

- 6.1 The SCLHK's Treasurer, Simon Wu, will report separately on the Society's financial position, save to say at this point that Society's financial position is healthy, and we ended the last financial year with an increased surplus.
- 6.2 For the past several years, we have offered members the option of renewing their membership at a higher "all-inclusive" rate. By paying this "all-inclusive" rate, members are entitled to free entry to all events apart from the annual Conference. This option will continue to be offered and is becoming more popular each year, although the Council needs to keep a close eye on this, in particular the problem of members registering for events but not attending, this causing our catering ordering to be inaccurate.

7 Website

- 7.1 SCLHK maintains a website (www.scl.hk) as a service to members. Continual improvements are made to the site for the benefit of members, and online renewal of membership is now possible. Further improvements include the ability of members to update their own personal details such as passwords, email address and correspondence address in the member's area so as to keep in touch with the Society.
- 7.2 I would like to thank Malcolm Chin and Simon Wu for their continuing maintenance and improvement of the web-site over the last year.



8 Student Prizes / SCLHK Prize

8.1 We did not run the SCLHK Prize this year, primarily because we had found that the number of entries was not as large as we had expected and hoped for. Council therefore decided to concentrate for the time being on offering student prizes, in construction related law subjects at the University of Hong Kong, the City University, the Chinese University of Hong Kong and the Hong Kong Polytechnic.

9 International Links

9.1 During the past few years, the various international Societies of Construction Law have sought to forge closer links. In particular, representatives of SCLs have met on several occasions to discuss opportunities to be explored and developed.

9.2 The result of these discussions was that the Societies have exchanged contact details and each has nominated an international liaison representative. The result continues to be improved communications between the Societies and greater awareness of the activities of the others. The international video-conference events that continued this year are an example of the results of this initiative.

9.3 Further initiatives under discussion are the compiling of an international compendium of commentaries of the two most common standard forms in each jurisdiction that has an SCL branch. It is hoped that this compendium will be available late in 2014.

10 Thanks

10.1 I wish to thank the members of the Society for their continuing interest in and attendance at our events.

10.2 Whether mentioned in this report or not, I take this opportunity to thank all of my fellow Council members for electing me as Chairman and for supporting me during and throughout the year. The running of the Society of course is a team effort and all our Council members have contributed without hesitation for the benefit of the Society, and I am grateful to them.



10.3 Finally, I would also like to thank the staff of HKIAC who, under the direction of Primrose Law, provide administrative services for the Society, without which we would be unable to function effectively.

Glenn Haley
Chairman Society of Construction Law Hong Kong

2013-2014

12th June 2014



ANNEX A

SCLHK EVENTS 2013-14

No.	Date	Event	Speaker(s)
1.	13 Jun 2013	The role of the expert witness – a QC’s perspective	Philip Boulding QC
2.	27 Jun 2013	Has the time come for mandatory adjudication in Hong Kong?	James Bowling, Barrister
3.	25 Sept 2013	Responding to Regulatory Summonses in the Construction Industry	Alexander King SC
4.	1 Nov 2013	One Day International Conference	Eminent local and international construction professionals
5.	13 Nov 2013	Dispute Resolution in the Construction Industry - Recent Trends and the Way Forward	Christopher To
6.	5 Dec 2013	Update on the causation test and good faith obligations in construction contracts	Vincent Moran QC and Mr Paul Buckingham of Keating Chambers
7.	11 Dec 2013	Christmas Cocktail Party	Everyone present had a good chat, especially as the drinks flowed!
8.	13 Jan 2014	“Foundations of Construction Arbitration in Hong Kong” and “An Update on Recent Case Law”	Julian Cohen, Parkside Chambers
9.	11 Feb 2014	Dispute Review Resolution Boards	Video Conference by International speakers
10.	19 Feb 2014	The Admissibility and Management of Expert Evidence in Arbitrations and in Court: Who Really Decides?	Bruce Collins QC
11.	20 Mar 2014	Settlements: Passing the Buck	Jeevan Hingorani, Pacific Chambers
12.	10 Apr 2014	Tackling Construction Claims post Walter Lilly: where are we now?	Anneliese Day QC, 4 New Square, London



No.	Date	Event	Speaker(s)
13.	15 May 2014	Contractual provisions which 'bar' claims - how they work and how they can be overcome	Simon Hughes QC, Keating Chambers, London
14.	12 Jun 2014 (AGM talk)	"How Being an Arbitrator Differs from Being a Judge"	Talk by Anselmo Reyes, Arbitrator, Hong Kong