



SWEET & MAXWELL

SOCIETY OF CONSTRUCTION LAW (SINGAPORE) SINGAPORE CONSTRUCTION LAW NEWSLETTER

MICA (P) 101/04/2012

OCTOBER 2012 , NO.18

2012-2014 COUNCIL

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*Vice Chair of External Relations Committee and
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Chair of Website, Resources & Research Committee

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Matthew Minuzzo

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Newsletter

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Chairman's Message



This issue of the SCL(S) Newsletter sees a new Council freshly formed following the election at the AGM held on 22nd August (also the day the Society celebrated its 10th year in existence) and consequently my first message as Chairman. It did not take long for me to decide that I wanted to speak about the Council members from both the 2010 – 2012 and the new 2012 – 2014 terms of office and hope you will all appreciate why.

THANKING THE 2010 - 2012 COUNCIL

For the last 2 years I have thoroughly enjoyed reading the Chairman's Messages by Christopher Nunns and often pondered over how difficult it would be for the new Chair to step into Chris's shoes. As with his writing, Chris had a unique leadership style. His mature, resolute, and often composed approach provided sound platform for the Council to grow in strength. While the 2010 – 2012 term started off with a few of the Council members stepping down shortly after the elections due to work commitments and a couple of others early this year not just leaving the Council but also Singapore, we were fortunate to have members co-opted into Council in late 2010 and other Council members stepping up to take on additional portfolios. For the service and dedication of Chris and his team, I thank them all on behalf of the SCL(S) membership.

STEPPING UP

In the tradition of our Society, several months ago I was asked to consider if I would step up to form the new team to take our Society into its 2nd decade. Having been with the Council since the 2008 – 2010 term as vice chair of the Professional Development committee, then in the 2010 – 2012 term as Vice Chairman and chair of the External Relations committee, I felt

that it was my duty to not just continue the tradition but share the knowledge and experience from the last 4 years on the Council. Soon after I agreed, I started to consider carefully the team that the membership would vote in and trust; that shared my believe that the commitment of Council would likely be for more than just two years; and any such involvement with a society or institute must always primarily be to serve the membership and not focus on personal gain (which often clouds one's judgment). I also needed to put in place a sound succession plan (practice I learned from my first career as a regular with the Singapore Armed Force).

INTRODUCING THE NEW 2012 – 2014 COUNCIL

The new Council is essentially made up of three critical groups of individuals - the core group, the "backbone" group, and "new blood" group.

The Core group

Paul (Vice Chairman) – In early 2010, Paul indicated that he was keen to come on board to help the Society. When the time came for the Society to co-opt Council members, he was the first name I put up and we soon had him working on the Professional Development committee. He completed that term with record number of attendees at several of our seminars this year. In his time, he also displayed a level of calmness and soundness that I knew would be a great asset. Paul was the first to accept my invitation to run for the new Council and agreed to take on the role as chair of the External Relations committee where he now works with the sister SCLs around the world, our 7 existing MOU partners, and develops relationships with new MOU partners including several universities.

Zoe (Honorary Secretary) – She was an obvious choice as she had stepped up to assist in this role in 2011 - 2012. Zoe from her time as chair of the Publications committee in the 2010 – 2012 Council was

always meticulous and thorough and so I felt that she would be the perfect balance for Paul and myself.

Darren (Honorary Treasurer) – When Darren joined the Council in 2010, he was tasked to deal with two committees, the Social and Special Focus committees. He rose to the task and constantly raised fresh ideas with detailed analysis including the commercial viability of carrying those ideas through. To me, he was an obvious choice to manage the Society's funds.

The Backbone group

Chris (Immediate Past Chairman) - While I knew Chris would be my pillar, I felt compelled not to impose on him too much as immediate past chairman. However, Chris without a second thought about taking a back seat, offered to be the Moderator of the newly formed on-line Forum. As this new initiative was still in its infancy, Chris stepping up to this was indeed a weight off my shoulders and I am grateful for his commitment to this initiative.

Mohan (Vice Chair of the Professional Development Committee) - Mohan, like Chris, comes with many years' experience with the Society's Councils. Since my time serving in Mohan's term (2008 - 2010), I have held great admiration for his ability to tackle tough issues and provide balanced and often sensible solutions to many issues, and to me was an absolute must have on the Council.

Brendon (Chair of Website, Resources and Research Committee) - He too comes with many years of experience with the Society, is passionate about it and is often relied upon to review and research specific initiatives undertaken by the Council. The Website is to some extent Brendon's "playground", to nurture that passion of his.

The New Blood

Matthew (Chair of the Special Focus Committee) – Matthew joined the committee over a year ago at the invitation of Darren and soon initiated the Society's connection with the Tunnelling community (a sector that had been on the Society's "radar" list for over 4 years). Matthew will now crystallise that initiative and move on to tackle one or two other sectors, including the Oil & Gas sector.

Moon (Chair of Professional Development Committee) – Moon comes on board with experience in overseeing seminars and training courses and she has connections with a wide spectrum of the Construction industry. She has speedily moved on to further the great work that Paul has done. Moon also kindly accepted the role of Honorary Assistant Treasurer, with managing figures/numbers being second nature to her as a qualified quantity surveyor.

Sunny (Chair of the Social & Outreach Committee) – Sunny has vast experience organising social events for another Institute. He is extremely passionate about engaging the younger generation of the Construction Industry through social networking. He will also look into possible charitable causes that the Society can support.

Rama (Vice Chair of the Special Focus Committee) – Coming from a key Authority, I had the good fortune of meeting Rama

almost a year ago. His energetic approach and ideas are all starting to bear fruit and I am sure that the committee will soon be shifting into top gear on several of his initiatives and suggestions.

David and Jenny (Co – opted as Co - Chairs of the Publication Committee) – Following the AGM, the Council deliberated on the need for a few more on the Council. David (recently retired as president of another Institute) and Jenny were both happy to join the Council. They will surely bring fresh perspectives to the Council including the Society's quarterly newsletter and interesting ideas from their respective fields of work and experiences.

SCL(S) MOVING FORWARD

As I mentioned at the AGM, the new Council does not intend to "re-invent the wheel", but I envision three areas of focus for the Society for this coming year.

Providing Sound Training

This aspect stems mainly from issues raised by the Honourable Justice Quentin Loh in his keynote address at the SCL(S) Annual Conference this year, in particular –

"Most glaring of all is the fact that many of the cases that come up for hearing [in the High Court] are not in a proper state of preparation for a hearing ..."

"At an early stage, we now ask for Scott Schedules to be prepared. Scott Schedules have to be detailed, unlike general pleadings, with specific allegations, identification of alleged defects with references to the documents and detailed responses from the defendants and third parties."

Our Society is well placed to take steps to help train the industry on these aspects highlighted and the Professional Development committee will review how best our programmes can help with this.

Engaging the younger generation

There is also need to re-engage this critical pool of individuals, each year graduating into the industry. I believe this generation is clearly the Society's responsibility (well within the objectives in the Society's Constitution). The External Relations and Social & Outreach committees will look into how best to achieve this with the universities.

Reaching Out to the Construction Industry

With the Society embarking into its 2nd decade, I believe it is now well placed to give back to the Construction community, focusing on corporate social responsibility. I will work with the Social and Out Reach committee to formulate programmes of this nature.

INVITATION TO JOIN THE VARIOUS COMMITTEES

Finally, I'd like to take this opportunity to encourage the members to step up and join the various committees that may interest them some of these may well be rewarding and even enjoyable.

Thank You,
Anil Changaroth

Chairman's 2010 – 2012 Report

Whilst this is my annual report for 2012, it is also my concluding report at the end of the current Council's term (2010 – 2012). Reports have been submitted by the Treasurer, Hon. Secretary and Standing Committee Chairs and these cover the details of the Council's achievements and deliberations during the past year. I do not intend to summarize these reports myself. Instead, I would like to use this opportunity to identify a few key points.

10TH ANNIVERSARY OF SCL (SINGAPORE)

We almost missed this excellent opportunity to celebrate. By chance, I had a conversation with Johnny Tan at our last Networking cocktails about the ideal duration of Council terms for similar societies. We then realized that there had been 5 Chairmen each stepping down after 2 years, and so the realization dawned!

The Constitution allows for the Chairman to be re-elected but as I prepare to stand down, I can now understand why nobody has yet volunteered to stand for a 2nd term of office. With the assistance of Council members and our efficient Secretariat, the work-load is readily manageable. However, there is a sense that the first year involves planning of initiatives and the 2nd year involves implementation. This seems ideal: A longer term in office would probably slow down the development of the Society.

NEW CONSTITUTION

Well, not so new anymore, but this has been the first Council term under the 'new' Constitution. The most significant amendment was the introduction of a fixed number of representatives to be elected onto the Council. Previously, there had been a burst of well-intentioned enthusiasm with the Council often accommodating 20 or more volunteers, with the number dwindling gradually throughout the term.

The new regime limits the Council to 11 members in total. This works well provided that those elected to the Council are in a position to contribute throughout their term. In reality, and through no fault of any individual, circumstances do change and we have found it necessary to co-opt several new members onto the Council in order to maintain the correct (and desirable) number. I would like to thank those members who stepped-up and agreed to be co-opted!

ANNUAL CONFERENCE

The 2011 Annual Conference was the first such event hosted solely by SCL. This allowed us a free hand in selecting a theme which encompassed topical construction issues. The choice of "productivity" as a theme was my own, and the conference was a learning experience.

Essentially, we ventured too far towards the technicalities of construction and away from the Law.

This year, we continued to be the sole host of the Annual Conference but we returned to more familiar territory in themes and topics and the general view was that the conference was a great success.

I have contrasted the two years in order to make the point that we must continue to experiment as we develop, but we must also not lose sight of our core interest.

DEBATE

Continuing on the theme of experimentation, in 2011 we held our inaugural SCL Industry Debate as a light-hearted pre-AGM event. I believe this was my idea and I think it was considered a success, thanks largely to the extraordinary talent of the assembled speakers.

Subsequently, we considered whether the original intention, of making this an annual event, was achievable. The consensus was that we would find it increasingly difficult to find the same level of talent year after year. However, this was a successful experiment and I hope that it will become an occasional, rather than annual, SCL feature.

SPECIALIST SECTORS

The idea of developing membership and topics involving areas of construction outside the mainstream has been pre-occupying the Council for a number of years. What is "mainstream"? What is "specialist"? For a while we seemed to associate "specialist sectors" with only the Oil & Gas industry.

I believe we have now made something of a breakthrough, with the identification of tunnelling as another genuine "specialist sector". By chance, there is probably more tunnelling work currently being undertaken in Singapore than ever, so it is an opportune time to embrace this sector whilst accepting its unique identity.

FORUM

Following conveniently from our progress with specialist sectors, I am pleased to record the establishment of the SCL Forum, as a new addition to our evolving website. In line with the development of specialist sectors, we have established three distinct online discussion forums – General, Oil & Gas and Tunnelling, in the hope that this will encourage wider participation.

IN CONCLUSION

Looking back, I can honestly say I've enjoyed the last two years enormously, thanks largely to the enthusiasm of fellow Council members and the dedication of our Secretariat staff. I look forward to working with the newly elected Council to continue current initiatives and, I'm sure, assist in the development of new ideas for the future of SCL in Singapore.

Christopher Nunns

Chairman

2010-2012

SCL(S) AGM 2012 & 10th Anniversary Report - 22 August 2012

Alastair Farr

Driver Trett Asia Pacific

This year's dinner celebrated a very special milestone in the SCL's history in Singapore. Held in the spectacular surroundings of The Coriander Leaf restaurant on Clarke Quay, the evening began with lively pre-dinner drinks at the Lily Pad as night fell, overlooking the fabulous Singapore River.

The Society marked its 10 successful years in Singapore in fine style and the dinner was well attended by almost 60 members and guests drawn from a mix of legal, construction and engineering industries.

Guest speaker for the evening was Mr. Chow Kok Fong who spoke about the construction of two buildings of different sizes built many years apart and emphasised the difference in modern day build time. He also spoke about the Olympics in the UK and praised the UK's success in delivering the games. Speeches were also made by Chris Nunns the outgoing Chairman and new Chairman Anil Changaroth. On behalf of the Society, Anil thanked Chris for all his hard work during his presidency and introduced other committee members to the audience. He also thanked those who had organised and hosted the dinner so well.

The evening concluded well into the evening, with members and guests having enjoyed great company, entertainment and excellent cuisine.



SCL(S) Annual Construction Law Conference 2012 - 25 July 2012

Anil Changaroth
Aequitas Law LLP

The 7th Annual conference held on 25th July returned to dealing with the object of the Society - promoting construction law and educating the public and the construction industry.

In the key note address by the Honourable Justice Quentin Loh titled *"The Role of the Court in Construction Disputes"*, he explained that multi-party disputes (involving employers, owners, contractors and professional advisers), and smaller construction contracts that may not contain arbitration clauses, inevitably end up in court. He also highlighted – the importance of proper management of discovery and evidence; concerns with the experience and knowledge of construction law practitioners – affecting the proper state of preparation for hearings; that the courts now ask for Scott schedules to be prepared and encourage witness conferences or "hot tubbing", experts' conclave for joint reports; and concurrent expert witnesses' evidence: The ultimate aim of each is to streamline construction cases, saving time and cost.



The morning session dealt with *"Rights and Liabilities in Construction Contracts"* covering – extension of time and additional cost; insight into procurement for complex projects; and consideration as to whether design responsibility could be shared. The afternoon session then dealt with the latest developments in construction law, both in Singapore (with the cases of *Tan Juay Pah v Kimly Construction Pte Ltd* [2012] SGCA 17 and *CRW v PGN* [2011] SGCA 33) and internationally.

Summing up, the conference this year brought to focus "Risks" – of the experience and knowledge of construction law practitioners; of causation and relevant rules imposing liabilities and responsibilities; of procurement; of design responsibilities; of parties that can best handle appropriate risks; and of alternative dispute resolution mechanisms.



Keynote address by the Honourable Justice Quentin Loh – The Role of the Court in Construction Disputes @ the SCL(S) Annual Construction Law Conference 2012



Mr Chairman, distinguished members and delegates of the Society of Construction Law and this Annual Conference, ladies and gentlemen good morning.

When one considers that all standard form construction contracts in Singapore contain arbitration clauses, you may legitimately

wonder what I am doing here. But I venture to say there are two, if not three, good reasons why construction disputes still end up in court.

First, arbitration as it is now practised, is not suited for multi-party disputes. Hence when a dispute involves Employer/Owners, their contractors and the professional advisers like engineers or architects, it is uncommon for there to be arbitration clauses binding any more than two of them. Thus when something goes wrong and, as is often the case, the issue is whether it is caused by a design defect or faulty construction or an ill-advised choice of material by the owner of any combination of these factors. Such disputes inevitably end up in court. But I am not sure why multi-party arbitration should not also work for such disputes.

Secondly, some construction agreements do not contain arbitration clauses. These are typically the smaller construction contracts: like renovation or alteration and addition contracts or construction of a single house or pair of semi-detached houses or HDB upgrading contracts with entire subcontracts. Such construction contracts do not use any standard form and invariably do not contain arbitration clauses. These disputes are often problematic because the parties have chosen, quite unwisely, to borrow clauses from here and there and put them into one contract without proper legal advice. In such cases, we not uncommonly see clauses that do not always make sense nor make the allocation of risk clear.

The third reason which I venture to put forth, should be a cause for worry for those involved in construction industry arbitration. The users of the arbitration process are finding that it takes a longer time and is getting more expensive than going to court. This is worrying because the very *raison d'être* of arbitration over court proceedings is that it was faster, cheaper, less bogged down by formalities and procedure; plus you get to choose your tribunal which is well versed in the industry in which the disputes arise. With these attributes Arbitration is, and indeed should be, a more efficient method of dispute resolution. But experience now says otherwise. These complaints are not new. But they are becoming more strident and the stakeholders in construction arbitration must take heed.

Construction disputes are, by their very nature, document intensive and usually involve very detailed claims and defences. Hence discovery and evidence must be managed properly to avoid incurring unnecessary cost. Costly and long-drawn out interlocutory skirmishes should be avoided. Similarly arbitrators should consider carefully the type of dispute they have before them before issuing their orders.

Hearing time should also be managed to avoid it spiralling into multiple tranche hearings. These can quickly become multiple 2 to 3 week tranches and of course the costs then spiral out of control.

Let me update you on some changes in the Courts. When I went on the bench, I was taken aback at the differences in hearing construction cases there as compared to that when I was counsel or arbitrator. The courts mostly see the smaller construction contracts with, and I hope I am not being too unkind, a patchwork of clauses, some of which sit ill with others within the same document. When I see the topics you are all discussing you cannot imagine my longing for those well versed in the construction industry to be before me. More often than I care to admit, when I raise questions like who owned the float, or was some activity on the critical path or was it a concurrent delay, I get a blank stare. Some parties even fail to recognise some event as an act of prevention that possibly invalidates a liquidated damages clause.

Most glaring of all is the fact that many of the cases that come up for hearing are not in a proper state of preparation for a hearing. This inevitably involves an adjournment and multiple tranche hearings.

As some of you may know, I now take the Pre Trial Conferences for construction and related cases, eg ship or rig construction cases. I have also trained a number of senior assistant and assistant registrars to do so. At an early stage, we now ask for Scott Schedules to be prepared. Scott Schedules have to be detailed, unlike general pleadings, with specific allegations, identification of alleged defects with references to the documents and detailed responses from the defendants and third parties. Parties cannot now start a trial with an allegation like: '10% of the wall areas have such-and-such a defect.' The Scott Schedules have also to be put into suitable groups, eg, in accordance with pleadings or issues or types of defects. We will scrutinise the Scott Schedules produced and suggest improvements at PTCs. We also assess some evidence at this stage and may suggest that it would be more effective for certain items, especially when neither side has the best evidence, to be hived off for mediation as a more cost-effective and efficient method of resolution.

Let me give you a hypothetical: it should be titled "There must be a better way to resolve this." An MCST sues the developer, the main contractor, the architect and the M&E consultant. One of the issues is that all the outdoor lights at the stairs keep shortcircuiting. The developer says, go look to the others, I am only the developer financing the building of the condominium. The main contractor says it's a design defect, there is not enough space on the riser to prevent rain splashing from the tread to the light fitting. The architect says, no, it is faulty installation causing the unit not to be waterproof as it should be; in the alternative, look to the M&E consultant, he chose the light fitting. The M&E consultant invariably says its either faulty installation or design defect. The sum involved in this dispute can be as little as \$25,000 - \$30,000. Can you imagine the cost and time involved in all these parties having their experts and factual witnesses and going through multiple cross-examination in court. If all the experts met on site with their respective clients and examined a few of the lights, including those not on the staircases, I daresay they

will come to a conclusion, fairly quickly, and more importantly, accurately, where the problem lay and therefore who bears the responsibility. That would have been a very speedy disposal of an issue at a great saving of costs. There are many other examples that can be used as an illustration of the point – not all issues should be fully litigated in court as the costs incurred would be quite out of proportion to the amount at stake.

We now also regularly encourage witness conferencing or ‘hot tubbing’. Contrary to what that phrase suggests, it does not involve anything as interesting as getting men and women into one hot tub. It involves two stages.

First, there must be an Experts’ Conclave, *ie*, the experts have to meet and put up a Joint Report. This usually occurs after the experts have rendered their AEICs, they meet, without lawyers, to consider and answer a series of questions or issues and thereafter have to issue a joint report to the court on what is agreed on each issue and what is not and what are their respective reasons for their disagreement with the other expert or experts. That list of questions or issues to be answered by the experts will be settled before hand by lawyers, and if they cannot, with the assistance of the court. There is usually is no difficulty as each side knows what it has to prove at trial.

Secondly, at trial, all the expert witnesses’ evidence will be taken at the same time – hence the term concurrent evidence. This will usually take place after all the witnesses of fact are completed.

The judge, who is typically assigned the case at an early stage and therefore familiar with the case, will have far more control over the proceedings because by then, it will have the joint report in hand. What is agreed amongst the experts is in writing. What is not agreed and the reasons for non-agreement are also in writing. The fact that it has to go into a Scott Schedule form assists its drafting in a concise manner. Some lawyers may think that they have less scope for attacking the credibility of the other side’s expert as the judge usually directs the main questions. Let me assure you, it does not. Cross-examining counsel will be given the time they require to mount such questions as are necessary for their client’s case.

I should also mention that the Court will often ask the parties at an early stage, who their expert witnesses are. In addition, they will have to submit their c.v.s and experience at the same time. This will allow a party to object to the opposing expert at any early stage and not at the trial where justice may require an adjournment, with suitable costs thrown away, while the affected party finds another expert. That is very costly and time-consuming for the parties.

To start the giving of concurrent evidence, after all the experts are sworn in, it is usual for the judge to address the experts, give some general comments and then proceed to the individual issues and the experts’ respective views. The judge will usually start by posing some questions, in a neutral form on the views set out in the Joint Report. Counsel are allowed to ask questions of the opposing experts, as they would in cross-examination and then do re-examination of their own experts. The procedure is flexible as issue by issue is dealt with.

With these new measures in place, perhaps with slightly more PTCs than usual, the construction cases are more streamlined when they come on for trial and consume less court days. This translates directly into lower costs for the parties. Other issues or claims like the example of the outdoor staircase lights, could be settled by the experts’ meeting on site. Even

for fairly considerably-sized claims, where the best evidence was not available, *eg*, the foremen have gone to work elsewhere and can no longer be found, they were settled more satisfactorily and cost-wise in mediation. The uneconomic, (usually low value), items were usually settled outright. These measures end up with only the intractable issues or big ticket items being resolved in a court hearing.

In some cases, where the best evidence is not available, (*eg*, whether the type and amount of steel was delivered to site, with documentation being incomplete and/or site foreman not available and therefore the signatures on the Delivery Orders were disputed), the parties may enter into agreement to allow an experienced judge to look at the evidence, ask questions if he deems necessary from those witnesses that are available, and with the lawyers making their written submissions, make a binding adjudication decision. By agreement, no reasons need be given by the judge and there is no right of appeal. I emphasize that such a procedure is by agreement of the parties and not by compulsion of the court. But it is a very cost effective measure.

As for witness conferencing, I must record my thanks to very co-operative counsel, who were willing to give it a try despite some reservations. In one case, after the Scott Schedules were completed, many items were mediated away or settled outright during the case management PTCs. That eventually left only the big ticket item. We put 5 experts into the stand simultaneously. The issues set out in the Joint Report were dealt with seriatim, hearing each expert on each issue before proceeding to the next. The evidence of 5 experts was completed in 3 days. Originally counsel had planned for a 4 week hearing with a possible spill over of 2 more weeks. The parties were able to settle as they assessed their own expert witnesses’ evidence as compared to the other experts.

Many people share the misconception that construction cases are tedious and boring. They are wrong. Some of the most difficult questions of law, including those that push the envelope of conventional wisdom, like the overlap of contract with tort, arise from construction cases. These landmark cases include *Anns v Merton London Borough Council* (1978) and *Murphy v Brentwood* (1991) where a full bench of the then House of Lords heard the case which ruled on the boundaries for recovery of pure economic loss; *Pirelli General Cable Works Ltd v Oscar Faber & Partners* (1983) on when limitation periods begin to run in contract and tort and when they overlap; *Smith v Eric Bush* (1990) on the duty of care on building surveyors to third parties like prospective owners and mortgagees, *Spandek Engineering (S) Pte Ltd v Defence Science & Technology Agency* [2007] 4 SLR(R) 100 on duty of care and even as recent as 2012, in *Animal Concerns Research & Education Society v Tan Boon Kwee* [2011] 2 SLR 146; [2011] SGCA 2, where our Court of Appeal held a Clerk-of-Works personally liable for what went on in a construction site that was under his purview. Always remember you are not a society of professionals in tedium and boredom.

Let me end by congratulating the SCL in organising this conference. You have garnered excellent speakers who will share their expertise on the latest developments and issues confronting the industry. Such conferences are invaluable in raising the bar and it remains for me to wish all of you a successful and stimulating conference. I do feel very honoured and privileged to be here today and to address you.

The Honourable Justice Quentin Loh
25th July 2012

Book Review of “Law and Practice of Construction Contracts” by Chow Kok Fong

Naresh Mahtani
ATMD Bird & Bird LLP

SCL Singapore, in conjunction with Sweet & Maxwell, held a joint book launch of “Law and Practice of Construction Contracts” (4th Edition) on 22 May 2012. Held at the Supreme Court viewing gallery, it was attended by 51 legal and construction professionals. The Honourable Justice V K Rajah was the Guest-of-Honour at the event. In addition to the book launch, the author, Chow Kok Fong, gave a seminar on the “Recent developments on Terms governing Time in Construction Contracts”.

During the past few decades, many practitioners of construction law and professionals and contractors involved in the construction industry in Singapore and the region have looked to the text-books and writings by Mr. Chow Kok Fong as handy reference sources for research, insights and practical solutions for legal and contractual issues.

I have found it very useful to have in my firm’s library (as well as a complete set in my room for quick reference) Mr. Chow’s books as reference material for our contracts and disputes lawyers. These include his classic textbook “*Security of Payments and Construction Adjudication*” of 2005 on statutory adjudication under the Security of Payments Act as well as his “*Construction Contracts Dictionary*” of 2006, which I especially love for its one-stop quick “A to Z” guides on almost every issue on contracts and construction law.

In my view, Mr. Chow’s towering work is his “*Law and Practice of Construction Contracts*”, now recently published in May 2012 in its 4th Edition by Sweet & Maxwell Asia and Thomson Reuters.

This work debuted in 1988 as “*An Outline of the Law and Practice of Construction Contract Claims*” (although an earlier incarnation was the author’s “*The Law Relating to Building Contracts*” in 1981). In what I might say were still “early days” of construction law in Singapore, I found the 1988 book (as well as the 2nd Edition in 1992) to be very timely and useful indeed, since there were in those decades really relatively few references on this subject in Singapore, and we had to look very much to textbooks and cases from England on any basic or curious point. In 2004, Mr. Chow’s book (by then already re-named to its current title) had grown to a veritable tome of over a thousand pages and had already become the standard construction law textbook in Singapore.

The recently launched 4th Edition has now doubled to two hefty volumes, with 21 chapters on subjects ranging from general contract principles to dispute resolution, covering almost all the issues one might encounter in construction law practice.



One can say that there is no one more qualified in Singapore to write and undertake such an exhaustive and information work on this subject, as recognized by Honorable Judge of Appeal Justice V.K. Rajah in the Foreword to the 4th Edition. Chow Kok Fong, a Chartered Arbitrator, and much sought after in the region as arbitrator, adjudicator and mediator, has eminent academic qualifications (in law and quantity surveying) and extensive practical international experience in the construction and infrastructure industry. His corporate career included his years as head of the Construction Industry Development Board (now known as the Building and Construction Authority) and later Chief Executive of Changi Airports International; and executive Director in three of the largest development companies in Singapore.

He was, amongst his other appointments, former Chairman of the Society of Construction Law and the founding President of the Society of Project Managers in Singapore. It is indeed admirable that amidst such a busy professional background, and continuing civic and professional responsibilities, Mr. Chow has found the time and energy to fulfil his passion for research and to write such an exhaustive text on this wide subject.

The width of the subject is covered in the book systematically in several sections. Volume 1, Chapters 1 to 3 by themselves can form a basic primer to construction, starting with an overview of the construction and development process, through contract formation (including diverse issues such as those relating to the tender process, letters of intent, implied terms and warranties). There follows a discussion on contract models and standard forms. Other than examining the various standard forms (such as the SIA, FIDIC, PSSCOC, ICE, NEC and others), this section also discusses models of contracting, such as design & build, management contracting, pricing and other risk allocation strategies and issues.

The ensuing chapters in Volumes 1 and 2 are useful references for the principles and laws in relation to the usual as well as peculiar issues, dealing methodically chapter-by-chapter with topics such as redress for breach of contract, performance bonds, variations, unexpected conditions, subcontracting and assignments, certifications and claims in respect of time and money. I am glad to see special chapters on termination,

insurance matters and negligence, as these areas are often intriguing and vexing (both for contract users and legal practitioners alike).

In Volume 2, there is an extensive section dealing with dispute resolution – with separate sections for construction Litigation, Arbitration, Adjudication (including the seminal court decisions during the past few years) and for claim preparation. For completeness, there is a discussion on Dispute Adjudication Board decisions. (I noted that Expert Determination was not dealt with, but perhaps this increasingly discussed form of dispute resolution can be dealt with by Mr. Chow in a separate work or in future editions).

Chapter 21 in Volume 2 is a useful 200-page commentary on the SIA Standard Form of Contract, which remains the leading standard form for private construction work in Singapore. The SIA Form, as well as the PSSCOC form, are set out in separate appendices for easy reference.

The various subjects in the book cite some thousands of court decisions in Singapore, UK, Malaysia, Australia and other jurisdictions, as well as some 4 dozen statutes from those countries on those subjects. Although written by an author in Singapore, this book is therefore a useful reference book in those jurisdictions as well, especially since many areas of construction and construction law are generic and relevant internationally, in both common law and civil law countries.



Mr. Chow's work reflects the tremendous growth of the body of construction law and construction dispute resolution during the past three decades. Further, the dedication and tremendous time, energy, analysis and thought process in organizing and writing such a work is reflected in the resulting breadth, thoroughness and detail in the book. The various topics, from the basic principles to the complex issues, are covered in a straightforward, simple and practical style, which makes it readable not only for construction lawyers and industry consultants, but also for the users: namely the employers, contractors, sub-contractors, architects, engineers, surveyors and other professionals in the building industry.



Engineering 101 (4th Run) - 15, 17, 23 & 25 May 2012

Jon Howes

Pinsent Masons M Pillay LLP

Giving up 4 evenings to grapple with issues such as concrete curing, wind loading, soil investigations and the like was not a decision I took lightly but I am very glad that I did so. The course was attended by a mixture of lawyers from private practice, construction procurement specialists and (curiously perhaps) a smattering of practising engineers. The atmosphere was relaxed and participative and there was a good opportunity to socialize over supper each night.

Audrey is an engaging speaker who is passionate about her subject. She has produced a set of workbooks which form the basis of the course and takes the reader through the history of architecture and engineering (starting with the pyramids!) and cover all of the basic engineering concepts. Audrey took the time to explain these concepts with the aid of models and diagrams in an engaging and fun way. Well worth the time. Thank you Audrey and time to start writing the book!



CALENDAR OF EVENTS - 2012

UPCOMING EVENTS

No.	Date	Event
1	14 November 2012	SCL(S) 2 nd Networking Cocktails
2	7, 12, 15, & 21 Nov 2012	Construction Law 101 (3 rd run)

PAST EVENTS

3	24 October 2012	CIArb-SCL(S)-Keating Chambers Joint Seminar on: <ul style="list-style-type: none"> • Concurrent Delay in Construction Contracts, in Light of the Adyard Decision • Problems in the Pipeline – Does FIDIC have dispute resolution issues to address following the Singapore Court Of Appeal’s decision in CRW v PT Perusahaan?
4	22 August 2012	SCL(S) AGM 2012 and 10 th Anniversary Dinner
5	25 July 2012	SCL(S) Annual Conference 2012
6	22 May 2012	SCL(S) Singapore and Sweet & Maxwell Joint Launch of “Law and Practice of Construction Contracts” (4 th Edition), with Presentations on Current Construction Law Issues
7	15, 17, 23 & 25 May 2012	Engineering 101 (4 th run)
8	4 April 2012	SCL(S) Networking Cocktails
9	26 March 2012	Taming The Unruly Beast - Techniques For Managing Complex Construction Disputes
10	15 March 2012	Liability for Design
11	23 February 2012	An Examination of Concurrent Delay
12	17 January 2012	Updates and Developments in Construction Law 2012

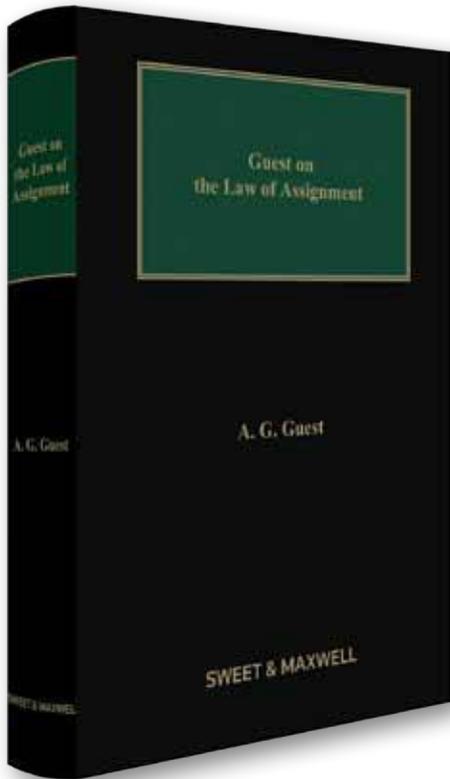
LIST OF NEW MEMBERS WHO HAVE JOINED SCL (SINGAPORE) IN 2012

- | | | |
|---|----------------------------|-------------------------------------|
| 1. Lichi Chen | 19. George Wall | 38. Keith Thom |
| 2. Matthew Skinner | 20. Balasubramaniam Appavu | 39. Andrew Ng |
| 3. Chin Lee Aw | 21. Raymond Lim | 40. Jun Nie |
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Vijayaragavan |
| 11. Nur Tasnim Yusoff | 29. Wei Ping Lim | 48. Andre Ravindran |
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| 13. Kay Chin Teng | 31. Terry Toh | 49. Brian Bowie |
| 14. Sherif Mohamed Alaraby
Hassan Abdalall | 32. Kash Quddus | 50. Sundareswara Sharma |
| 15. Ming Hsia, Amber Ang | 33. Neville Anderson | 51. Raghu Ramachandran |
| 16. Mong Guan Sim | 34. Emmanuel Buenaventura | 52. Ying Hui Lim |
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