



ANNUAL CONSTRUCTION Law conference 2014



Level 10, M Hotel, Singapore
81, Anson Road, Singapore 079908
Wednesday, 27 August 2014,
9.00 a.m. to 6.20 p.m.

CONFERENCE OVERVIEW

Risk is the single biggest concern and factor in the construction industry. Join us at our morning session as we hear industry specialists discuss the everyday risks they face in the execution of projects and how they manage these risks. In the afternoon, top legal practitioners from Singapore and London will speak about the latest developments in Construction Law, both locally and internationally.

Now into its 9th year, the SCL(S) Annual Construction Law Conference is the must-attend event for every professional involved in the Construction industry.

WHO SHOULD ATTEND

- Architects, developers, contractors, engineers, project managers, consultants, managing agents, management corporations and other professionals involved in the construction industry who deal with legal, regulatory and contractual issues
- Construction consultants
- Law, building & construction academics and students
- In-house counsel & legal officers working in the construction industry
- Lawyers

Practice Area: Construction
Training Level: Update
CPD Points: 5.5 Public CPD Points



This programme is an Accredited CPD Activity under the SILE CPD Scheme. Participants who wish to claim CPD Points are reminded that they must comply strictly with the Attendance Policy set out in the CPD Guidelines. This includes signing-in on arrival and signing-out at the conclusion of the activity in the manner required by the organiser, and not being absent from the entire activity for more than 15 minutes. Participants who do not comply with the Attendance Policy will not be able to obtain CPD Points for attending the activity. Please refer to <http://www.silecpdcentre.sg> for more information.

Continuing Professional Development

| | |
|---------|----------------|
| BOA-SIA | - 4 CPD Units |
| PEB | - 7 PDU |
| SI Arb | - 7 CPD Points |
| SISV | - 5 CPD Units |

The Conference will conclude with networking cocktails, where all attendees are welcome to join the speakers and fellow delegates for drinks.



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CONFERENCE PROGRAMME

| | | | |
|--|---|---|--|
| 09.00 - 09.20 | Registration & Refreshments | | Mr. Vip Vyas <i>Managing Director, Alchimie Asia Limited</i> |
| 09.20 - 09.30 | Welcome Address by Chair of Morning Session Mr. Darren Benger <i>Chairman, Society of Construction Law (Singapore); Director, ATA Architects Pte Ltd</i> | 12.40 - 13.00 | Morning Panel Discussion and Q&A Session |
| MORNING SESSION: Risk Management in the Construction Industry | | | <i>Moderator:</i> Mr. Darren Benger <i>Chairman, Society of Construction Law (Singapore); Director, ATA Architects Pte Ltd</i> |
| 09.30 - 10.10 | Session 1: Transferring Risk & Current Challenges Facing the Construction Industry and Mitigating Risks in Projects - A Legal Perspective Construction projects require a balance of risk control and risk transfer as part of ongoing risk management exercises. Insurance plays a major role in the risk manager's strategy in the management of risk. Contractor All Risk (CAR) policies is a project-based policy typically issued for the duration of the contract works and indemnify the insured against the cost of repairing damage caused by most risks. In this topic, we shall visit some of the key features of CAR policies and practical issues to be aware when purchasing CAR policies. | 13.00 - 14.00 | Lunch Break |
| | Mr. Stephen Cheong <i>Associate Director, Stamford Law Corporation</i> | AFTERNOON SESSION: Latest Developments in Construction Law | |
| 10.10 - 10.50 | Session 2: Major Uninsurable Risk Exposures on Construction Projects Insurance policies are equally defined by what they promise to cover as they are by what they exclude from coverage. Project stakeholders often do not have a full appreciation of their major uninsured exposures and are therefore not positioned to manage such risks. Major uninsurable risk exposures on construction sector insurance policies - Construction All Risk, Third Party Liability, Delay in Start Up and Professional Indemnity insurance - will be explored and explained. | 14.00 - 14.10 | Introductions & Opening Remarks Mr. Alex Wong - <i>Vice Chairman, Society of Construction Law (Singapore); Partner, Hogan Lovells Lee & Lee</i> |
| | Mr. Choy Wing Kwong <i>Regional Director, Construction-Asia, JLT Speciality Pte Ltd</i> | 14.10 - 15.00 | Session 5: Recent Development in Construction Law in Singapore This session will address the latest case development in Singapore construction law including the cases of Mansource Interior Pte Ltd v Citiwall Safety Glass Pte Ltd [2014] SGHC 87, Choi Peng Kum and another v Tan Poh Eng Construction Pte Ltd [2014] 1 SLR 1210, LH Aluminium Industries Pte Ltd v Newcon Builders Pte Ltd [2014] SGHCR 10 and CRW Joint Operation v PT Perusahaan (Gas Negara) Persero TBK [2011] SGCA 33. |
| 10.50 - 11.10 | Morning Break | | Mr. Ho Chien Mien <i>Partner, Allen & Gledhill LLP</i> |
| 11.10 - 12.10 | Session 3: Construction: A Risky Business? - A Developer's Perspective Safety in design and construction has to be addressed at three levels: Planning, Programme and People. Design for Safety is a construction Hazard Identification and Assessment process. Designing for Safety is the focus at all three levels, where the person or team creating the risk must address the issue at source. Designing for Safety therefore goes beyond the architects and engineers; and includes the contractors, sub-contractors and workers implementing the sequence of works, formworks, TERS, gondolas, etc. However, the focus and effectiveness of Designing for Safety is at the planning stage, particularly at concept design and design development. Planners, architects, engineers, design and build contractors are most effective when design risk assessment is front loaded. The guideline in Design for Safety helps reduce accidents and fatalities by addressing risks from design development through construction, to usage and maintenance. - A Consultant's Perspective No construction project is risk-free. Risk can be managed, minimised, shared, transferred or accepted. It cannot be ignored. Sir Michael Latham (Constructing the Team Report). Risks are inherent in every project and as they become more complex, an effective risk management is essential to bring visibility of such risks, their impact and the probability. The process involves identifying and appraising in a structured way, the susceptibility of the project to cost, contract, design and programme risks, the appropriate mitigation measures and control. Unclear identification and inappropriate allocation of risks can cause problems and it is therefore important for all stakeholders on the project to be explicit on the risks foreseen and the control required such that the party best able to manage a particular risk is the one to take ownership of it. The talk will discuss the benefits of an effective risk management strategy and it starts at the front end through a systematic risk process involving identification, analysis, evaluation, risk treatment, monitor and review. | 15.00 - 15.40 | Session 6: Substance and Procedure - Recent Topics in UK Cases Including the Measure of the Employer's Loss from Defective Work and the Costs Of Non-Compliance with Court Timetables The talk deals with substance and procedure and the consequences of non-compliance by litigants and contractors. The recent cases in England which relate to procedure are Mitchell v. News Group Newspapers Ltd [2013] EWCA Civ 1537 [2014] 1 WLR 795 and Denton & Ors v TH White Ltd & Ors [2014] EWCA Civ 906 and deal with the question of what happens when a party fails to comply with court ordered deadlines. The Court of Appeal's decisions on this topic are evaluated. In relation to substance, the question arises as to what happens when the contractor which performs defective work is not permitted to rectify its defects by the employer. This was considered in Pearce & High Ltd v Baxter (1999) 66 Con LR 111 and Woodlands Oak Ltd v Conwell [2011] BLR 365. Now the TCC has examined the problem again in Mul v Hutton Construction Ltd [2014] EWHC 1797 (TCC) and these cases are evaluated. |
| | Mr. Cheang Kok Kheong <i>Chief Executive Officer, Frasers Centre-point Limited</i> Mr. Stephen Wong - <i>Managing Director, Davis Langdon KPK, An AECOM Company</i> | | Mr. Richard Wilmot-Smith QC <i>39 Essex Street</i> |
| 12.10 - 12.40 | Session 4: Derisking Large and Complex Projects Cost and program overruns are a common phenomena in the construction industry. This should be a surprise given the considerable focus and attention on risk management and the evolution of risk management techniques over the last 50 years. This session reveals several key blind spots that can have devastating impact on project performance. Many of these are unseen or generally overlooked during project execution. | 15.40 - 16.00 | Afternoon Break |
| | | 16.00 - 16.40 | Session 7: Regulating standard of commercial behaviour through best endeavour clauses and their application and potential application in construction contracts - lessons from the Court of Appeal in KS Energy vs BR Energy The speaker will highlight the important observations, guidelines and decisions of the Court of Appeal regarding best endeavour clauses, particularly the test to determine whether a party has exercised its best endeavours. The issue of whether such clauses would require a party under a best endeavour obligation to sacrifice one's own commercial interest in order to discharge this obligation will also be examined; and the need to act in good faith. Finally, the speaker will share his observation about the impact of this decision on the local standard forms of contract issued by SIA and BCA. |
| | | | Dr. Philip Chan <i>Associate Professor, National University of Singapore</i> |
| | | 16.40 - 17.10 | Afternoon Panel Discussion and Q&A Session |
| | | | <i>Moderator:</i> Mr. Paul Sandosham <i>Partner, Clifford Chance Asia</i> |
| | | 17.10 - 17.20 | Conference Closing Remarks <i>Vice Chairman, Society of Construction Law (Singapore)</i> |
| | | 17.20 - 18.20 | Networking Cocktails |



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ABOUT THE SESSION SPEAKERS, MODERATORS AND CHAIRPERSONS *(In Speaking order)*

Darren Benger received his Bachelor of Architecture degree with First Class Honours from the University of Adelaide, Australia in 1995, and registered with the Board of Architects, Singapore in 2001. Darren received the Graduate Certificate in International Arbitration (GCIA) from the National University of Singapore in 2008. Since 1996 Darren has resided in Singapore, and he is currently a Director of ATA Architects Pte Ltd. Darren is a Council member of the Society of Construction Law (as Treasurer for the 2011/12-2013/14 term). Darren is also a Fellow member of the Singapore Institute of Arbitrators. Darren's involvement in the Singapore Institute of Architects includes election to Council for the 2007/08 to 2013/14 terms, and he has actively participated in various SIA committees, including involvement in the Building Contracts Committee since 2007/08, and the ADR Committee since 2008/09 (as chairperson since 2012/13). Darren is also on the SIA Panel of Expert Determinators. Darren has contributed as lecturer/tutor to the building contracts module of the Architectural Practice course for the National University of Singapore - School of Architecture since 2009. Darren has served as an expert witness in various Court cases and arbitrations, including one of the first experts 'Hot Tubbing' cases in the SGHC.



Mr. Darren Benger
Director
ATA Architects Pte Ltd

Vip Vyas is the co-founder and Managing Director of Alchimie Asia. He brings an extensive track record across industry sectors and geography in working with Boards, CEOs and Executive Teams to produce exceptional step-changes in business results. Vip has broad global project experience having advised and consulted in over 25 countries covering the US, Europe, Africa, Middle East and Asia. He has particular expertise in taking a system-wide approach to de-risking large, complex projects in the Energy and Construction Sectors. He has advised companies in Corporate and Project Governance, Group and Business Unit strategy, Project Start-ups & Turnaround and Incident-Free Safety Performance. Vip has been a Visiting Consultant at the London Business School and has studied Strategy and Execution at Harvard.



Mr. Vip Vyas
Managing Director
Alchimie Asia Limited



Mr. Stephen Cheong
Associate Director
Stamford Law Corporation

Stephen Cheong's practice covers civil and commercial litigation and international arbitration, with a focus on insurance and reinsurance related disputes, with expertise handling most classes of insurance. He represents both insurers and policy-holders, advising on both contentious and non-contentious policy-related matters including policy interpretation, coverage, liability as well as quantum related issues. He has acted for clients in various jurisdictions including Singapore, Thailand, Indonesia and Japan. Stephen is an Advocate & Solicitor with the Supreme Court of Singapore.



Mr. Alex Wong
Vice Chairman
Society of Construction Law
(Singapore); Partner, Hogan
Lovells Lee & Lee

Alex is a Partner in Hogan Lovells' Singapore office and a member of the Infrastructure, Energy, Resources and Projects practice. Alex has more than 17 years of experience advising on construction, infrastructure, energy and natural resources, PPP and government procurement projects in Singapore and across Asia. Highly regarded for his expertise, Alex has garnered plaudits from leading independent legal directories such as Asia Pacific Legal 500 and IFLR1000.

Alex speaks and writes regularly on a wide variety of infrastructure law related topics. He has recently contributed a chapter to a book endorsed by the Lee Kuan Yew School of Public Policy in Singapore titled 'Water Governance: An Evaluation of Alternative Architectures'.

Alex is the Vice-Chairman of the Society of Construction Law in Singapore. He is also an adjunct professor for law of project finance at Singapore Management University. He is admitted to practise in Singapore and England and Wales.

Choy Wing Kwong trained as a quantity surveyor in Australia. During his time there, he was awarded the Australian Institute of Quantity Surveyors Post-Graduate Research Fellowship. He practiced as a quantity surveyor in Australia and in Singapore and subsequently as a project manager on a major project in Singapore. He joined Jardine Lloyd Thompson in 1999 as a regional construction specialist and since then has been involved in the structuring and placement of insurances for major projects in the Asia region as well as in Singapore. In his role as Regional Director for construction, Mr Choy has been able to bring his construction industry background to bear on the various projects, where he has been involved in the structuring of the insurance programmes. In addition to advising clients on risk and insurance matters, Mr Choy has also acted as independent insurance advisor to lenders in the limited recourse financed projects throughout the region ranging from power plants to oil terminals and power transmission tunnels. Mr Choy regularly conducts construction insurance seminars for property developers, consultants and construction industry bodies in Singapore. His quantity surveying background and insurance experience allows him to effectively communicate on issues relevant to the construction industry and the insurance sector.



Mr. Choy Wing Kwong
Regional Director,
Construction-Asia
JLT Speciality Pte Ltd

Ho Chien Mien's areas of practice encompass a wide range of contentious and non-contentious work in the areas of construction, engineering and infrastructure projects. Chien Mien sits on the main panel of arbitrators of the Singapore International Arbitration Centre and Kuala Lumpur Regional Centre for Arbitration. He is an Accredited Adjudicator with the Singapore Mediation Centre. He is also a Fellow of the Singapore Institute of Arbitrators and Accredited Arbitrator under the Law Society Arbitration Scheme.



Mr. Ho Chien Mien
Partner
Allen & Gledhill LLP



Mr. Richard Wilmot-Smith QC
39 Essex Street

Richard Wilmot-Smith QC was called to the Bar in 1978 and was appointed Queen's Counsel in 1994. Richard is a specialist in all aspects of construction and engineering litigation and arbitration. His experience includes disputes involving performance bonds, guarantees, and related professional negligence claims against architects, engineers and surveyors. His expertise also extends to issues involving environmental law (including coal and nuclear power and waste incidents), libel, health & safety, railways and oil & gas. He has acted in litigation and arbitrations concerned with major projects in the United Kingdom, the United States, Tanzania, Egypt, India, Singapore, Hong Kong, Canada, Iran, Iraq, Dubai, Qatar and Saudi Arabia. In addition to his practice as a barrister, Richard regularly sits as an Arbitrator. Richard is the editor of Construction Contracts (Law & Practice) OUP, First Edition 2006, Second Edition 2010, Third Edition 2014.

Dr Chan, an NUS Associate Professor, is dually experienced as a QS and a lawyer. He is AIA's Co-Editor and the Editorial Advisory Board member and Correspondent of the International Construction Law Review. He is a practising arbitrator and a Fellow of SI Arb. Dr Chan has been involved in writing eleven books and had contributed articles to international construction law journals. He has delivered more than 200 conference/seminar papers and conducted numerous in-house training programmes on construction law, arbitration and adjudication.



Dr. Philip Chan
Associate Professor
National University of
Singapore

Mr Cheang Kok Kheong joined Frasers Centrepoint Limited in January 2006. He oversees the Development and Property Division that builds residential property developments under Frasers Centrepoint Homes. Residential projects include The Azure, St Thomas Suites, Martin Place Residences, Soleil @ Sinaran, The Caspian, 8 @ Mt Sophia and the 1600 units Waterfront Collection (a joint venture with Far East Organisation). Shopping mall projects include the redevelopment of Northpoint, Anchorpoint, Waterway Point and the Changi Business Park.



Mr. Cheang Kok Kheong
Chief Executive Officer
Frasers Centrepoint Limited

Mr. Cheang was previously General Manager at MCL Land (1997 to 2006) where he led the team to develop and build over 2,400 condominium units, including Rio Vista, The Warren (a joint-venture with Ho Bee Group), 100 Robertson, The Grange and The Metz. Prior to that, he was Asst. General Manager at Ascendas Singapore where he was responsible for overseeing the Master Planning and Development of Singapore Science Parks II and III. During his tenure with Ascendas, Mr. Cheang was also seconded as Chief Executive Officer to the IT Park, Bangalore, India (1995-1997), where he was involved in the Master Planning and Development of the IT Park, which was a joint venture with TATA, Karnataka Government and the Singapore Consortium. An architect by training, Mr. Cheang holds a Bachelor of Architecture (Hons) from the National University of Singapore, and a MSc. Planning and Development (Distinction) from the University of Surrey, United Kingdom. He is also a member of the technical committee at the Real Estate Development Association (REDAS).

Stephen Wong is the Managing Director of Davis Langdon KPK, an AECOM company, in Singapore and brings over 25 years of leadership experience to this role. As a professional consultant in cost management and project management, he has worked on development projects of various types, sizes, complexities and procurement arrangements across Asia. Stephen's special interests and focus areas include project management, construction procurement and contract administration, professional practice, human resource management, corporate strategic planning and executive talent development. Stephen holds a MBA (Business Law) and also Masters degrees in Project Management and in Construction Law and Dispute Resolution. He is an accredited Adjudicator with the Singapore Mediation Centre and a Fellow of the Singapore Institute of Surveyors and Valuers.



Mr. Stephen Wong
Managing Director
Davis Langdon KPK
An AECOM Company



Mr. Paul Sandosham
Partner
Clifford Chance Asia

Paul Sandosham is a Partner in the Litigation and Dispute Resolution practice of Clifford Chance Asia and heads the Energy, Infrastructure and Resources (Disputes) practice for South-East Asia. He is an active member of the SCL council, and most recently served as the Vice-Chairman of the SCL. Paul specialises in litigation and international arbitration focussing on disputes in the power, energy, oil & gas, infrastructure, construction, mining, natural resources and commodities sectors. He acts as counsel in court and in international arbitration proceedings under various arbitral rules (SIAC, ICC, UNCITRAL, DIAC, ADCCAC etc). Paul has advised on numerous projects internationally, including Singapore, Malaysia, Indonesia, Thailand, Philippines, Vietnam, Lao PDR, India, China, UAE, Qatar, Bahrain, KSA, Mauritius, Maldives and Papua New Guinea. Paul is a fellow of the Chartered Institute of Arbitrators and Singapore Institute of Arbitrators, and is on the panel of arbitrators of SIAC, KLRC and DIAC. He is a director of The Chartered Institute of Arbitrators (Singapore) Ltd and a member of the Law Society's Alternative Dispute Resolution Committee. Paul is regularly appointed to sit as arbitrator in international arbitrations. Paul is recognised as a leading construction and dispute resolution lawyer and has been commended in numerous prominent legal publications including The Legal 500 - Europe, Middle East & Africa; Chambers Global and Asia Pacific; Global Arbitration Review; Who's Who Legal, Euromoney's Guide to the World's Leading Construction Lawyers; and Asian Legal Business.



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CONFERENCE REGISTRATION

REGISTRATION CLOSING DATE: 20 August 2014

You may also **register & pay online** for this event on our website at www.scl.org.sg

| | Please Tick (✓) | FEES (includes refreshments, lunch & materials) |
|--|-----------------|---|
| SCL (Singapore) Members | | S\$325.00 |
| Guests of SCL(S) Members, Members of international SCLs, Members of: Chartered Institute of Arbitrators (Singapore) Ltd (CIArb), Chartered Institute of Building (CIOB), Lighthouse Club (Singapore) (Lighthouse), Marine Offshore Oil & Gas Association (MOOGAS), Royal Institution of Chartered Surveyors (RICS), Singapore Contractors Association Ltd (SCAL), Singapore Institute of Architects (SIA), Singapore Institute of Arbitrators (SIArb), Singapore Institute of Surveyors and Valuers (SISV), Tunnelling and Underground Construction Society (Singapore) (TUCSS) Full Time Students & Faculty of NUS Faculty of Law | | S\$425.00 |
| Others | | S\$525.00 |

Please return the registration form below, together with your cheque, if applicable, made payable to [Society of Construction Law (Singapore)] Level 3, 146 Robinson Road, S068909 or Fax to (65) 31273797 (no 6 prefix required).

REGISTRATION, REFUND & CANCELLATION POLICY

1. Places are limited and can only be allocated in order of priority upon receipt of registration and any payment due.
2. We regret that we generally do not issue invoices or accept payments at the event.
3. Refunds for cancellation are not possible after the registration closing date.
4. We reserve the right to refuse to register or admit any participant, and to cancel or postpone the event.
5. I fully consent to the collection, use and disclosure of my personal data as appears in this form by SCL (Singapore) for the purposes set out on our website.

For further enquiries, please contact the SCL (SINGAPORE) SECRETARIAT: Tel & Fax: (65) 31273797 (no 6 prefix required) ; E-mail: secretariat@scl.org.sg

REGISTRATION FOR SCL (SINGAPORE) MEMBERS & THEIR GUESTS

(Please use 1 form per Member)

Name: _____ NRIC/Passport No.: _____ SCL Membership No.: _____

Tel: _____ Fax: _____ E-mail: _____
(A valid email address is required for confirmation of registration.)

- I will be attending and I enclose my payment of \$325.00.
- Check if CPD points are required** AAS no. _____ (for practising lawyers requiring SILE CPD points)
- Please reserve _____ seats for my guests and I enclose payment of \$425.00 per guest. My guest(s) are:

| Name (s) | Organisation | Designation | Check if CPD Points are required | AAS No | Email |
|----------|--------------|-------------|----------------------------------|--------|-------|
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I enclose a cheque for SGD _____ made payable to [Society of Construction Law (Singapore)]

REGISTRATION FOR NON-SCL (SINGAPORE) MEMBERS

(Please use 1 form per Member)

I am a: (Please select as appropriate.)

- SCL Mbr: _____ pls state branch
 CIArb Mbr
 CIOB Mbr
 Lighthouse Mbr
 MOOGAS Mbr
 RICS Mbr
 SCAL Mbr
 SIA Mbr
 SIArb Mbr
 SISV Mbr
 TUCSS Mbr
 Full Time NUS Law Student/NUS Law Faculty
 Others

Name (Dr/Mr/Mrs/Miss/Mdm): _____

Name and Address of Organisation: _____

Position in Organisation: _____ NRIC/Passport No: _____

Membership No: _____ (Mandatory to process registration. Please check with your respective membership body.)

- Check if CPD points are required** AAS no. _____ (for practising lawyers requiring SILE CPD points)

Tel: _____ Fax: _____ Email: _____
(A valid email address is required for confirmation of registration.)

I enclose a cheque for SGD _____ made payable to [Society of Construction Law (Singapore)]

**Attendance Policy applies. For more information on the CPD Scheme, please visit www.silecpdcentre.sg