

NEWS PAPER CUTTING ON NOVEMBER 2021
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CONTENT OF DAILY NEWS NOVEMBER 2021

| BIL. | DATE | NEWS | PAGES |
|-------------|-------------|---|--------------|
| 1. | 12.11.2021 | 'BUCG Took Part In Preparation Of Project Proposal' | 2 |
| 2. | 13.11.2021 | Ex-State Legal Adviser In The Dark Over Tunnel Pact | 3 |
| 3. | 16.11.2021 | Witness : Jho Low Was 'The Man Of The PM' | 4 |
| 4. | 20.11.2021 | Bumiputera Contractors Welcome MB's Move To Combat Monopoly | 5 |

New Straits Times | 12 November 2021 | Page 10

LIM GUAN ENG GRAFT TRIAL

'BUCG took part in preparation of project proposal'

KUALA LUMPUR: The issue of whether Beijing Urban Construction Group (BUCG) had obtained an unfair advantage before it was awarded the RM6.34 billion Penang undersea tunnel project was again closely scrutinised at the corruption trial of former chief minister Lim Guan Eng yesterday.

This time, former Penang State secretary Datuk Seri Farizan Darus, 62, was questioned about BUCG's involvement in discussions with the state government before it eventually participated in the open tender for the project.

Farizan was questioned about this by the prosecution and also grilled about it by Lim's lead counsel, Gobind Singh Deo, after he was called to testify as the ninth prosecution witness.

He explained at length that it

was the Penang government's policy to award projects through an open-tender system after the state fell to Pakatan Harapan and came under DAP's control.

He said this was done as part of the state government's CAT (competency, accountability and transparency) principles.

However, when questioned by deputy public prosecutor Wan Shahrudin Wan Ladin, Farizan acknowledged that BUCG had actually taken part in the preparation of the Request For Proposal (RFP) of the tunnel project.

He said the same company eventually participated in an open tender for the contract with four companies.

"If the procurement committee had known about it, I am sure a different decision would have been made.

"They would most likely have

called for new tenders if they had known about BUCG's involvement in the preparation of the RFP."

Gobind, in his cross-examination, also questioned Farizan about BUCG's involvement in the preparation of the RFP, but tried to get the witness to agree that it was confined to the very basics and the company had gained nothing from it.

However, Farizan said that even if BUCG did not gain a 100 per cent advantage, it would have been close to 85 per cent.

At the previous hearing, former Penang State Economic Planning Unit officer Muhamad Azrai Mohamad Zaini testified that BUCG actually had a one-year advantage over others as it had participated in the preparation of the RFP before bidding for the tunnel project.

He said the company officials had attended several meetings with state officials in the run-up to the submission of the RFP in 2012.

He had testified that it was improper for BUCG to have been involved in these meetings as it was bidding for the project.

BUCG was part of the Consortium Zenith BUCG that was eventually awarded the undersea tunnel and three paired roads project.

Lim is facing four charges of using his position as the then chief minister to solicit gratification to help Consortium Zenith Construction to secure the tunnel project.

He is alleged to have sought 10 per cent of the profit to be made by the company from its owner, Datuk Zarul Ahmad Mohd Zulkifli.



Datuk Seri Farizan Darus

He is also accused of receiving RM3.3 million for himself and causing two plots of land belonging to the state government to be disposed of to two companies linked to the tunnel project.

The trial, which is being held before Sessions Court judge Azura Alwi, continues today. **Reporting by Sharanjit Singh**

New Straits Times | 13 November 2021 | Page 1,8

Law firm made big mistakes on land parcels in swap deal, LGE trial hears

» PAGE 8

PENANG UNDERSEA TUNNEL PROJECT

EX-STATE LEGAL ADVISER IN THE DARK OVER TUNNEL PACT

Major mistakes in agreement by law firm over parcels of state land in swap deal, court told

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THE corruption trial involving Lim Guan Eng yesterday saw his lawyer going on the offensive against the former Penang chief minister's state legal adviser, even branding her a liar as he tried to exonerate his client of blame.

Yesterday's proceedings also heard how a private law firm appointed by Lim's administration had committed some major mistakes in the preliminary agree-

ment which was signed with a company undertaking the Penang undersea tunnel project.

The mistakes involved parcels of state land, which were wrongly identified, to be swapped as part of a deal for the project to take off.

Former Penang legal adviser Datuk Faiza Zulkifli said she never got to see the agreement before or after it was prepared by the law firm.

Faiza said it was her responsibility as state legal adviser to scrutinise legal documents and agreements in order to protect the government's interests.

However, in this case she said the responsibility was delegated to the private law firm.

The former magistrate, who served under Lim's administration as the state legal adviser from 2007 until 2013, said the state normally only appointed private legal firms to handle civil cases and not when it came to agreements involving projects.

To a question from deputy public prosecutor Wan Shaharuddin Wan Ladin, Faiza said the mistake in the agreement was a "big" one as it involved the transfer of state land.

"If I had been given the opportunity to go through this agreement I would have ensured such a mistake did not occur."

"I am very thorough and I would have ensured that the state government's interests were protected," she said.

Earlier, the former legal adviser said she was also unaware of the contents of a second Memorandum of Understanding, which had been signed by the state government and the Beijing Urban Construction Group (BUCG) in April 2011.

However, her testimony did not sit well with Lim's lead counsel Gobind Singh Deo and he immediately put Faiza in his crosshairs during the cross-examination.

Accusing the 61-year old retiree of lying, Gobind zoomed in on

Faiza's statement that it was her responsibility to protect the state government's interests.

He questioned her at length on why she never bothered to check on the contents of the second MoU and also go through the preliminary agreement prepared by the private law firm.

However, Faiza replied that she always thought that the contents of the second MoU were the same as the one she prepared in the first MoU signed by the state and BUCG.

On the preliminary agreement, she said the state government had delegated the responsibility to the private law firm.

Gobind: So you were not proactive in protecting the state's interests?

Faiza: I disagree. A private law firm was appointed and paid for it. There was also a state government committee formed for this.

Gobind: I put it to you that your

statement of not being consulted and that you did not know about it (second MoU) is not true.

Faiza: I disagree.

Lim is accused of soliciting kickbacks from a company awarded the tunnel project.

He is accused of soliciting gratification to help Consortium Zenith BUCG (CZBUCG) secure a contract for the undersea tunnel project.

He also faces accusation of using his position as the then Penang chief minister to receive RM3.3 million in gratification for himself as an inducement for helping the company to secure the RM6.3 billion project.

The former finance minister also faces two counts of causing two plots of land belonging to the Penang government worth RM208.5 million to be transferred to two companies linked to the tunnel project.

The trial before Sessions Court Judge Azura Alwi will continue on Nov 29.



Former Penang chief minister Lim Guan Eng (centre) arriving the Kuala Lumpur Courts Complex in Kuala Lumpur yesterday. PIC BY HAROLD ALFAR RABAH

NewStraitsTimes . TUESDAY, NOVEMBER 16, 2021

10

NEWS / Courts



Former 1Malaysia Development Bhd chief executive Mohd Hazem Abd Rahman (centre) arriving at the Kuala Lumpur High Court yesterday. PIC BY HAIRUL ANUAR RAHIM

'VERY, VERY CLOSE'

WITNESS: JHO LOW WAS 'THE MAN OF THE PM'

Ex-1MDB chief executive says Najib gave no orders to ignore Jho Low's instructions

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FORMER 1Malaysia Development Bhd (1MDB) chief executive Mohd Hazem Abd Rahman told the High Court yesterday that Datuk Seri Najib Razak never dissociated himself from fugitive businessman Jho Low Taek Jho, also known as Jho Low.

Jho Low, he said, was known to be "the man of the PM".

In fact, the 10th prosecution witness said the former prime minister was "very very close" to Jho Low.

Hazem said this when asked by senior deputy public prosecutor Datuk Seri Gopal Sri Ram during re-examination about the meeting that took place at Najib's house in Taman Duta, here, on

Nov 28, 2013.

He was testifying in Najib's trial over the misappropriation of RM2.28 billion from the sovereign wealth fund.

Hazem said during the meeting which was attended by him, as well as Jho Low, Najib did not say or do anything to dissociate himself from the latter.

He said he never received any orders from Najib to disregard Jho Low's instructions.

"Through my observation, Najib and Jho Low were very, very close," he said.

However, he admitted that Jho Low's role in 1MDB was concealed during a meeting with accounting firm KPMG Malaysia, which was 1MDB's auditor, to discuss the company's audit.

He said Jho Low's name was not mentioned in the meeting because the latter had given instructions to not reveal his name.

When re-examined on the removal of KPMG as 1MDB's auditor, Hazem said he was pressured by Najib to do so because the firm did not want to close the

1MDB financial year 2013 audit report.

"I was called directly by the PM to update him on the closure. He told me to find a way to solve this, and the only way to do so was to replace it (KPMG) with a new auditor," he said.

Hazem also testified that he was in no position to disobey the accused, who was the prime minister at that time.

The witness was then asked to confirm the irregularity of the transactions which went in and out of 1MDB and denied that a single sen had gone into his own bank account.

He also denied having benefitted financially in any way from any of the transactions.

The trial continues before High Court judge Datuk Collin Lawrence Sequerah today.

Najib, 68, is charged with 25 counts of abuse of power and money laundering involving RM2.28 billion of 1MDB funds which were deposited into his accounts between 2011 and 2014.

He faces 20 years' jail and a fine, if convicted.



New Straits Times | 20 November 2021 | Page 17

Bumiputera contractors welcome MB's move to combat monopoly

ALOR STAR: Bumiputera contractors in Kedah have welcomed Menteri Besar Datuk Seri Muhammad Sanusi Md Nor's pledge to combat the alleged cartel monopoly over state government-linked companies (GLC) and businesses.

Kedah Malay Contractors Association (PKMM) president Mohammad Fauzee Mohamad said the move would create a fair opportunity for the state's 4,000-odd Bumiputera contractors to land contracts and businesses with state GLCs.

"This cartel issue has been going on for years and we welcome

the pledge by the menteri besar.

"We hope this will create a level playing field, especially for contractors in G1 and G2 categories, in doing business with state GLCs," he told the *New Straits Times*.

Fauzee said while some state GLCs had adopted an open tender and balloting process for their contracts, it should be made compulsory for all state-owned corporations.

"There should be more transparency in the process, especially for projects and procurement processes worth RM500,000 and below.

"This will certainly create fairer access for business opportunities for G1 and G2 contractors in Kedah," he said.

G1 contractors were entitled to bid for projects worth up to RM200,000, while G2 licence holders may handle projects worth up to RM500,000.

Fauzee also urged the state government to improve the transparency in the selection process for projects worth RM500,000 and above in Kedah.

"We would appreciate it if the state government looked into ways to improve transparency for projects that fall under the G4 up to G7 categories.

"This effort demands genuine political will. We really hope that the menteri besar will deliver his pledge," he said.

Meanwhile, state Malaysian Anti-Corruption Commission (MACC) director Datuk Shaharom Nizam Abd Manap had offered full cooperation to combat alleged power abuse and mismanagement in state government contracts.

"We urge the state GLCs to pay attention to Section 17A of the MACC Act 2009, whereby the top management is liable for offences committed by corporate organisation," he told NST.

Section 17A of the MACC Act criminalises an organisation for corruption-related actions by associated persons done for the benefit of the organisation.

Section 17A(1) states that a commercial organisation commits an offence if a person associated with it corruptly gives, offers or

promises any gratification to any person with an intent to obtain or retain business or a business advantage for the said organisation.

This means organisations or companies whom these individuals work for would also be held liable for not preventing the corrupt acts from happening.

In his winding-up speech at the state assembly on Thursday, Sanusi vowed to combat the alleged cartel monopoly over state GLCs and businesses.

Citing an example, Sanusi said for every 10 quotations received by GLCs, nine belonged to a cartel, resulting in a monopoly.

He said the monopoly of cartels had defeated the purpose of state-GLCs, which were set up to develop the capacity of small-scale contractors.



Mohammad Fauzee Mohamad