

Saturday August 8, 2009

It's all about the issue of bonds

THERE are four debt papers involved in the Port Klang Free Zone (PKFZ) project and many are unsure who issued these bonds with some even thinking that these instruments were the work of the Port Klang Authority (PKA). So when the PKA board decided at its June 29 meeting to defer paying its third installment of some RM660mil to Kuala Dimensi Sdn Bhd (KDSB) while awaiting reports from their independent committees, some quarters claimed that the port authority was defaulting on its bond payments. The trustees of the bonds wrote to the Finance Ministry and PKA appealing for the payment to be made and upon "advise" by the ministry, the board did so on July 6.

Two months on, the controversy over the PKA board's deferment decision continues. Although the monies are owed to Kuala Dimensi, critics continued to claim that the deferment decision was reckless and could affect the sovereign bonds of the country. But this could not be further from the truth as neither PKA nor PKFZ issued any Government bonds or sovereign debt securities. The bonds that were issued to finance the project was done by Kuala Dimensi. Thus these commercial papers were private debt securities.

KDSB, the turnkey contractor appointed by PKA to design, construct and finance the project, set up four special purpose vehicle companies to raise the bonds and debt papers. The four companies are Special Port Vehicle Bhd (SPVB), Transshipment Megahub Bhd (TMB), Valid Ventures Bhd (VVB), and Free Zone Capital Bhd (FZCB). PKA have four agreements with Kuala Dimensi – signed between Nov 12, 2002 and April 26 2006 – which stated the schedule of repayment that has been spread out between 10 and 15 years. However, PKA will pay directly to the special purpose vehicles, which would then pay the bondholders, instead of Kuala Dimensi.

The RM660mil paid on July 6 was the third payment made by PKA. In 2007, the authority paid the special purpose vehicles RM510mil and last year, another RM660mil. This brings the total amount paid to Kuala Dimensi to RM1.83bil. Except two years ago when the PKA paid almost half of the amount with its own funds, the rest of the payments are financed by the RM4.63bil soft loan from the Federal Government. Next year, PKA will have to make its biggest payment yet to Kuala Dimensi totalling RM722.584mil. (see chart for the total repayment scheme). "As far as I am concerned, we never issued bonds and the bonds were issued by Kuala Dimensi. Thus, they are not sovereign bonds. "Until today, we have no details of who the bond holders are," said PKA chairman Datuk Lee Hwa Beng when asked about the criticisms.

On July 1, following PKA's announcement that it would withhold payment, Malaysian Rating Corporation (MARC) placed the debt ratings of AAA and MARC-1/AAA of the Kuala Dimensi's special purpose vehicles' debt issuance on MARCWatch negative. However, the ratings were never downgraded nor did the announcement cause the local bond market to react negatively. MARC said in its notice that the next review of the ratings would be at the end of July but no new announcements were made.

Kuala Dimensi, which is also the previous owner of the 404ha PKFZ site and had sold the land to PKA for almost RM1.7bil, also claimed that they only raised the bonds after receiving letters of support from the Transport Ministry and considered them as letter of guarantee. However, Lee said legal opinions the board had obtained argued that the letters were not letters of guarantee.

Tan Sri Chan Kong Choy, who as Transport Minister signed three such letters, told the Public Accounts Committee the same thing and stated that this was the opinion of a Queen's Counsel in London he had sought. Deputy Finance Minister Datuk Awang Adek hussein had stated in Parliament more than a year ago that the letters were not guarantees. "Why didn't Kuala Dimensi or more importantly the bond holders react then? Why did the MARC not review the ratings of the four debt papers then?" asked Lee.

The reason the PKA board decided to defer the payment was because they wanted to look at the report by the PKFZ task force – an independent panel set up on June 10 after the PricewaterhouseCopper Advisory Services (PwCAS) report was made public. The panel, which is to recommend how to right the wrongs and pursue appropriate legal remedies regarding the PKFZ, is headed by senior lawyer Vinayak Pradhan, from legal firm Skrine & Co. Other members are Skrine partner Lim Chee Wee, PwCAS managing director Chin Kwai Fatt and PwCAS senior executive director Lim San Peen. Their report is suppose to be presented to PKA on Monday.

Monday August 10, 2009

PKFZ: Possible fraud, police report to be lodged (Update)

By LEE YUK PENG and YEOW POOI LING

PUTRAJAYA: About RM1bil of the charges and claims by Kuala Dimensi Sdn Bhd - the main developer of Port Klang Free Zone (PKFZ) - have been found to be either over-charged, unsubstantiated or even possibly fraudulent by a special task force set up to investigate the legal and financial aspects of the project. The Port Klang Authority (PKA) board of directors at its meeting yesterday decided to commence legal action against Kuala Dimensi and other parties. PKA chairman Datuk Lee Hwa Beng was also directed to lodge a police report tomorrow over the matter. The allegations against Kuala Dimensi were contained in a statement issued by Lee after the board meeting. However, it was learnt that what was

revealed yesterday was only the “tip of the iceberg and many more revelations of wrong doings are expected in the days ahead”.

“Our lawyers will henceforth deal with the Kuala Dimensi chief executive officer Datuk Seri Tiong King Sing and its deputy Datuk Faisal Abdullah. “Since there may be instances of fraudulent claims and taxpayers’ money are involved, we will make a police report at the Klang police station so that appropriate investigation is taken,” said Lee in the statement. Copies of 370-page report with 2,500 appendices by the Special Task Force were also handed over Transport Minister Datuk Seri Ong Tee Keat by its head Vinayak Pradhan, from legal firm Skrine and Co at the ministry here.

Other members of the panel are Skrine partner Lim Chee Wee, PricewaterhouseCoopers Advisory Services (PwCAS) managing director Chin Kwai Fatt and PwCAS senior executive director Lim San Peen and quantity surveyor Frank Lim from JUBC Sdn Bhd. Among others, the Special Task Force, which was set up on June 10 to look into the legal and financial aspects of PKA and PKFZ, had found that Kuala Dimensi had: >POSSIBLY made fraudulent claims on electrical infrastructure worth RM55.8mil, which had yet to be carried out on the site, and 33kv supply works and civil infrastructure works worth RM83mil as TNB had rejected the proposal for Kuala Dimensi to undertake the work.

>NOT provided any document to support its claim of at least RM231mil as preliminaries under the development agreements while at the same time, it had made claims for items, which they were not contractually entitled to, such as claim for the procurement of a performance bond and payment for insurance premiums totalling RM5mil.

>NOT justified its claim for variation works of RM62mil under Additional Development Work and New Additional Development Work agreements.

>APPEARED to have made an ‘over claim’ for hotel works, for which Kuala Dimensi had claimed for RM69.6mil compared to the quantity surveyor’s valuation of RM44.7mil.

>NOT produced any invoice or payment voucher for the RM61mil which the company claimed as professional fees and expenses incurred.

>CLAIMED RM254.9mil as extra work done even though the purported revised works fell within the scope of the original works envisaged in the main development agreement. Lee said while PKA members still required more time to consider the lengthy report in detail, several decisions had been made in the meantime.

“The board had decided that the quantity surveyor (Frank Lim) of the task force continue to re-measure the value of works performed by Kuala Dimensi in order to establish the real sum owing to the main developer. “Presently, they have identified a difference of at least RM93mil between the claims made by Kuala Dimensi and the measurements made by the quantity surveyor. “We believe that there will be further differences in the re-measurement exercise,” he said.

Tuesday August 11, 2009

Lee Hwa Beng lodges report against Kuala Dimensi and BTA Architect (Update)

By CHRISTINA TAN

KLANG: Port Klang Authority (PKA) chairman Datuk Lee Hwa Beng has lodged a police report against Kuala Dimensi Sdn Bhd and BTA Architect over the controversial Port Klang Free Zone (PKFZ) project. Kuala Dimensi is the contractor for the PKFZ project while BTA Architect is the appointed consultant of the project. Lee arrived at the Klang district police department in Jalan Gedung Raja Abdullah with his lawyer and several officers at about 10.15am. He said he had filed the report based on the directive by PKA's board of directors who met on Monday pertaining to the PKFZ issue. "I cannot say much further, I leave it to the police to investigate," he told reporters at the police station here.

It was reported earlier that PKA board of directors had decided to lodge the report against Kuala Dimensi for alleged overbilling and fraud. Lee added that he had mentioned most of the points during the press conference held on Monday after the PKA board meeting. "There are so (many) details, if I say anything further (then) you report, you and I will be sued for defamation," he said, adding that it is the first time PKA has lodged a report against Kuala Dimensi. He also said that PKA planned to sue Kuala Dimensi and this would be decided during the board meeting next Tuesday at 10am. "We have not made the final decision yet, we have already asked the lawyer to look into it," he said.




When asked if PKA would lodge a similar report with the Malaysian Anti-Corruption Commission, Lee said he would bring it up with the board on Tuesday and at this juncture, he was only asked to lodge a police report.

Tuesday August 11, 2009

Port Klang Authority board to meet next week

KUALA LUMPUR: More details of the PKFZ controversy are expected to be released when the Port Klang Authority board meets next week. The details would range from land transactions to the conduct of former Port Klang Authority (PKA) general manager Datin Paduka O.C. Phang, the alleged breach of statutory duties by previous directors and even conflict of interests involving certain parties including lawyers.

Sources said the PKA directors were to meet to discuss these issues where more revelations of wrongdoings are expected to be unveiled. Yesterday, the special task force in a report submitted to the PKA had alleged fraudulent claims and the amount in dispute could be between RM500mil and RM1bil.

PKFZ PERSONALITIES	
DATUK SERI TIONG KING SING  <ul style="list-style-type: none"> > Bintulu MP and Backbenchers Club chairman > Sarawak Progressive Democratic Party treasurer-general > Owns 70% of Wijaya Baru Holdings Sdn Bhd and 32% of public listed Wijaya Baru Global Bhd > Wijaya Baru Holdings owns 100% of Kuala Dimensi, the turnkey > Group chief executive officer of Wijaya Baru Global and chief executive officer of Kuala Dimensi Sdn Bhd, turnkey developer of the Port Klang Free Zone > Appointed to the Wijaya Baru Global board in December 1997 > Elected MP in 1999 > Involved in property development, construction and the timber industries for more than 20 years > Holds substantial shareholdings in other public listed companies and also sits on the board of several private limited companies. 	DATUK FAIZAL ABDULLAH  <ul style="list-style-type: none"> > Wijaya Baru Global deputy group chief executive officer > Kuala Dimensi deputy group chief executive officer > Also director in the now delisted Kosmo Technology Industrial Bhd and in several other private limited companies > Holds a Bachelor of Commerce (Hons) in business administration from Trinity College and University, Delaware, United States and advance diploma in international management from Britain. > Member of the Institute of Commercial Management, UK. > Kapar Umno division deputy chief
DATIN PADUKA O.C. PHANG  <ul style="list-style-type: none"> > First woman to head the Port Klang Authority as general manager > Appointed to the post in 1997 by then Transport Minister Tun Dr Ling Liong Sik > Joined the civil service in 1971 and served in several ministries including the Works Ministry and Prime Minister's Department > Resigned from the PKA last year 	

SUN GRAPHICS © 2009

The task force was set up by the Government on June 10 to look into legal and financial aspects of the PKA and the PKFZ following the audit report by Pricewaterhouse- Coopers Advisory Services. Sources said the task force report ran into 370 pages with 2,500 pages of appendices. "The PKA has been advised that it should not disclose legal strategies and there are a lot of confidential information and solicitor-client confidentiality issues," the sources said.

However PKA insiders said the directors decided to release information to the public as the PKFZ controversy was of great public interest. "We want to keep the public in the loop about what we are intending to do. We also want to do things above board and that is why

we have invited the head of the ad hoc committee on corporate governance Datuk Paul Low to sit on the PKA board for the next six months,” the sources said.

Low, who is also the Transparency International Malaysia president, will among others monitor the board proceedings. “More issues would be deliberated in the coming weeks and the public would be kept informed because we believe in public accountability,” an official said. He said the board members were serious about doing the right thing, citing the principles of accountability. The official said the directors wanted to carry out their duties without fear and favour. He also hoped that “no one would use external forces to stop us from discharging our duties”.

He commended the Prime Minister, Datuk Seri Najib Tun Razak, and Transport Minister Datuk Seri Ong Tee Keat for their seriousness in pushing the culture of accountability and integrity. “The dotted lines behind the PKFZ controversy are finally being connected and faces are now in the picture,” the official said.

Meanwhile, sources said numerous police reports, lawsuits and reports to the Malaysian Anti-Corruption Commission would be made against several parties. It is learnt that Datuk Seri Tiong King Sing, the boss of Kuala Dimensi Sdn Bhd, the turnkey developer of the PKFZ, would be among those named in those actions to be taken. The sources said the amount in dispute now is over RM700mil but it could go up to RM1bil when other issues are brought up before the board.

Tuesday August 11, 2009

Ramon: Take legal action in line with findings

PETALING JAYA: The special task force investigating the legal and financial aspects of the Port Klang Free Zone (PKFZ) issue has fulfilled the public’s and the Government’s expectation with its findings. Asean Strategy and Leadership Institute (Asli) centre of policy studies chairman Tan Sri Ramon Nava- ratnam said the revelations made by the task force must now be followed by legal action. “It is good to see the truth being told. It is now logical to take legal action against those involved in the controversy,” he said.

In July, Ramon had also expressed support for the Port Klang Authority’s move to defer its payment to Kuala Dimensi Sdn Bhd pending the conclusion of its investigation. Meanwhile, Kuala Dimensi Sdn Bhd chief executive officer Datuk Seri Tiong King Sing said there was no point in talking any further on the PKFZ issue but to meet the relevant parties in court. Tiong, who is Bintulu MP and Backbenchers Club chairman, said the special task force report which made allegations against his company had tarnished its image. Tiong said all PKFZ agreements should be read carefully. “There are clauses to state that consultancy fees are to be paid to Kuala Dimensi. This is just one of the points I can raise now,” he said.

He also claimed that the task force never called him or his deputy to give their side of the story. Kuala Dimensi had earlier filed suits against the Port Klang Authority and PricewaterhouseCoopers Advisory Services (PWC) over the latter's position review report on PKFZ, which was subsequently made public.

Tuesday August 11, 2009

PKFZ panel: Possible fraud in developer's claims amounting to hundreds of millions of ringgit

By LEE YUK PENG

 [PKFZ: Possible fraud, police report to be lodged](#)

PUTRAJAYA: Hundreds of millions of ringgit in claims by Kuala Dimensi Sdn Bhd - the main developer of Port Klang Free Zone (PKFZ) - have been found to be either over-charged, unsubstantiated or even possibly fraudulent. This was the findings of a special task force that was set up to investigate the legal and financial aspects of the project.



Red hot report: Transport Minister Datuk Seri Ong Tee Keat giving a press conference on the Port Klang Free Zone probe in Putrajaya yesterday. The special task force on the PKFZ project earlier handed copies of its 370- page report, with 2,500 appendixes, to Ong and Port Klang Authority chairman Datuk Lee Hwa Beng (left). On the right is ministry secretary-general Datuk Zakari Bahari. — GLENN GUAN / The Star.

The eventual amount in dispute could run up to as much as RM1bil. The Port Klang Authority (PKA) board of directors, at its meeting yesterday, decided to commence legal action against Kuala Dimensi and the other parties involved. They also directed PKA chairman Datuk Lee Hwa Beng to lodge a police report today over the matter. The allegations against Kuala Dimensi were contained in a statement issued by Lee after the board meeting. However, it was learnt that what was revealed yesterday was only the "tip of the iceberg and many more revelations of wrong doings are expected in the days ahead".

"Our lawyers will henceforth deal with Kuala Dimensi chief executive officer Datuk Seri Tiong King Sing and its deputy Datuk Faisal Abdullah. "Since there may be instances of fraudulent claims and taxpayers' money are involved, we will make a police report at the Klang police station so that appropriate investigation is taken," said Lee in the statement.

Copies of the 370-page report, with 2,500 appendices, by the task force were also handed over to Transport Minister Datuk Seri Ong Tee Keat by its head Vinayak Pradhan of legal

firm Skrine and Co at the ministry here. Other members of the panel are Skrine partner Lim Chee Wee, PricewaterhouseCoopers Advisory Services (PwCAS) managing director Chin Kwai Fatt and PwCAS senior executive director Lim San Peen.

Among others, the task force, which was set up on June 10 to look into the legal and financial aspects of PKA and PKFZ, had found that Kuala Dimensi had:

- >POSSIBLY made fraudulent claims on electrical infrastructure worth RM55.8mil, which had yet to be carried out on the site, and 33kv supply works and civil infrastructure works worth RM83mil as TNB had rejected the proposal for Kuala Dimensi to undertake the work.

- >NOT provided any document to support its claim of at least RM231mil as preliminaries under the development agreements while at the same time, it had made claims for items, which they were not contractually entitled to, such as claim for the procurement of a performance bond and payment for insurance premiums totalling RM5mil.

- >NOT justified its claim for variation works of RM62mil under Additional Development Works and New Additional Development Works agreements.

- >APPEARED to have made an “over claim” for hotel works, for which Kuala Dimensi had claimed RM69.6mil compared to the quantity surveyor’s valuation of RM44.7mil.

- >NOT produced any invoice or payment voucher for the RM61mil which the company claimed was professional fees and expenses incurred.

- >CLAIMED RM254.9mil as extra work done even though the purported revised works fell within the scope of the original works envisaged in the main development agreement.

Lee said while PKA members still required more time to consider the lengthy report in detail, several decisions had been made in the meantime. “The board had decided that the quantity surveyor continue to re-measure the value of works performed by Kuala Dimensi in order to establish the real sum owing to the main developer. “Presently, they have identified a difference of at least RM93mil between the claims made by Kuala Dimensi and the measurements made by the quantity surveyor. “We believe that there will be further differences in the re-measurement exercise.”

Tuesday August 11, 2009

Act on findings, Ong tells PKA

PUTRAJAYA: Transport Minister Datuk Seri Ong Tee Keat has instructed the Port Klang Authority (PKA) to “do what is necessary” and right, including taking legal action, with the findings of the special task force on the Port Klang Free Zone (PKFZ).



It's all yours now: Ong receiving the task force's findings on the PKFZ issue from Vinayak Pradnan during a press conference at the Transport Ministry office in Putrajaya yesterday. Looking on is the ministry's secretary-general Datuk Zakaria Bahari.

"I view with concern various issues that have been identified by the task force and brought to the attention of the members of the port authority," he told reporters at a press conference at his ministry here yesterday. Ong said his ministry was aware that the public demanded transparency and accountability from the PKA. "My instruction to the authority is to do what is necessary and right in the exercise of their duties on the findings and recommendations of the report by the task force and if appropriate, the necessary legal action should be taken," he said.

Ong said among the matters deliberated at yesterday's Port Klang Authority (PKA) board of directors meeting, where the board had agreed to consider further action, were possible serious irregularities, including serious irregular claims for payment; negligence; wrongdoings and others. "Certain agreements and parts of others were also viewed to be unenforceable," he added.

Ong thanked the members of the task force for submitting their report to the board exactly two months from the date it was set up. "It is the commitment of the ministry and the port authority to uphold the people's interests," he said.

Tuesday August 11, 2009

Public now aware of truth behind issue

MALACCA: Datuk Seri Ong Tee Keat's progressive and comprehensive explanation is gradually dispelling the public's negative perception over the Port Klang Free Zone (PKFZ) issue. The Transport Minister said the issue was initially perceived to be shrouded in secrecy and one that had numerous "untold stories". "But following several rounds of town hall meetings, closed-door sessions and recent TV appearances where I took questions from members of the public, people are now better informed," he told reporters last night after meeting Malacca MCA grassroots leaders over the issue. He said in doing so, there was no room for the spinning of lies. Ong said several blogs were also taking note of the facts being presented over the issue.

Tuesday August 11, 2009

Press statement by Datuk Lee Hwa Beng, Port Klang Authority chairman

THE members of Port Klang Authority (PKA) had a meeting this morning to deliberate on the report submitted by the Special Task Force set up on June 10, 2009 to look into the legal financial aspects of PKA and PKFZ following the release of the report by PricewaterhouseCoopers Advisory Services (PwCAS). The members require more time to consider in detail the lengthy report by the Task Force but in the meantime have taken the following decisions.

The board has decided that the Quality Surveyors in the Task force continue to re-measure the value of the works performed by Kuala Dimensi Sdn Bhd (KDSB) in order to establish the real sum owing to the main developer. Presently, they have already identified a difference of at least RM93mil between the claims made by KDSB and their measurements. We believe there will be further differences in the re-measurement exercise.

We also deliberated on the instances of possible serious irregular claims, negligence, wrongdoings, and other irregularities identified, as well as the issue of the unenforceability of certain agreements on parts thereof. They include:

1. Evidence that the main developer had possibly made seriously irregular claims under the development Agreements, in particular, for the electrical infrastructure of the 33kv system worth RM55.8mil which have yet to be carried out on site, 33kv supply works and the civil infrastructure to PMU works worth RM83mil as TNB has rejected the proposal for KDSB to undertake the 33kv infrastructure and supply works.

2. In respect of claims for preliminaries of at least RM231mil under the Developmental Agreements, KDSB has not provided any documents to support the cost incurred as preliminaries.

KDSB should prove that each item in the breakdown of preliminaries was necessary and properly incurred before it is entitled to make a claim for it. KDSB has also made claims for items which they are not contractually entitled to, for instance, claim for procurement of a performance bond and payment for insurance premiums, both totalling RM5mil.

3. In respect of KDSB's claim for the variation works of RM62mil under ADW and NADW, there appears to be no basis for these claims and KDSB should justify this.

4. There appears to be an over-claim for the hotel works, wherein KDSB had claimed RM69.6mil compared to QS4's valuation of RM44.7mil.

5. In respect of claims for professional fees, under development Agreement 3 (DA3), KDSB is only entitled to the actual fee and expenses incurred.

KDSB has not produced any invoices and payment vouchers for RM121.6mil of the fees allegedly incurred. In any event, the sum claimed by KDSB appears to be on the high side given the nature of the project.

6. KDSB may not be entitled to claim the sum of RM254.9mil as a claim for extra under DA3 because the purported revised works fall within the original scope of the envisaged under LA1 and not DA3 under which it claimed.

The board is very concerned that the amount in dispute totals hundreds of millions. The board is considering the commencement of appropriate legal action against various parties. Since there may be instances of irregular claims and taxpayers money involved the Board has authorised me to make a police report at the Klang police station tomorrow morning at 11am so that appropriate investigations are undertaken. We will make further announcements from time to time.

Tuesday August 11, 2009

Rural and Regional Development Dept to be set up soon

By MUGUNTAN VANAR

KOTA MARUDU: The new Department of Rural and Regional Development will be set up in each state soon to monitor and speed up implementation of rural projects. Rural and Regional Development Minister Datuk Mohd Shafie Apdal, in announcing this on Friday, said a proposal to set up the department had been given the go-ahead by the Government.

Shafie, who was on a two-day working visit to Pulau Banggi, Kota Marudu and Papar, said the proposal would be implemented in stages, with priority being given to Sabah and Sarawak. He said the department would allow the ministry to effectively monitor the implementation of projects to ensure they were carried out efficiently and brought changes to the rural community.

"It is an important structural improvement that we need at the ministry. Other ministries have their own departments, but we don't. "We were allocated RM14bil for our programmes but we do not even have a technical unit to monitor our projects. "We will have engineers and accountants in the department to screen problematic projects," he said.

There had been projects completed not according to the required quality due to weaknesses in monitoring. Some roads were only half completed but the payments were made. "If the work does not meet our standards, we should not pay. "If roads are not good for use, they should be improved before payment is made," he said.

Shafie said the ministry's structural expansion plan was in line with efforts to boost rural development with the construction and repair of 1,500km of roads, provision of water and electricity supplies and construction of 50,000 houses for the hardcore poor, as set by the Prime Minister. He said the ministry would enhance cooperation with other agencies to ensure meaningful development for the people. Earlier, Shafie handed over a low-cost house to one of 34 recipients in the hardcore-poor category.

Wednesday August 12, 2009

Kudos to the Government

By CHEW WAN YING and R.K. SHYAMALA

PETALING JAYA: Various quarters have applauded the Government's move to make the Port Klang Free Zone (PKFZ) investigation transparent, and hoped it would lead to more transparency in future government projects. Wangsa Maju MP Wee Choo Keong described the Port Klang Authority (PKA)'s new board of directors' act of lodging a police report against Kuala Dimensi Sdn Bhd as "a giant leap". "It speaks volume of the fact that the task force has carried out its function successfully," he said when contacted by *The Star* yesterday.

He hoped this would serve as an example of the proper approach to future problems and lead government departments to be self-regulatory. Yesterday, PKA's new board of directors lodged a report against Kuala Dimensi, whose chief executive officer is Bintulu MP Datuk Seri Tiong King Sing. PKA chairman Datuk Lee Hwa Beng, in a two-page statement on Monday, said the special task force looking into the legal and financial aspects of the controversial PKFZ project, found evidence suggesting possible fraud, unsubstantiated claims and over-charging by Kuala Dimensi amounting to hundreds of millions of ringgit.

The disputed claims were believe to be between RM500mil and RM1bil. Malaysia Crime Prevent-ion Foundation exco member Tan Sri Robert Phang lauded this as a healthy move. "The *rakyat* will feel comfortable to a certain extent, knowing that action has been taken," he said. Bar Council president Ragnath Kesavan said those who abuse public funds should be held accountable, and action should be taken to recover the public's money. The Young Malaysians Movement also supported the board's move. "It is sad that private companies treat government projects as a source of big money instead of national service for the country," said its president Ng Chin Long.

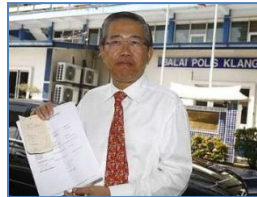
Meanwhile, the Selangor government lod-ged a complaint with the state Malaysian Anti-Corruption Commission (MACC) here yesterday, urging it to conduct a thorough investigation of the case. "We want the MACC to probe the firm involved, the PKA, Kapar Umno division chief Datuk Abdul Rahman Palil, who was the PKA board director from 1997 to 2003, and Kapar Umno Youth chief Datuk Faizal Abdullah, who is the executive officer of Kuala Dimensi," said state executive councillor Dr A. Xavier Jayakumar, who lodged the complaint.

Wednesday August 12, 2009

Hwa Beng lodges police report against contractor and consultant

KLANG: Port Klang Authority (PKA) chairman Datuk Lee Hwa Beng has lodged a police report against Kuala Dimensi Sdn Bhd and BTA Architect over the controversial Port Klang

Free Zone (PKFZ) project. He lodged the report against two parties — Kuala Dimensi Sdn Bhd, the turnkey contractor for the PKFZ project, and BTA Architect, the consultant appointed for the development works in PKFZ. It was reported earlier that the PKA board of directors, in a meeting on Monday, had decided to lodge a report against Kuala Dimensi for possible fraud, unsubstantiated claims and alleged over-billing. Lee said he lodged the report yesterday based on the directive of Monday's board meeting.



Following directive: Lee showing the police report at the Klang Police Station Tuesday.

When asked if PKA would lodge a similar report with the Malaysian Anti-Corruption Commission (MACC), Lee said he would bring it up at the next board meeting. Later, Lee said in a statement: "The Task Force Report is a privileged, private and confidential report and cannot be disclosed in part or in whole." He said the irregularities and negligence that he spoke about in the PKFZ project were on behalf of PKA and not the task force. "The task force members were not present when I spoke to the press (on Monday)," he said. He explained that the report "is a legally privileged document and the revelation of the legal advice rendered in the report will jeopardise future litigation".

Thursday August 13, 2009

Firm directors to appear before PAC

By ZULKIFLI ABD RAHMAN

KUALA LUMPUR: The directors of Kuala Dimensi Sdn Bhd, the controversial turnkey contractor of the Port Klang Free Zone (PKFZ), will be hauled up for questioning by the Public Accounts Committee soon. The committee's chairman, Datuk Seri Azmi Khalid, said the directors were scheduled to be called for questioning within the next two weeks. He added that it was up to the company to send its chief executive officer Datuk Seri Tiong King Sing to the inquiry.

Speaking to reporters after chairing the committee's inquiry at the Parliament House yesterday, Azmi said the former secretaries-general of the Transport Ministry would also be asked to attend the inquiry. They are scheduled to be questioned by the committee today. Meanwhile, Attorney-General Tan Sri Abdul Gani Patail who attended yesterday's meeting said it was up to a court of law to decide if the four letters of support issued by the two former transport ministers in connection with the PKFZ project were letters of guarantee.

Gani said the status of the letters were open to interpretation but from his own point of view, they were tantamount to guarantee letters. However, Azmi said there were some parties who argued that they were not letters of guarantee. "It is up to the Port Klang Authority to decide whether the issue should be brought to the court for a decision," he said.

Azmi said Gani had provided professional advice to those involved in the project. "However, there were moments during the implementation stage that the A-G's advice was not followed through," he added.

During the course of the inquiry on the PKFZ project, former transport ministers Tun Dr Ling Liong Sik and Tan Sri Chan Kong Choy had said that the four letters were not guarantee letters and had no financial implication on the Government. Chan, who signed three such letters, had told the committee that he had sought the opinion of a Queen's Counsel in London who agreed with him that they were not letters of guarantee.

Azmi said the Bar Council would also give its input on whether the same lawyer can represent both the Port Klang Authority and Kuala Dimensi in the negotiations to purchase land for the project. He said despite the ambiguous status of the letters, it was more important to recover the monies that had been issued to facilitate PKFZ's development project. "Whether they are guarantee letters or otherwise, the money is gone. "If they are not seen as guarantee letters, how can we get the money back since it has already been spent. "If the court says that they are not guarantee letters, the authorities need to find out how to get the money back," he added.

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Ong: RM10mil loan claim is one of the threats over PKFZ issue

KUALA LUMPUR: Transport Minister Datuk Seri Ong Tee Keat has likened the purported RM10mil loan from Kuala Dimensi Sdn Bhd CEO Datuk Seri Tiong King Sing to one of several "attacks" levelled against him, something he had been talking about of late. He said not many people believed him when he disclosed that he had received threats and was attacked on all fronts over the Port Klang Free Zone (PKFZ) controversy. Other developments yesterday were:

- Ong lodges a police report against Tiong for alleged criminal defamatory statement made against him,
- Ong gives Tiong seven days to retract his statement and apologise,
- The Malaysian Anti-Corruption Commission forms a 30-man task force to probe the PKFZ issue,
- The Public Accounts Committee finds that PKFZ losses could have been avoided if the Port Klang Authority board had adopted a hands-on approach during its development.

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MCA must survive at all costs, vows Ong

ALOR SETAR: MCA president Datuk Seri Ong Tee Keat has pledged to rid the party of money politics, vowing to do whatever is necessary to prevent its destruction. "Whether I am around or not, the party must survive". "There is a small group of party leaders who have allowed outsiders to infiltrate the MCA for their own personal gain. People claim that I am play-acting when I say that I face difficulties and that I am surrounded by enemies. "As an MCA leader, I will not allow the party to be destroyed by those with personal interests," he said in his speech at the party's Kuala Kedah division dinner last night.

He said those who were against him, in and out of the party, were raising money to oust him. "They already have RM100mil now – money which can be used to build 20 new Chinese schools. Instead, they want to use it to bring me down". On a separate issue, the Transport Minister compared the Port Klang Free Zone (PKFZ) controversy to the 1980s Bumiputra Malaysia Finance (BMF) scandal. "The PKFZ is even bigger than the BMF (scandal). The BMF claimed two lives, but I hope the same won't happen in the PKFZ probe."

Ong reiterated that the allegation by a "political thug" that he had received a RM10mil loan was baseless. "Kuala Dimensi Sdn Bhd CEO Datuk Seri Tiong King Sing claims that the special committee's report on the PKFZ is baseless, so I can claim the same. "I never expected that I would become a victim when I ordered an investigation into the PKFZ while the one who is involved is still at large. "(Nonetheless) I have strong defensive powers and can withstand the pressure," he said.

Ong later presented a total of RM160,000 to SMJK(C) Sin Min and the Kulim/Bandar Baru, Jerlun and Padang Serai party divisions. He urged party members not to be divided when facing the numerous challenges they have against them. "Always look at the bigger picture – never marginalise others and do not ever let others marginalise us," he stressed.

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Ong gives Tiong seven days to withdraw allegations over RM10m loan

By NG CHENG YEE

chengyee@thestar.com.my

KUALA LUMPUR: Kuala Dimensi Sdn Bhd CEO Datuk Seri Tiong King Sing has been given seven days to withdraw the allegations he made against Datuk Seri Ong Tee Keat and apologise to him. The MCA president said he would institute legal proceeding against Tiong if he failed to do so. "I categorically deny that I have received a RM10mil loan as alleged by Tiong," he said, adding that the need to borrow money either by him or the party never arose. Speaking at a press conference here yesterday, Ong said the wild allegations levelled at him was the work of people who were trying to undermine his integrity and obligation

as Transport Minister and MCA president. He said if Tiong were to argue that the money mentioned was a donation, the onus should be on him to prove where the money went.

“The money cannot simply evaporate or dissipate into thin air. If the same sum of money was offered as bribe, then it seems more necessary for me not to proceed with the Port Klang Free Zone (PKFZ) probe. “However, as I said earlier, I would leave no stones unturned in the probe,” he added.

Ong said it was clear that the motives and intentions of these individuals were to derail the effort of the Transport Ministry and Port Klang Authority (PKA) with regards to the PKFZ issue. “I take it as another hurdle of the many that I have faced in my efforts to protect the interest of the people, in particular in the handling of the PKFZ issue,” he said.

Ong said he lodged a police report at the Cheras police station against Tiong earlier yesterday for the alleged criminal defamatory statement made against him. “My lawyers have also been instructed to file an injunction to prevent the perpetrator of this grievous misdeed from making further defamatory allegations,” he said.

On the claim by Kuala Dimensi deputy CEO Datuk Faisal Abdullah that he had travelled on the company’s jet without making any payment, Ong said any payment for his transport arrangement would be made based on invoices. “In a statement by my secretary yesterday, there was no such invoice,” he said.

Ong said he only made four trips using the company’s jet. “One of the five alleged trips, I was offered a seat on the private jet after attending a Prime Minister’s function in Kuching to present cheques to primary schools there,” he said.

Ong said he was invited to fly in the company’s jet but the facts were twisted into something different. “I have been criss-crossing the country. Sometimes I take commercial flights, including low-cost carriers. Sometimes I take the ferry. “In case of an emergency or when there is no direct air link, I have no choice but to hire private jet service,” he said.

On Tuesday, PKA’s new board of directors lodged a report against Kuala Dimensi. PKA chairman Datuk Lee Hwa Beng, in a two-page statement on Monday, said the special task force looking into the legal and financial aspects of the PKFZ project found evidence suggesting possible fraud, unsubstantiated claims and over-charging by Kuala Dimensi amounting to hundreds of millions of ringgit. Kuala Dimensi is the turnkey contractor of the PKFZ project.

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Probe on alleged graft MACC forms 30-member task force

KUALA LUMPUR: The Malaysian Anti-Corruption Commission (MACC) has formed a 30-member task force to investigate alleged corrupt practices in the awarding and construction of the Port Klang Free Zone (PKFZ). Its deputy chief commissioner Datuk Abu

Kassim Mohamed said the MACC task force would investigate the findings of an earlier special task force set up to probe on the legal and financial aspects of the controversial project. The earlier task force found that there was possible fraud, unsubstantiated claims and over-charging by Kuala Dimensi Sdn Bhd, the main developer of the PKFZ, of hundreds of millions of ringgit. Port Klang Authority (PKA) chairman Datuk Lee Hwa Beng has since lodged a police report with the Klang police on the findings.

Abu Kassim said the MACC task force members were assigned to go through the 370-page report with 2,500 appendices and to call up all necessary individuals to be investigated. "We will probe every single corrupt allegation inside the report as well as those not in the report including the allegation made by Datuk Seri Tiong King Sing that Transport Minister Datuk Seri Ong Tee Keat had received a RM10mil 'loan' from him for MCA divisions," he said.

He added that allegations of the ministry accepting chartered flight services from their company would be investigated. Urging everyone to cooperate in the probe, Abu Kassim added that the MACC would only probe into alleged corrupt practices and not matters reported to the police. Abu Kassim said although MACC had inquired on the PKFZ several months back, a full investigation was appropriate now based on the latest developments.

The earlier special task force set up on June 10 comprised Skrine partner Lim Chee Wee, PricewaterhouseCoopers Advisory Services (PwCAS) managing director Chin Kwai Fatt and PwCAS senior executive director Lim San Peen. It is believed that the eventual amount in dispute could run up to as much as RM1bil. Among unsubstantiated claims by Kuala Dimensi, the task force found was of electrical infrastructure worth RM55.8mil and 33kv supply works and civil infrastructure works worth RM83mil.

The company was also found not to have provided documents to support its claim of at least RM231mil as preliminaries under the development agreements. It was also alleged to have claimed RM69.6mil for hotel works when the quantity surveyor's valuation was RM44.7mil. Another RM254.9mil was claimed for extra work done even though the purported revised works fell within the scope of the original works envisaged in the main development agreement.

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No checks and balance, so PKFZ's cost escalated

KUALA LUMPUR: The Port Klang Free Zone's (PKFZ) massive cost over-runs could have been avoided if the Port Klang Authority (PKA) board members had adopted a hands-on approach during the development phase. "We have yet to make our conclusions that there was negligence involved," said Public Accounts Committee (PAC) chairman Datuk Seri Azmi Khalid after meeting former senior Transport Ministry officers in Parliament yesterday. "But for now, the conclusion is that the hands-on (approach) was not there." He said the board members had not gone to the ground to find out what was happening, and had allowed the PKFZ management to carry on without checks and balance.

Azmi said PAC would include, in its final report, that the PKA board had largely failed in its duty to oversee PKFZ's construction. Azmi said this lack of checks and balance added to PKFZ's problems. "All the information was coming from one source, not multiple sources. If someone says it's white all the way, everything is white," he said.

"So we find that from the board's angle, from the early part of the project, everything looked very good." The PAC yesterday questioned former Transport Ministry secretaries-general Datuk Zaharah Shaari (June 1999 to July 2005); Datuk Muhammad Safaruddin Muhammad Sidek (July 2005 - Oct 2006); and deputy secretary-general for planning Datuk Abdul Rahman Mohd Noor (1998 - 2004).

Azmi added that PAC would question nine senior officers from the Transport and Finance ministries and the Economic Planning Unit on Tuesday. PKA chairman Datuk Lee Hwa Beng's turn is on Aug 20. As for the validity of the four letters of support for additional funds, Azmi said the documents were open to interpretation and had to be decided by the courts.

Former Transport Ministers Tun Dr Ling Liong Sik and Tan Sri Chan Kong Choy signed one and three letters respectively during their terms. He added that whether the ministry could sign the letters without the knowledge of the Finance Ministry was also subject to a court decision. Meanwhile, MCA vice-president Datuk Kong Cho Ha questioned the timing of Kuala Dimensi Sdn Bhd CEO Datuk Seri Tiong King Sing's revelation of his purported RM10mil loan to the party.

Tiong, when contacted by Bernama, said he would not budge from or retract his statement and said Datuk Seri Ong Tee Keat could go ahead and sue him. Kuala Dimensi, the turnkey contractor of the controversial PKFZ, meanwhile has challenged PKA to hand in a copy of the special task force report which forms the basis the alleged accusation of possible fraud by the company. Kuala Dimensi deputy CEO Datuk Faizal Abdullah refuted the accusations that the company had possibly made unsubstantiated claims of between RM500mil and RM1bil. Faizal said that Kuala Dimensi had not even been called to any enquiry session to verify any information in respect to these allegations. Meanwhile, Ipoh Timor MP Lim Kit Siang lodged a police report calling for an investigation into claims by Tiong.

Friday August 14, 2009

Hillslope development ban

By LOH FOON FONG

newsdesk@thestar.com.my

KUALA LUMPUR: A newly-approved Guidelines for Hillside and Highland Areas Development Planning bans any development on slopes more than 35 degrees. The Cabinet made the decision on Wednesday, said Housing and Local Government Minister Datuk

Kong Cho Ha. Development was also prohibited on slopes between 15 and 35 degrees displaying signs of erosion, land instability or laden with sensitive geological materials.

Under the no-development announcement, only infrastructure such as roads, tunnels, bridges, telecommunications and low intensity electricity infrastructure of national interest were allowed to be built on slopes more than 35 degrees — classified under Class IV in the guidelines. The guidelines were synchronised from the Ministry's Guidelines on Hillside Development on Highland and the Natural Resources and Environment Ministry's Guidelines on Highland Development.

There are four classes and four levels of height in the new guidelines, said Kong in a press conference.

For Class I — slopes would be less than 15 degrees; Class II — slopes 15 to 25 degrees, Class III — slopes 25 to 35 degrees and Class IV — slopes more than 35 degrees.

The four slopes would be divided into four levels of height — low land (below 150m); hill land (150-300m), highland (300-1,000m) and mountain (more than 1,000m).

"Each development project application must be accompanied by a technical report prepared by a registered engineer. The technical requirements have also been tightened further," Kong said. The ministry suggested for more comprehensive guidelines following the Bukit Antarabangsa landslide last year. "The guidelines would be implemented after a meeting is held with the National Council for Local Government, which would be soon," he said.

Kong said the Cabinet also decided on Wednesday that it wanted to create an agency under the Works Ministry's Slope Management Unit to monitor, coordinate and inspect, maintain and regulate development projects on slopes. He said there were 236 projects between 25 degrees to 35 degrees that were frozen following the Bukit Antarabangsa landslide. "Those that had begun work were allowed to go on, but projects that had not started would be left to the discretion of the local government."

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Malaysia's Unemployment rate may rise to 4.5% by year-end

PETALING JAYA: Domestic unemployment rate may rise to 4.5% by year-end from 3.7% last year, according to International Trade and Industry Deputy Minister Datuk Mukhriz Tun Mahathir. "To us, the figure is high and we have never reached this high a figure before. At the same time, we are trying to reduce the jobless rate," he told reporters after launching the Third National Internship Challenge yesterday. He said most factories that had laid off workers had begun to take back former employees after demand picked up. As of July 7, Mukhriz said, statistics compiled by the Human Resources Ministry showed a cumulative figure of 38,732 workers retrenched due to the economic crisis.



To us, the figure is high and we have never reached this high a figure before INTERNATIONAL TRADE AND INDUSTRY DEPUTY MINISTER DATUK MUKHRIZ TUN MAHATHIR

Of the total, 29,712 were permanently terminated while 9,020 accepted voluntary separation offers. In addition, 40,662 workers had their pay reduced while 4,112 were temporarily laid off. In his speech earlier, Mukhriz said that although downsizing in the current downturn was not as severe as during the 1997/98 Asian financial crisis when 84,000 Malaysians had lost their jobs, it was still a cause for concern. "We need to do something by coming up with creative action to minimise the impact of this current crisis," he said.

He said the ministry, through the National Entrepreneurship Institute (Insken), would work together with Jobmarket Sdn Bhd and Basis Holdings Sdn Bhd to provide training for graduates and undergraduates wishing to become entrepreneurs. This programme is in collaboration with the Malaysian Entrepreneur Development Centre, Universiti Teknologi Mara and SME Bank. — Bernama

Mukhriz said participants were required to attend the Entrepreneurship Basic Training before they could obtain loans through the Graduate Entrepreneur Fund handled by SME Bank. The fund provides 90% financing for projects less than RM100,000 and up to 95% for those above RM100,000. The amount allowed is between RM20,000 and RM250,000. From this year, Insken plans to offer Graduate Entrepreneurship Basic Training programmes based on several business clusters that have the potential to be promoted.

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Why must we have KPIs and KRAs?

Psychology at Work - By Dr Goh Chee Leong



A CEO of a company one day comes to the realisation that his company has not been performing at its optimum level. He calls a business consultant who tells him that the thing to do is to set up a performance management system and this will involve setting KPIs (key performance indicators) for all his strategic business unit heads. "That sounds simple enough," says the CEO. So he has a meeting with all his heads, he sets each of them KPIs, including some very challenging financial targets. In line with the advice from the consultant he tells them that if they meet their targets they will receive a bonus at the end of the year and if they don't, they risk being fired or demoted.

One month later, one of the heads comes to see the CEO. He says that in his efforts to hit his target he needs to change some of the current staff in his department. The head says: "To get top results I need top people. Please give me the authority to get rid of the underperformers and replace them with some new people who can infuse energy and expertise."

"I'm afraid we can't let you do that," the CEO responds. "In this organisation, we don't let heads make decisions about who to hire or who to fire. We leave that to the senior management and the HR department." "But, if I can't choose my staff, how can I improve performance?" asks the head. "Look, that's your problem," barks the CEO. "Just figure out how to get the results using your existing staff. Just find ways to motivate them!"

One month later, the same head comes to see the CEO. He says: "Sir, I did what you asked me to and I've found a way to motivate my underperforming staff. I just need you to give me the authority to offer them some rewards and perks as a prize if they meet the targets I have set for them. You will be glad to know that most of these ideas will not require any money. For example, I may offer high performing staff shorter working hours or flexible working hours so that they can have more time at home as an incentive."

"I'm afraid we can't let you do that," the CEO responds. "In this organisation, we don't let heads make decisions about things like working hours. We need to standardise things like that throughout our organisation." "But, if I can't reward my staff, how can I improve performance?" asks the head. "Look, that's your problem," barks the CEO. "Maybe you should just figure out how to get better results by changing your strategy or your business plan."

One month later, the head comes to see the CEO again. "Sir, I took your advice," he says, "and I have found a way to hit my departmental targets by improving and expanding our distribution channels. All I need is for you to give me the authority to negotiate with our dealers and re-organise the system of marketing for the products in my division."

"I'm afraid I cannot do that," says the CEO. "In this organisation we don't let heads make decisions about the marketing and distribution system. These things are determined by senior management." "But if I can't expand our network how can I improve performance?" asks the head. "Look, that's your problem," barks the CEO. "Just find a way to meet your targets using the existing system and get it done!"

One month later, the head comes to see the CEO again. "Sir, I took your advice," he says, "and I have found a way to increase output and decrease the cost of production and this will help me hit my profit targets. All I need is for you to give me the authority to change our production systems in the plant." "I'm afraid I cannot do that," says the CEO. "In this organisation we don't let heads make decisions about the production systems. That's a job for the process engineers." "But if I can't improve the production system, how can I improve performance?" asks the head. "Look, that's your problem," barks the CEO. "Just find a way to reduce cost using the existing system and get it done!"

The head takes a moment to think about what his boss has said and then responds sarcastically: “So let me see whether I understand this correctly; you want us to lead high performing teams without giving us control over who our staff are, you want us to motivate our staff without giving us the power to reward them, you want us to increase our sales without giving us a say in how we sell things, and you want us to improve efficiency without letting us change the production process. In short, you want us to meet our targets even though we cannot do anything.”

“That sums it up perfectly,” exclaims the boss. “You now understand how a good performance management system works. Now go and get it done.” So what can we learn? The purpose of a performance management system with all its KPIs and KRAs (key result areas) is to force leaders at all levels of the organisation to take responsibility for their targets and numbers. But taking responsibility means giving them the authority and power to do what it takes to meet those targets. Of course, there are limits to each person’s decision making rights, but surely you cannot expect any improvement in performance unless they have some “space” to make changes.

KPIs and empowerment go hand-in-hand. We need to stop micromanaging. Set targets and let the leaders use all their ingenuity, innovation and tactical brilliance to accomplish them. That’s what KPIs are supposed to bring out. After all, you can’t expect a swimmer to swim the English Channel in a straitjacket.

☐ *Dr Goh Chee Leong is vice-president of HELP University College and a psychologist. We welcome feedback on this article. Please email to starbiz@thestar.com.my*